

New York, March 19, 2009

Your Excellency,

We are writing to you on behalf of the Coalition for the International Criminal Court (CICC), a global network of over 2500 member NGOs in 150 countries, campaigning for a fair, effective, and independent Court.

We would like to call your attention to the ongoing conflict in Sudan as a matter that pertains to all of us on the African continent, and request the support of African states at this crucial time during the International Criminal Court's efforts to obtain justice for the victims of Darfur. Although we understand the importance of securing peace in Sudan, we believe that an Article 16 deferral would be a harmful move at this time, delaying justice for victims and placing their fate into the hands of a negotiation process which has been stalled for years.

We are all aware of the grave humanitarian situation in Sudan which has persisted since 2003. According to the 2005 UN report, attacks on civilians have resulted in the deaths of an estimated 300,000 Darfurians, while 2.7 million people have been forcefully displaced from their homes.

Due to the gravity of the conflict and the deteriorating humanitarian situation, in 2005 the UN Security Council referred the Darfur situation to the ICC. In May 2007, the ICC issued arrest warrants for Ahmad Muhammad Harun and Ali Kushayb for war crimes and crimes against humanity. On 4 March 2009, the judges of the Pre-Trial Chamber issued an arrest warrant for Sudanese President Omar Hassan Ahmad Al-Bashir for five counts of crimes against humanity (murder, extermination, forcible transfer, torture, and rape) and two counts of war crimes (pillaging and intentionally directing attacks against civilians). The ICC Prosecutor, Luis Moreno-Ocampo, has also requested arrest warrants for three rebel commanders for crimes allegedly committed against African Union peacekeeping forces.

The Sudanese government has refused to assist in the arrest, surrender, and investigation of any of these individuals. Moreover, since the issuance of the arrest warrant for President Al-Bashir, Sudan has commenced the expulsion of 13 aid agencies from the country, creating a dire humanitarian situation, with millions of civilian refugees, including many children and elderly persons, at great risk of disease, starvation, and death.

The arrest warrant for President Al-Bashir has provoked much debate on the peace and justice issue, as well as on the impartiality of the Court itself. Some maintain that the arrest warrant proves the Court is a Western instrument with an "anti-Africa" bias which is only interested in investigating situations in African countries. However, it is important to recall the following:

1. Although the four situations currently under investigation at the ICC are located in Africa, **three of these four situations were referred by the governments of these African nations themselves**: namely, the governments of Uganda, Central African Republic, and Democratic Republic of Congo. These governments, all States Parties to the Rome Statute, recognized the lack of capacity of their national courts to address the grave acts occurring on their territory and subsequently requested that the Court open investigations into these alleged crimes. Furthermore, we see these investigations not as the ICC acting unfairly toward Africa but rather as the **ICC standing up for the hundreds of**

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A FAIR, EFFECTIVE, AND INDEPENDENT INTERNATIONAL CRIMINAL COURT.

Steering Committee: Amnesty International (AI), Asian Forum for Human Rights and Development (FORUM-ASIA), Asociación Pro Derechos Humanos (APRODEH), Civil Resource Development and Documentation Centre (CIRDDOC-Nigeria), Comisión Andina de Juristas (CAJ), Fédération Internationale des Ligues des Droits de l'Homme (FIDH), Human Rights First (HRF), Human Rights Network- Uganda (HURINET-U), Human Rights Watch (HRW), No Peace Without Justice (NPWJ), Parliamentarians for Global Action (PGA), The Redress Trust (REDRESS), Women's Initiatives for Gender Justice, and World Federalist Movement (WFM).

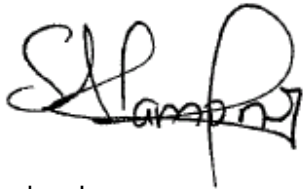
thousands of Africans who have had their lives and/or potential cut short by ruthless leaders, be they government, military, or rebel.

2. **African states comprise the largest regional bloc of the countries which have ratified the Rome Statute**, with over 30 members out of the Court's 108 States Parties. Moreover, in addition to three sitting African judges and a newly elected one, there were 11 African nominees in the most recent ICC judicial elections, more than all the other regions combined.
3. International justice has never focused solely on African countries; the Nuremberg trials, the International Criminal Tribunal for the former Yugoslavia, and Special Courts in Lebanon, Cambodia, and East Timor all demonstrate that international justice is neither limited to nor targeted specifically towards Africa. Moreover, **the Prosecutor is currently analyzing situations in Afghanistan, Colombia, and Georgia, and is examining whether the ICC has jurisdiction over the Palestinian territories and any crimes which may have occurred there since 1 July 2002.**

Given the substantial role that African states played in the establishment and development of the ICC and their significant contributions to international justice, it would be a shame for African countries to disengage from the Court at a time when positive dialogue and involvement by African countries is most crucial. In order for the victims of Darfur to receive justice, the Court needs the support and cooperation of African states. At this stage, an Article 16 deferral would clearly be counterproductive to this quest for justice, while providing no guarantees that the peace process would be resumed.

Article 4 of the Constitutive Act of the AU enumerates many principles by which the organization is meant to function, among them the respect for the sanctity of human life and the condemnation and rejection of impunity. We wholeheartedly hope that African countries will act in accordance with their spoken principles and continue to seek justice for victims.

Sincerely,



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