



January 25, 2005

George W. Bush
President of the United States
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear President Bush:

Over the past year, your administration has demonstrated leadership in the United Nations Security Council in its efforts to halt the genocide in Darfur and bring those responsible to justice. The United States was instrumental in convincing the Security Council to create a Commission of Inquiry to investigate whether genocide has occurred in Darfur. The results of the Commission's investigation and its recommendations for holding individuals accountable have been communicated to the Secretary General and will be placed on the agenda of the Security Council in the coming weeks. We commend your efforts to date, and call upon you to continue your leadership by supporting a referral of the Darfur situation to the International Criminal Court (ICC).

The report of the Commission of Inquiry may include a recommendation that the Security Council refer the Darfur crisis to the ICC, and many countries on the council have already indicated their interest in pursuing such a resolution.

We strongly believe that a referral to the ICC of the Darfur situation is the only pragmatic, immediate way to move forward with bringing those responsible for atrocities to justice. It is cheaper, faster and more credible than any of the other alternatives. A new ad hoc international court would take several years to organize, during which time the killings could continue with impunity, evidence could be destroyed or lost, and victims or witnesses could be murdered. Any option that involves the Sudanese government, including use of the Sudanese judicial system and the creation of a new hybrid Sudanese/international tribunal, would be tainted by Khartoum's participation in the genocide. Only the ICC is credible and ready to begin investigating now.

We call upon you to continue the remarkable leadership you have demonstrated in the Security Council on the issue of Darfur, specifically by:

- Championing prompt accountability for those most responsible for the Darfur atrocities;
- Supporting, or at least not standing in the way of, a Security Council resolution calling for the referral of the Darfur situation to the ICC; and
- Providing access to the evidence of genocide already gathered by the State Department to whatever system for accountability is finally established.

U.S. acquiescence to a Security Council referral of the Darfur situation to the ICC would not be contrary to existing U.S. policy. In fact, it would lend credence to the United States' previously-stated policy that prosecution of citizens of nations that have not ratified the Rome Statute should only occur when authorized by the Security Council. This was the United States' position in 1998 when I had the honor of serving as the spokesperson for the U.S. delegation to the Rome Conference. It is my understanding that this remains U.S. policy.

A Security Council referral would not put U.S. soldiers or officials at risk of prosecution, nor would it indicate U.S. acceptance of the jurisdiction of the ICC. Your administration has consistently stated that, when the political will does not exist in the domestic legal system to address grave violations that amount to a breach of international peace and security, the international community may, and if necessary should, intercede through the UN Security Council.

Moreover, current U.S. law does not restrict your ability to support a referral to the ICC, and in fact specifically provides you authority to assist in international efforts to provide justice for the victims of atrocities. Section 2011 of the American Servicemembers' Protection Act of 2002 provides a broad, constitutional waiver for you to cooperate with the ICC on specific cases, while Section 2015 of this act gives further allowance to the U.S. to cooperate with the ICC:

Nothing in this title shall prohibit the United States from rendering assistance to international efforts to bring to justice Saddam Hussein, Slobodan Milosovic, Osama bin Laden, other members of Al Queda, leaders of Islamic Jihad, and other foreign nationals accused of genocide, war crimes or crimes against humanity.

Sixty years ago this month, the Allied forces liberated Auschwitz. Later that year, the United States stood at the forefront in pursuing justice for genocide, ethnic cleansing, and other intolerable atrocities when we led the efforts to prosecute Nazis at Nuremberg. Please ensure that this legacy of leadership is maintained by supporting the only credible and immediate mechanism for ensuring accountability in Darfur: a Security Council referral to the ICC.

Sincerely,

A handwritten signature in black ink that reads "Charles J. Brown". The signature is written in a cursive style and is followed by a long horizontal line that extends to the right.

Charles J. Brown
President and CEO
Citizens for Global Solutions

Cc: Secretary of State Colin Powell