

Darfur Women Action Group

H.E. Ambassador O-Gon Kwon, President  
Assembly of the States Parties of the Rome Statute of the ICC

Cc: All States Parties

**STAND FOR JUSTICE IN DARFUR**

Letter to the Member States of the Rome Statute of the ICC

The Eighteenth Session of the Assembly of the States Parties to the Rome Statute

Dear Ambassador O-Gon Kwon

In the concert of ASP 18, Darfur Women Action Group (DWAG) and the undersigned civil society groups wish to express our grave concern regarding the continued impunity enjoyed by the former president of the Republic of Sudan, Omar al-Bashir, along with the three other Sudanese officials indicted by the International Criminal Court (ICC). July 2019 marked nine years since the ICC issued the second arrest warrant for Omar al-Bashir for the crimes of genocide, and it marked ten years since the first arrest warrant for war crimes and crimes against humanity was issued. Al-Bashir stands accused of the most heinous offenses – genocide, war crimes, and crimes against humanity – all of which he orchestrated against the indigenous African tribes of Darfur. Although he has been removed from power after thirty years of bloody rule, he has yet to be tried for these particular crimes.

Long before the outbreak of violence in 2003, the people of Darfur cried for justice, peace, and protection, only to see their plight ignored and their suffering prolonged. In the past, some governments refused to cooperate with the enforcement of the ICC arrest warrants, and some went so far as allowing al-Bashir to visit their respective countries and erroneously claiming that the ICC could not arrest a sitting head of state. Now that al-Bashir is no longer president, there has never been a better time to pursue the long-awaited justice for the genocide victims in Darfur. Ten years of evading justice is too long for al-Bashir, and seventeen years of continued suffering is too long for the Darfuri people.

**THE CRIMES:**

During his presidency, al-Bashir ordered the Sudanese Armed Forces and allied Janjaweed militias to carry out genocide and a scorched-earth campaign against the indigenous African population of Darfur. Since then, more than 400,000 people have been killed, over 4 million people have been forced to flee their homes, over 5,000 villages have been destroyed, and violence has continued unabated. In 2016 alone, 171 villages in the Jebel Marra region were destroyed and chemical weapons were used against innocent civilians. In 2018, at least 45 villages were reported to have been burned to the ground in just one province in Darfur. Rape has been systematically used as a weapon of war, subjecting men, women, boys, and girls to unprecedented amounts of sexual and gender-based violence. Human rights defenders – lawyers, journalists, and students – are regularly arrested, tortured, and/or killed while in custody throughout Sudan for speaking out against these atrocities.

## DETERIORITATING HUMANITARIAN CONDITIONS:

In 2009, following the announcement of the first ICC arrest warrant, al-Bashir retaliated by implementing the forced removal from Sudan of 13 international NGOs and shutting down 3 national organizations that provided life-saving assistance for internally displaced persons (IDPs) in Darfur. Humanitarian conditions severely deteriorated as a result. IDPs were subjected to starvation, disease, water shortages, acute malnutrition, and continued attacks - and thousands died as a result. By the beginning of 2019, the UN reported that humanitarian aid is needed for 5.7 million Sudanese, the majority of whom are in Darfur. In the Jebel Marra region, 19,000 people were newly displaced in 2018. Between December 2018 and January 2019, the joint United Nations-African Union Mission in Darfur (UNAMID) reported 192 instances of sexual and gender-based violence. To this day, over 3 million Darfuris live in protracted displacement.

## THE COST OF IMPUNITY:

Recent developments in Sudan, both before and after al-Bashir's removal, are devastating. Since December 2018, Sudanese citizens from all walks of life have come together to unite their voices in protest of 30 years of ruthless dictatorship under al-Bashir's regime. Their peaceful demands for freedom, peace, justice, and a civilian government were met with violence by the state apparatus. In deploying live ammunition, tear gas, and excessive force, the state killed over 150 peaceful protestors, injured over 750, and arrested nearly 7,000. Even after al-Bashir's removal on April 11, 2019, his totalitarian influence is still very much present in Sudan. Two generals with close association to the former regime's tactics now control the interim government's decision-making body – the Sovereign Council (formerly the Transitional Military Council). Based on their close affiliations with the former regime and their brutal response to peaceful protests, it is highly unlikely that they will surrender power to civilians after the interim period of 21 months.

It is very alarming that the Sovereign Council of the interim government in Sudan has made it clear that it will not surrender al-Bashir and other suspects to the ICC. On June 3<sup>rd</sup>, the Transitional Military Council (TMC) ordered the Rapid Support Forces (RSF) to storm an area where protestors were conducting a peaceful sit-in. They killed at least 128 people, raped dozens of women – including those inside hospitals – and burned people alive in their tents. Civilians reported excessive physical assault on thousands of people that resulted in an uncountable number of injuries. Many protestors have gone missing and their whereabouts are still unknown. During the same week, another massacre took place in Deleig, a camp for IDPs in Darfur. Over 100 homes were burned to the ground, 17 people were killed, and scores of women and children were raped.

There have been constant attacks in Darfur, Blue Nile, and the Nuba Mountains in recent months. The offices of the Sima Centre for Training and Protection of Women and Children's Rights were completely ransacked in July, and 4 students were killed in addition to 20 wounded by a government artillery shell that same month. From August through October, 7 attacks were perpetrated on the residents of Jebel Marra, resulting in numerous deaths and injuries, and the RSF has repeatedly attacked villages in Darfur by raping, killing, and torturing innocent civilians. These incidents emphasize the grave consequences caused by impunity and the lack of enforcement of ICC warrants. Because Bashir and the 3 other indicted Sudanese officials have not yet been apprehended by the ICC, the current military rulers of the interim government believe that they can use the same tactics and violence to solidify their own power in Sudan. If Bashir escapes justice, the rulers of the interim government believe that they are likely to escape justice as well. By continuously failing to impose tangible consequences in this regard, the United Nations Security Council (UNSC) and the State Parties to the Rome Statute undermine their institutions' respective authority and fail the legal obligations to their mandates.

## TEN YEARS OF IMPUNITY MUST END:

The UNSC members and State Parties to the Rome Statute must take effective measures to arrest all ICC indictees: Omar al-Bashir, Ahmed Haroun, Abdulrahim Hussein, and Ali Kushayb. These individuals must be transferred to The Hague to stand trial, as criminal accountability in Sudan would be highly insufficient due to the level of influence that the former 30-year-old regime still has in Khartoum. This is likely especially due to the fact that Bashir is only standing trial in Khartoum for charges of corruption and money laundering, and not for genocide and the grave human rights abuses that he has committed and orchestrated in Darfur. Failing to hold the perpetrators of such serious crimes accountable, not only has devastating effects within Sudan, but also sends the wrong message to individuals perpetrating violence throughout the world: that governments can continue killing their citizens without facing any ramifications.

Even though not all UNSC members are signatories to the Rome Statute, UNSC Resolution 1953, which referred the case of Darfur to the ICC, obligates UNSC members to support the ICC and implement its pending arrest warrants. Additionally, the Geneva Convention is binding upon all States. The Government of Sudan may not cooperate with the ICC, but the crimes committed by Bashir violate the Geneva Convention and Additional Protocol II. This fact cannot be denied. We strongly urge all members of the UNSC and the State Parties to the Rome Statute to stand for justice.

We also wish to urge the African Union (AU) that it is imperative that African States stand for justice and protection for its African constituents in Darfur. In addition, the African Charter on Human and Peoples' Rights clearly obligates all AU members to promote justice, the rule of law, and human dignity, both at home and internationally. We urge you as well to pressure the interim government in Sudan to arrest and surrender all war criminals to the ICC. Today, Sudan is experiencing a defining moment in history that could result in further political and humanitarian crises. The people of Sudan are looking to you to support their quest for justice, lasting peace, and democracy in their country. The situation cannot be permanently resolved without prioritizing accountability for past and ongoing human rights violations. Genocide is a crime to which world leaders have consistently pledged "Never Again". There will not be peace in Sudan without accountability for the crimes in Darfur. Impunity is not an option. Allowing war criminals to remain at large only exacerbates the high risk of repetition of mass atrocities given the historical trends in shifting from military to civilian rule. It is crucial that the AU, UNSC, and the State Parties to the Rome Statute make it clear to all ICC indicted suspects that impunity will no longer be tolerated. We urge you to end impunity for genocide in Darfur once and for all.

Sincerely,

The Undersigned:

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ACADHOSHA – Democratic Republic of the Congo

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Centre for Accountability and Rule of Law – Freetown, Sierra Leone

D Minnesota Peace Project – Minneapolis, USA

Darfur Association of Canada – Toronto, Canada

Darfur Association of the USA – Baton Rouge, USA

Darfur Bar Association – Khartoum, Sudan

Darfur Community Association of France – Paris, France

Darfur People's Association – New York, USA

Dr. Jacky Mamou, President, Collectif Urgence Darfour – Paris, France

Elsadeg Elnor, Chairman, Darfur Union in the UK – United Kingdom

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John H. Weiss, Associate Professor of History Emeritus at Cornell University, Founder of Darfur Action Group-Cornell – Ithaca, USA

Laura Limuli, Coordinator, Brooklyn Coalition for Darfur & Marginalized Sudan – Brooklyn, USA

Madame Mama KOITE Doumbia, Présidente de la Plateforme des Femmes Leaders du Mali, Présidente du Réseau MUSONET, Membre du Conseil du Fonds au Profit des Victims/TFV CPI, Membre du Réseau Francophone Egalité Femmes Homemes/OIF, Membre de FemWise Africa/Union Africaine – Bamako, Mali

Martha Boshnick, Co-Chair, Darfur Interfaith Network – Washington D.C., USA

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