

Thursday, 25 June 2015

To: UN Ambassadors of States Parties to the Rome Statute of the ICC, Members of the UN Security Council

Re: Challenges Facing Darfur, Sudan

Excellency,

On behalf of the Coalition for the International Criminal Court (CICC), I am writing to you again on the crucial issues of international peace, justice and the rule of law with regards to the situation in Darfur, Sudan.

More than ten years ago, on 31 March 2005, the United Nations Security Council passed Resolution 1593 (2005), referring the 'situation' in the Darfur region of Sudan to the International Criminal Court (ICC). The letter and spirit of Res. 1593 fully reflected the purposes and principles of the UN Charter. However, the implementation and enforcement by the Security Council of Res. 1593 has been extremely controversial and unsuccessful. Most notably, Omar al-Bashir, the serving President of Sudan, continues to avoid arrest for alleged international crimes – including genocide – committed in Darfur.

Excellency, your government must be aware that massive sufferings and violations of international humanitarian laws continue in Sudan.

Just two weeks ago, Omar al-Bashir successfully avoided arrest again, as South Africa's government failed to obey an order from its own high court – in response to a legal filing by a CICC member in South Africa – to prevent the Sudanese president from leaving that country. South Africa's failure to arrest and surrender Omar al-Bashir to The Hague allowed impunity to prevail not only with regard to past crimes committed in Darfur, but also as mentioned above for the atrocities continuing to take place in the Darfur region.

The Prosecutor of the ICC will present a report to the Security Council on 29 June 2015, pursuant to UNSC Res. 1593. The CICC urges ICC State Parties that are serving on the UNSC to actively and constructively participate in the upcoming meetings surrounding the Prosecutor's visit and to advance concrete proposals for improving the cooperation between the UNSC, UN and the ICC. The CICC also asks ICC States Parties to suggest new and creative approaches to arresting Darfur subjects, especially Omar al-Bashir.

Security Council members should support the ICC investigations in Sudan by ensuring full cooperation with the Court in arresting accused persons, and pledging support for the necessary financial resources for the ICC to continue its Darfur and related investigations.

As the recent events in South Africa demonstrate, unacceptable non-cooperation remains with regard to situations referred by the Security Council, in both Darfur and in Libya. The UNSC, whose decisions are taken on behalf of the entire membership of the UN in accordance with the UN Charter, must take notice of the non-cooperation findings by the judicial chambers of the ICC. On 9 March 2015, the ICC found that Sudan had continued to not cooperate with the ICC and referred the matter to the UNSC, who – having referred the Darfur situation to the ICC – is the body that must now take action following acts of non-cooperation with the Court.

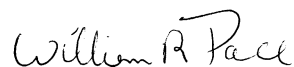
Excellency, non-cooperation with the ICC in these situations is non-cooperation with the UN.

The Coalition calls upon UNSC State Parties to the ICC to uphold the Charter and the Rome Statute in their service on the UNSC. Sudan is, for many, a major example of the ICC's limitations because none of the individuals indicted by the Court to answer charges of crimes in Darfur have been brought to justice. Therefore, UNSC leadership in support of the Court's prosecution of all Darfur subjects, above all Omar al-Bashir for genocide, is imperative.

The UNSC should renew its commitment to the principles in Res. 1593. The UN, when it requests the ICC to assist in a Chapter 7 resolution on the maintenance of international peace and security, should assist the ICC with its peace enforcement mandate, providing necessary technical, political, peacekeeping and other appropriate resources to assist in investigations, arrests and other elements of cooperation.

The Coalition's 2,500 member organizations remain dedicated to working with the UN, the UNSC and the ICC in ending impunity for genocide, crimes against humanity and war crimes, regardless of where they are committed and who commits them.

Sincerely,



William R. Pace
Convenor
Coalition for the International Criminal Court