



ICC / A Historic Day for Justice / Restoring Justice for Victims in Sudan and the Arab World

CAIRO, Egypt, March 4, 2009/African Press Organization (APO)/ — The Cairo Institute for Human Rights Studies (CIHRS) calls on the Sudanese regime to respect the decision of the International Criminal Court and put an end to the bloodshed in Darfur. The position of Arab governments has not only caused irreparable harm to the Sudanese people, but also to Al-Bashir's regime!

The failure to bring one criminal to justice does not justify demands not to bring other criminals to justice!

The Cairo Institute for Human Rights Studies (CIHRS) welcomes the International Criminal Court's (ICC) decision on March 4, 2009 to issue an arrest warrant for Sudan's President Omar Hassan Al-Bashir. The Prosecutor of the ICC had submitted a request for the issuance of a warrant of arrest against President Al-Bashir for charges of war crimes and crimes against humanity in the Darfur region, particularly against the Zaghawa, Fur and Masalit tribes, on July 14, 2008.

The war in Darfur has reportedly led to the death of 300,000 civilians, and the displacement of over 3 million. Government backed militias and armed forces have been responsible for the burning down of hundreds of villages, the destruction of the means of livelihood of the civilian population, and the raping of thousands of women and children. The Court's decision proves the Prosecutor's initial claim of the availability of sufficient information and evidence to indict Al-Bashir and other Sudanese officials for committing serious crimes in Darfur since the outbreak of the war in 2003.

The request to appear before the Court does not automatically mean Al-Bashir's conviction. In fact, if Sudanese officials seek an opportunity to proclaim their innocence, the ICC is the best place to do so. The Court maintains the highest degree of independence and impartiality, as its judges and prosecutor must be elected by the entire General Assembly of States Parties to the Court. The guarantees of fair trial that will be made available to Al-Bashir far outweigh any guarantees that are provided by the Sudanese judiciary, including the right of the defendants to challenge the jurisdiction of the Court, the right to appeal any sentence of conviction by the Court and the right to reformulate charges in light of evidence provided by the defense. Moreover, unlike Sudanese law which allows for the death penalty, the ICC does not apply the death penalty on the basis that it violates the right to life.

In fact, upon the ICC Prosecutor's request to issue an arrest warrant against Al-Bashir last July, there was generally the hope that the Sudanese regime would show the highest degree of responsibility towards its own people and take tangible measures to hold perpetrators accountable for and prevent others from committed war crimes and crimes against humanity in Darfur. Instead, the Sudanese Government moved in the opposite direction; continuing with its aerial bombardment of dozens of villages in Darfur and providing support and impunity for forces and pro-government militias for attacks on the civilian population and camps for internally displaced persons (IDPs). Such assaults have left hundreds dead and some 90,000 civilians homeless. In light of such unrelenting military operations, humanitarian relief organizations are facing severe difficulties in delivering humanitarian aid to some four million residents and IDPs in Darfur. Furthermore, 170 humanitarian aid workers have been kidnapped over the last year and eleven others were killed as a result of the ongoing violence.

The Sudanese regime has refused to cooperate with the ICC and refused to turn over Ali Khosheib and Ahmed Haroun, who were accused by the Court in 2007 of committing war crimes and crimes against humanity in Darfur. In further disregard of the Court, Haroun, Sudan's State Minister for Humanitarian Affairs, was appointed to co-chair a committee designated to hear complaints from victims of human rights abuses in the north and south of Sudan and to serve as the government's liaison with the hybrid UN-AU Mission in Darfur (UNAMID). The decision to appoint him to such a position came as a response to the Court's request that he be extradited to stand trial.

CIHRS condemns all attempts taken by the Sudanese regime and some Arab governments to obstruct all international efforts to ensure justice and accountability in Darfur. These states attempt to justify their rejection of such efforts by referring to the double standards of the international community, which they say attempt to shield Israel

on the one hand and prosecute Sudan on the other. In fact, the international community, through the UN, has often attempted to hold Israel accountable for its illegal policies in the Occupied Palestinian Territories (OPTs). Nonetheless, any existing double standards are not legitimate justifications for shielding acts of war crimes committed against millions of innocent civilians in Darfur. The temporary failure to bring criminals to justice in one or more countries does in no way justify delaying justice in another or at the global level. Such an attitude undermines the basic principles of justice and would lead to the total absence of justice and accountability if universally applied.

If Arab governments are truly serious about their commitment to applying a single standard of justice, then they should ratify the Statute of the ICC and take legislative measures that enable Arab judicial systems to prosecute war crimes and ensure that perpetrators of such crimes are brought to justice before their national courts. In fact, doing so is also part of their legal obligations under the Fourth Geneva Convention and would be in conformity with the current trend of several European legal systems that are slowly opening space to allow Palestinian human rights organizations to prosecute Israeli war criminals. Some Arab governments should also reconsider the various bilateral agreements concluded with the US that provide legal immunity to US soldiers and military officials.

The strategy pursued by Arab governments to persuade the international community at large to change its position is bound to fail if there is no real promise that Al-Bashir would pursue a different policy in Darfur. This strategy was based on two mutually contradictory premises. On one hand, it demanded that Al-Bashir be given another chance, while suspending judicial proceedings for one year. On the other hand, Arab governments engaged in blackmail by continuously threatening that if Al-Bashir was brought to stand trial before the ICC, the Sudanese regime would unleash chaos by intensifying persecution in Darfur and in the north, undermining the peace agreement in the south, and facilitating attacks on UN and humanitarian relief personnel.

If Arab governments had taken a critical position of the crimes perpetrated by Al-Bashir's regime in the south and Al-Bashir's continuous disregard of international resolutions for the past six years, the situation may have long been rectified. However, their relentless support to Al-Bashir had unfortunately resulted in causing irreparable harm to the Sudanese people and is even jeopardizing the future of Al-Bashir's regime itself.

As such, CIHRS affirms that Al-Bashir's regime has squandered every available opportunity throughout the past six years to demonstrate a real political will to put an end to the ongoing atrocities against the Sudanese people in Darfur. At the moment, the only remaining opportunity to put an end to the suffering of Darfurians, create a safe environment conducive to the *return of refugees* and *displaced and pave the way to peace*, is through expanding and reinforcing the role of the UN and humanitarian organizations in Darfur and by supporting the decisions and measures taken by the ICC in this case.

SOURCE : The Cairo Institute for Human Rights Studies (CIHRS)