



Legal Advisers to the States Parties of the Rome Statute  
for the International Criminal Court

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On 12 July 2010, the Pre-Trial Chamber of the International Criminal Court (ICC), following a previous decision of the Appeals Chamber has issued a second arrest warrant against the President of the Sudan, Omar Al Bashir, for three counts of genocide.

The decision of the ICC judges is an opportunity to highlight the need to harmonize justice and conflict management strategies. The prevention, suppression and punishment of such acts should be seen as interrelated elements that are central to the fulfilment of the goals of the Charter of the United Nations, the Genocide Convention and the Rome Statute.

The Pre-Trial Chamber has found reasonable grounds to believe that Omar Al Bashir is responsible for genocide by killing, by causing serious bodily injury or mental harm and by deliberately inflicting conditions of life calculated to bring about the physical destruction of the Fur, Masalit and Zaghawa ethnic groups in Darfur.

This is the first genocide warrant issued by the Court. It supplements previous findings in the same case with respect to war crimes and crimes against humanity. These alleged crimes simply cannot be ignored.

The Office of The Prosecutor calls on all States, whether parties to the Rome Statute or not, to cooperate with the ICC in upholding accountability for these crimes.

To the Government of the Sudan and other parties to the conflict, the Office of the Prosecutor of the International Criminal Court reminds them of their legal obligations to comply with Security Council Resolution 1593 adopted under Chapter VII of the UN Charter, as reiterated in Presidential Statement 21.

To ICC States Parties, the Office stresses their cooperation duties under the Rome Statute.

To Contracting Parties to the Genocide Convention, the Office of the Prosecutor recalls Article VI of the Convention which calls for persons charged with genocide to be tried “by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction”. Since ICC jurisdiction in Darfur is vested by the Security Council acting under Chapter VII of the UN Charter, all UN Member States are deemed to have accepted the Court’s jurisdiction in relation to Darfur. Their obligations under the Genocide Convention are therefore triggered by the Court’s decision.

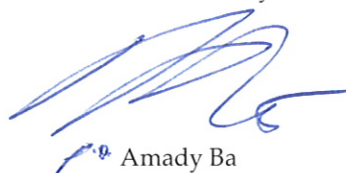
The Office of the Prosecutor also stresses that article VIII of the Genocide Convention states that “Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide”.

We hope that these points will be reflected in the open debate on 16 July 2010 before the Security Council on *Maintenance of international peace and security: Optimizing the use of preventive diplomacy tools: prospects and challenges in Africa*. Attached is also a paper produced by Juan Mendez, our Special Advisor on Crime Prevention, for the ICC Review Conference recently held in Kampala, Uganda, with which you may be familiar.

The Office of the Prosecutor understands further that Council members are considering text for a Presidential Statement to be adopted at the end of the open debate. I suggest that such text recognize that the failure to address Rome Statute crimes—in particular, genocide—can be a major causal trigger for future conflict and can therefore represent a threat to international peace and security. Mediators must fully take in account as part of their roles activities that aim to prevent such crimes and that make use of existing mechanisms—including the ICC—to address the threat they pose. Ignoring crimes of this magnitude places efforts to secure sustainable peace at peril. They can neither remain unacknowledged nor unaddressed.

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Yours sincerely,



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