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Sudan / ICC Prosecutor's report to the UNSC

# Ongoing crimes and impunity endanger peace, not justice

- www.fidh.org [english] - Africa - Sudan -

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## **Description :**

FIDH underlines the importance of justice on the road to peace, condemns assaults against human rights defenders and supports the Prosecutors' call for targeted sanctions against individuals blocking his investigation.

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**FIDH welcomes the report presented today by the Prosecutor of the International Criminal Court (ICC) to the United Nations (UN) Security Council, on the latest developments of its investigation in relation to the situation in Darfur, Sudan; and underlines the importance of justice on the road to peace, condemns assaults against human rights defenders and supports the Prosecutors' call for targeted sanctions against individuals blocking his investigation.**

In his report, the Prosecutor recalls his request to the ICC judges that an arrest warrant be issued for the President of Sudan Omar al Bashir. The report elaborates on Bashir's personal implication in the development and execution of a plan designed to attack civilians in Darfur. The events that occurred in Darfur, in particular their scale, their systematic and planned nature could not have occurred without his approval and will, insisted the Prosecutor. He ensures that all components of the GoS [Government of Sudan], the Armed Forces and the Militia/Janjaweed work together [...] Instead of investigating and punishing the perpetrators of genocide, President Al Bashir conceals the crimes.

The report similarly recalls the application for arrest warrants for three rebel commanders, who are allegedly responsible for the attack against the African Union Mission in Sudan's (AMIS) peacekeeping forces, carried out in Haskanita in September 2007. FIDH underscores that an attack against peacekeepers constitutes a clear attack against the civilian population those forces are mandated to protect.

Finally, the Prosecutor underlines the ongoing commission of crimes in Darfur, a situation confirmed by FIDH. The situation is absolutely dramatic: civilians, as well as peacekeeping and humanitarian personnel continue to be the target of attacks, said Souhayr Belhassen, President of FIDH. The security Council must react to this report by fully supporting the ICC actions, and also, as the ICC Prosecutor suggested, by considering imposing sanctions.

The report comes in the context of President Bashir's efforts to obtain a suspension of the ICC investigation in Darfur, under the pretext that the ICC actions could threaten peace and security in the region, and that Sudan could initiate national proceedings to try those responsible for the crimes. However, the Prosecutor's report confirms findings according to which none of this is true: it is the commission of crimes and not the ICC that threaten peace and security; and the government of Sudan has undertaken no efforts to hold perpetrators to account for crimes committed in Darfur. [1] As the Prosecutor noted, two ICC arrest warrants issued in April 2007 are still pending execution by the Government of Sudan.

FIDH highlights the Prosecutor's condemnation of attacks against human rights defenders and individuals suspected of having collaborated with the ICC. We deplore this new tactic employed by the Sudanese Government, which is used as a pretext to further repress human rights defenders. This trend manifestly shows not only that Sudan does not have any will to prosecute crimes under the ICC jurisdiction, but also that it is ready to violate the most fundamental human rights in the hope of putting further obstacles to the ICC investigation.

FIDH recommends that the Security Council:

- Continue to support the ICC actions in relation to the situation which it referred to the Court, including by disregarding the Sudanese Government's call for a deferral of the investigation under article 16 of the Rome Statute.
- Issue a resolution taking note of the Prosecutor's report, expressing support for its activities and calling for the immediate execution of the outstanding arrest warrants.
- Consider imposing targeted sanctions designed to restrict the travel and freeze the assets of individuals, groups, or organisations assisting the indictees to continue to evade justice.
- Condemn the harassment of and physical assault against human rights defenders and individuals suspected of

having collaborated with the ICC investigation.

### Background

The deadly conflict pitting Sudan's Khartoum-based government against rebel movements seeking power-sharing has ravaged Darfur for the last five years. In March 2005, the UN Security Council referred the situation to the ICC by Resolution 1593. In April 2007, the ICC issued arrest warrants for Ahmad Harun, former Minister for the Interior and current State Minister for Humanitarian Affairs, and Ali Kushayb, an alleged Janjaweed militia leader. To date, the Government of Sudan has not only failed to arrest these two individuals, but it has also implemented concrete actions seeking to protect them. Sudan has indeed repeatedly and adamantly refused to cooperate with the ICC, despite its obligation to do so under Resolution 1593. Following the Prosecutor's report to the Security Council in June 2008, the Council issued a presidential declaration recalling that the Government of Sudan and all other parties to the conflict in Darfur shall co-operate fully with and provide any necessary assistance to the ICC and the Prosecutor.

The Prosecutor has been reporting to the Council every six months since the latest referred the situation in Darfur to the ICC. Today's is the first report since the Prosecutor requested an arrest warrant against President Omar al Bashir in July 2008.

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[1] For more information, see joint report *Rethoric versus Reality in Darfur: Continuing Abuses Despite Government Charm Offensive*, issued on 2 December 2008 and available on the FIDH website: <http://www.fidh.org/spip.php?article6073>