



Fédération internationale des ligues des droits de l'Homme

ORGANISATION INTERNATIONALE NON GOUVERNEMENTALE AYANT STATUT CONSULTATIF AUPRES DES NATIONS UNIES, DE L'UNESCO,
DU CONSEIL DE L'EUROPE ET D'OBSERVATEUR AUPRES DE LA COMMISSION AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

International Federation
for Human Rights

Federación Internacional
de los Derechos Humanos

الغدرالية الدولية لحقوق الانسان

Open Letter

Open Letter to the Member States of the League of Arab States and the African Union

Paris, 18 July 2008 - In light of the upcoming special meeting of Ministers of Foreign Affairs of the League of Arab States and the Peace and Security Committee of the African Union following the request of the Prosecutor of the International Criminal Court, applying for an arrest warrant against President al Bashir, on 14 July 2008, FIDH and the signatories organisations wish to stress the following.

Three years after the Security Council referred the situation in Darfur to the International Criminal Court (ICC), on the basis that the conflict posed a threat to international peace and security in accordance with Chapter VII of the United Nations (UN) Charter, the ICC Prosecutor submitted evidence on 14 July 2008 seeking to demonstrate that the Sudanese President, Omar Hassan Ahmad al Bashir bears criminal responsibility in relation to 10 counts of genocide, crimes against humanity and war crimes.

For the first time in history, an independent international judicial institution presented evidence that genocide is being committed in Darfur and that it has been planned at the highest level of the State. It is also the first time in history that the international community has the opportunity to act *during* the commission of genocide.

As president and commander in chief of the Sudanese armed forces, Mr. al Bashir is accused of having ordered, planned and encouraged the commission of the most heinous crimes.

Over the past five years, Mr. al Bashir has been President of the Republic of the Sudan, Commander in Chief of the Armed Forces, and Head of the National Congress Party, and has also been directing the recruitment and arming of the Janjaweed militia from the top of the state's hierarchical structure. Mr. al Bashir exercises absolute control over state institutions.

For 5 years, Mr al Bashir has denied the existence of such crimes. As the ICC Prosecutor explained in his latest address to the Security Council, denial of crimes, cover up and attempts to shift responsibility are characteristics of the planning and execution of this type of crime.

After the ICC issued arrest warrants for crimes against humanity and war crimes on 27 April 2007 for Ahmad Harun (former Minister of the Interior and since 2006 Minister for Humanitarian Affairs), and Ali Kushayb (Janjaweed militia leader), Mr. al Bashir promoted Harun to co-chair of a committee in charge of investigating human rights abuses in Sudan and the centre of the deployment of the joint United Nations-African Union mission (UNAMID). He has also brought to an end to the detention of Kushayb in Sudan, who is now entirely free.

Therefore, supporting the impunity of Mr. al Bashir will not bring about peace and stability in the country or the region.

Since the Security Council authorized UNAMID, Mr. al Bashir has consistently obstructed the deployment of the force, which is operating today at only a third of its operational capacity.

He has not participated in the Darfur peace talks until now.

Moreover, Mr. al Bashir and his government prohibit or make it extremely difficult to access and protect the civilian population. Humanitarian agencies and peace-keepers have been regular targets of military attacks.

Massive and systematic crimes continue to be committed against civilians, in the few villages still existing in Darfur and in the internally displaced persons' camps.

Therefore, the argument that the Court's action could possibly undermine peace efforts in Darfur is not valid. Before the Prosecutor's announcement, such efforts were not clearly sought by the Sudanese authorities for a variety of reasons which are not related to the ICC.

Opposing and questioning the Prosecutor's request might be an excuse to continue and to perpetuate obstructive actions seeking to undermine any humanitarian assistance and peace initiatives.

Sudan has failed to cooperate with the ICC despite its absolute legal obligation to do so in accordance with Security Council resolutions. On 16 June 2008, recalling its Resolution 1593 (2005), the Security Council urged the Government of Sudan and all other parties to the conflict in Darfur to cooperate fully with the Court, in order to put an end to impunity for the crimes committed in Darfur.

It is now up to your organisation to effectively support the actions carried out by the Prosecutor and the ICC and to continue to encourage a legal and political solution to put an end to the conflict.

The international community, and your organisation, must make every effort to protect the civilian population in Darfur and the joint military force deployed in this territory, in order to prevent the commission of further crimes. You must take clear political steps to promote the end of this conflict that continues to devastate Darfur and has led to the forced displacement of 2 450 000 persons.

Ten years ago, on 17 July 1998, you helped create the International Criminal Court to "put an end to the impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes".

You thus clearly recognized that no immunity for such crimes is acceptable in law or practice. The law should be applied to all persons equally without any distinction based on their official capacity.

History has shown that advocating for the legal accountability of senior political leaders can make a major contribution to the establishment and strengthening of peace and stability. The arrest warrant against Charles Taylor, President of Liberia, removed him from peace processes and facilitated the long-term implementation of peace agreements. The trials of Charles Taylor and of Slobodan Milosevic, President of the Federal Republic of Yugoslavia, clearly contributed to truth-telling regarding the massive crimes committed in these countries and uncovering their key roles in planning and executing the crimes was central to an enduring peace process. The ICC warrants against the top leaders of the Lord's Resistance Army in Uganda have been a decisive factor in their decision to participate in peace talks aimed at achieving legal and political solutions to put an end to a 20-year conflict.

Today, according to the independent Prosecutor of the International Criminal Court, a genocide involving the highest authority of the Sudan is being committed in Darfur.

It is his responsibility to prosecute the most serious crimes in order to prevent the commission of further atrocities, to rebuild the country on the basis of the rule of law and to support the millions of victims.

It is your legal and political responsibility to support his efforts to put an end to the genocide.

It is your responsibility to adopt all measures that may contribute to putting an end to the grave crimes being committed in Darfur, to support a political process towards a sustainable peace as well as the Prosecutor's efforts to make sure that perpetrators of genocide, crimes against humanity and war crimes in Darfur be held accountable.

By failing to support the Prosecutor's request, you would miss an opportunity to render justice to victims of the gravest crimes.

Signatories organisations (non exhaustive...) :

- **International Federation for Human Rights (FIDH)**
- **Sudan Organisation Against Torture (SOAT, Sudan)**
- **Association Africaine des droits de l'Homme (ASADHO, DRC)**
- **Ligue centrafricaine des droits de l'Homme (LCDH, Centrafrican Republic)**
- **Egyptian Organisation for Human Rights (EOHR, Egypt)**
- **Bahrein Human Rights Society (BHRS, Bahrein)**
- **Association libanaise des droits de l'Homme (ALDHOM, Lebanon)**
- **Comité pour la défense des droits de l'Homme en Syrie (CDF, Syria)**
- **Damascus Center for Human Rights Studies (Syria)**
- **Centre Libanais des Droits Humains (CLDH, Lebanon)**
- **Cairo Institute for Human Rights (CIHRS, Egypt)**
- **Bahrein Center for Human Rights (BCHR, Bahrein)**
- **Mouvement Ivoirien des Droits Humains (MIDH, Ivory Coast)**
- **Association tunisienne des droits des femmes (ATFD, Tunisia)**
- **Organisation marocaine des droits Humains (OMDH, Morocco)**
- **Ligue des électeurs (LE, DRC)**
- **Kuwaiti Coalition for the ICC (KCICC, Kuwait)**
- **Observatoire Congolais des droits de l'homme (OCDH, Republic of Congo)**
- **Association nigérienne des droits de l'homme (ANDH, Niger)**
- **Zimbabwe Human Rights Association (ZIMRIGHTS, Zimbabwe)**