

# Partners for Global Change

## Toolkit September-October 2009

Nationwide Teleconference  
Saturday, September 12, 2009  
1:00 p.m. Eastern  
Dial: 888-299-4099  
Verbal Passcode: VK37726



Citizens for  
**Global Solutions**

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## Call Tips

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- Participants should dial in 5-10 minutes prior to the start time.
- When dialing in, the host and participants should hold the line for an operator.
- Participants will verbally give their pass code to the operator.
- Operators will take the city, state, and number of people in the room and place them into the Main Conference.
- Hit “\*1” during Q&A sessions to queue up if you have a question. The operator will allow questions in the order they are received.

## Call Details

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### Moderator:

- Don Kraus, CEO, Citizens for Global Solutions

### Speakers:

- John Washburn, Convener, American NGO Coalition for the International Criminal Court
- Senator Christopher J. Dodd (D-CT) (invited)

### Call Agenda:

- Introduction & issue update from Don Kraus
- John Washburn discusses the importance of positive American engagement with the International Criminal Court.
- Question & Answer Session
- Citizens for Global Solutions Partners Project: Promoting Representative Kennedy and Senator Dodd’s positive International Criminal Court resolutions (Introduced by Don Kraus)
- Question & Answer Session Regarding the Partners Project

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## Speaker Biographies

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### John Washburn:

Mr. Washburn has had an extensive career in diplomacy and international governmental and non-governmental organizations. He was a director in the Executive Office of the Secretary-General of the United Nations between January 1988 and April 1993. Thereafter he was a director in the Department of Political Affairs at the United Nations until March 1994.

He is currently Convener of the American Non-Governmental Organizations Coalition for the International Criminal Court (AMICC), co-chair of the Washington Working Group on the International Criminal Court (WICC), and a past president of the Unitarian Universalist United Nations Office. In association with the international NGO Coalition for the International Criminal Court (CICC), he attended most of the United Nations Negotiations on the International Criminal Court since 1994 including all of the 1998 diplomatic conference in Rome. He has published extensively on relations between the United Nations and the United States on the International Criminal Court.

Mr. Washburn is a graduate of Harvard College and the Harvard Law School. He is a Member of the Bar of the District of Columbia and of the bars of the District Court and Circuit Court of Appeals in that jurisdiction.

He belongs to the American Society of International Law and the Council on Foreign Relations, and is a founding member of the Academic Council on the United Nations System.

**Don Kraus:**

Don Kraus is the Chief Executive Officer of Citizens for Global Solutions and co-chair of the Partnership for Effective Peacekeeping (PEP), an NGO working group. Previously, Don served as the Executive Vice President at Citizens for Global Solutions, where he directed the Government Relations Department and the Political Action Committee. Don previously served as the Executive Director of the Campaign for U.N. Reform (CUNR) and its affiliated political action committee, CUNR PAC. An expert in building U.S. legislative and government support for the U.N., Don compiles the Global Solution Report Card, an annual assessment of congressional voting records.

He has been quoted in *the New York Times*, *the Washington Times*, *the Washington Post*, *the Boston Globe*, and many other publications. He has been interviewed on CNN, BBC, NPR, and many other radio and TV shows. Don is also a past president of the Center for UN Reform Education, a UN reform think tank. He currently serves on the advisory board of the United Nations Association, National Capitol Area.

# Citizens for Global Solutions Partners Project

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September-October 2009

## Promoting Representative Kennedy and Senator Dodd's International Criminal Court resolutions

The United States has made promoting and protecting human rights and the punishment for those individuals that abuse these rights a cornerstone of its foreign policy. Americans acknowledge the need to prosecute individuals who perpetrate the most heinous crimes anywhere in the world. At the end of the 20<sup>th</sup> century, one of the bloodiest in human history, the international community adopted a treaty creating the world's first independent and permanent court to investigate and prosecute individuals accused of genocide, war crimes and crimes against humanity – the International Criminal Court (ICC).

Senator Christopher Dodd and Representative Patrick Kennedy have introduced concurrent resolutions in the Senate and House respectively, bolstering the U.S. relationship with the ICC. The goal of the Partners Project is to get as many Senators and Representatives to cosponsor the Senate and House resolutions as possible. A Senator must cosponsor Senator Dodd's Senate resolution and a Representative must cosponsor Representative Kennedy's House resolution. We have included Representative Kennedy's final resolution; it is also called H. Con. Res. 97. We have included Senator Dodd's draft resolution which has not been officially released. These resolutions call for:

- The United States to “support referrals of the United Nations Security Council to the International Criminal Court of cases involving crimes against humanity.”

- The United States to participate actively “as an observer in the meetings of the Assembly of States Parties to the Rome Statute.”
- The United States to support the “mandate and purpose of the Rome Statute of the International Criminal Court . . . [and] reactivate the signature of the United States to the Rome Statute of the International Criminal Court.”

The opposition to the International Criminal Court succeeds because they mobilize and get loud. The opposition frames the Court as a “kangaroo court out to get American soldiers”; **this is our chance to reframe the Court in the minds of Members of Congress as “an international Court that will hold the world’s most heinous criminals accountable for their actions.”** Be passionate in the meetings; you have all the facts you need to support your argument and you know more about this issue than your lawmakers and staff do. We have provided a comprehensive list of those indicted by the ICC that shares the gruesome crimes that they have committed. This will help remind the Members of Congress and their staff of the real purpose that the Court serves. So take with you the list of individuals indicted by the ICC, either the Senate resolution or the House resolution depending on who you are meeting with, and the ICC fact sheet. Your dedication to the pursuit of international justice can help portray the Court in a positive light in the mind of your Member of Congress.

The information below contains instructions on how to conduct in-district lobby visits, a sample email, and a sample call-in script.

### 1. Schedule lobby visits in your district

**Schedule the meeting:** It’s a good idea to place one person in charge of scheduling the meeting and be aware that this can take more than one call. Don’t give up! To make an appointment, simply look up the number for local legislative offices in your local phone book. When you call the office, ask for their scheduler and tell him/her that you would like to meet with your Member of Congress. If your Representative or Senators

are not available, meeting with a staff member in the district is still a very powerful way to get your message across. Once you have a meeting scheduled, try to invite other community members such as clergy, professors, judges, or representatives from other organizations that support the ICC to come with you to the meeting. This is a great way to network and build support for our issues.

Remember: if you schedule a House meeting, you'll work with Representative Kennedy's House resolution. If you schedule a Senate meeting, you'll work with Senator Dodd's Senate resolution. Be sure not to confuse the two because although they might be concurrent, they are separate and different resolutions. Be prepared to bring with you a copy of the requisite resolution, the ICC fact sheet, and the list of individuals indicted by the ICC as well as contact information. If a Senator might be interested in cosponsoring the resolution, have them contact Joshua Blumenfeld in Senator Dodd's office at [Joshua\\_blumenfeld@dodd.senate.gov](mailto:Joshua_blumenfeld@dodd.senate.gov) or at (202) 224-2823. If a representative might be interested in cosponsoring the resolution, have them contact Daniel Murphy in Representative Kennedy's office at [Daniel.murphy@mail.house.gov](mailto:Daniel.murphy@mail.house.gov) or at (202) 225-4911.

See the sample fax/email below:

**Sample Fax/Email Used to Schedule a Lobby Visit**  
(copy, personalize, and paste into your email or fax document)

<Date>

Dear <Scheduler's name>:

I am writing to request a meeting with <Member of Congress> in <his/her local/Washington> office on <Date> at <time or times that would work>. During the meeting, I will be asking that s/he cosponsor

<Senator Dodd or Representative Kennedy's> International Criminal Court resolution. As a member of Citizens for Global Solutions and a voter in <Member of Congress'> district, I would like to see them bolster this important resolution and consequently support the International Criminal Court. The International Criminal Court holds the world's worst criminals accountable for their actions.

I will fax you ahead of time a copy of the requisite resolution. In the meantime, please note that the following people will also accompany me on our visit. Like me, they are voting members in his <state/district>. Thank you very much.

Sincerely,  
<Name> , <Title>

**The Meeting:** Arrive early, but don't expect the leader or staffer to arrive on time. Allow time for small talk at the outset, but not too much. Remember, it's your visit. **You are there to build a relationship:** If your leader is supportive of the ICC, say how grateful you are for that. If the opposite is true, think of the phrase, "No permanent friends, and no permanent enemies." Your goal is to have the member cosponsor the resolution. Someday, s/he may come through. In the meantime, your visit may prevent the leader from becoming a hard-core, ICC opponent. In other words, you may help to turn down the heat on the other side. **Listen well:** Much of lobbying is listening, looking for indications of the leader's views, and finding opportunities to provide good information. If you are meeting with a "silent type," draw her/him out by asking questions. If you are confronted with a "long-winded type," look for openings to bring her/him back to the point. **Remember: your goal is to get your elected representatives to co-sponsor the resolution. So ask them to do so. If they cannot give you a firm yes or no, be sure to ask specifically when you can get back to them for an answer.** Don't forget to leave with them: Individuals Indicted by the ICC, Prosecuting Mass Atrocities (ICC

Fact Sheet), Senator Dodd's ICC Resolution or Representative Kennedy's House Resolution. However wait until the end of the meeting to give them this paper, so their attention is focused on you rather than reading what you have given them. If a Senator might be interested in cosponsoring the resolution, have them contact Joshua Blumenfeld in Senator Dodd's office at [Joshua\\_blumenfeld@dodd.senate.gov](mailto:Joshua_blumenfeld@dodd.senate.gov) or at (202) 224-2823. If a representative might be interested in cosponsoring the resolution, have them contact Daniel Murphy in Representative Kennedy's office at (202) 225-4911.

**Follow up:** with persistence! Your job isn't done and your mission isn't accomplished until you get a definitive response from your representative. This vital final step often makes the difference between real change and the status quo. Be persistent and ensure that your concerns are recognized and listened too. **Send a Thank You:** Elected officials and staffers are busy people--thank them for their time and attention to this ICC resolution. If commitments were made in the meeting, repeat your understanding of them. If staff members were present, write to them too. Every person in that office can be an important ally. **Have a great visit and tell us how it went!** Please please keep us in the loop. We work with many Congressional offices -- they are all unique. Much of our "insight" into how to communicate most effectively with different offices comes from the things that folks learn and share with us at the grassroots level. Email us: [outreach\[at\]globalsolutions.org](mailto:outreach[at]globalsolutions.org) to tell us how your visit went!

## 2. Letter Writing

**Sample letter:** Before your lobby visit, recruit friends and colleagues to send letters or emails into your Members of Congress. This way, by the time you arrive at your lobby meeting, the staffer will already be aware of support for the International Criminal Court in your district. We have included a sample letter for them to send in here. An easy to use

Congressional directory is available at [Congress.org](http://www.congress.org/congressorg/directory/congdir.tt):  
<http://www.congress.org/congressorg/directory/congdir.tt>

<Date>

Dear <Member of Congress>,

Ever since the Nuremburg war crimes trials, the United States has championed international law as a means to end impunity for war criminals while promoting American principles like due process, equality before the law and the protection of basic human rights. These principles are also embodied in the International Criminal Court.

Earlier this year, the ICC began its first trial of an accused war criminal, Congolese militia commander Thomas Lubanga Dyilo. Lubanga is accused of recruiting and utilizing child soldiers for the brutal conflict taking place in the Democratic Republic of Congo. In March of 2009, the ICC released a formal arrest warrant for Sudanese President al-Bashir, accused of war crimes and crimes against humanity, marking the first time an acting head of state has ever been indicted by the Court.

Despite the groundbreaking human rights work the ICC has achieved, the U.S. still does not support the court. <Member of Congress>, please cosponsor <House Resolution or Senate Resolution> as it is the only current U.S. resolution that helps the U.S. engage the International Criminal Court. Support of the ICC is an effective way that the U.S. can regain its leadership role in the international community.

<Member of Congress>, please cosponsor <House Resolution or Senate Resolution> so that we can support the ICC and help it

convict the world's most heinous criminals, and protect our legacy as a world leader in protecting human rights.

Sincerely,  
<Name>, <Title>

### 3. Make Phone Calls!

**Call the office:** Also, before your lobby visit, recruit friends and colleagues to make phone calls into your Members of Congress. This way, by the time you arrive at your lobby meeting, the staffer will already be aware of support for the International Criminal Court in your district. We have included a sample call-in script for that they are welcome to use.

#### Sample Call-in Script:

*As your constituent, I am calling because I would like <Member of Congress> to cosponsor<Senator Dodd or Representative Kennedy's> ICC resolution, which promotes a positive U.S. relationship with the International Criminal Court. The International Criminal Court is the only permanent international court capable of trying individuals accused of genocide, war crimes and crimes against humanity when there is no other recourse for justice. I urge you to cosponsor this essential resolution!*

Remember: now is the time to show your passion for the Court. The International Criminal Court is at a critical point in its history. U.S. support for the Court now is more important than ever. We are so glad to have your help in promoting this essential resolution. By being active and participating in this project, we get our best chance to promote the ICC. The substance of your meetings will demonstrate just how vital the Court is to the world and how deep support for the Court really goes. For more information, please go to [www.globalsolutions.org/issues/icc](http://www.globalsolutions.org/issues/icc) and make use of the information in your lobby efforts!



# INDIVIDUALS INDICTED BY THE ICC

## Uganda



### Joseph Kony



Joseph Kony is the head of the Lord's Resistance Army (LRA), a guerrilla group engaged in a violent campaign to establish a theocratic government in Uganda. The LRA was formed in 1987 and is engaged in an armed rebellion against the Ugandan government— one of the longest-running conflicts in Africa.

Kony leads the LRA, and proclaims himself to be a “spokesperson” of God and a spirit medium of the Holy Spirit. He claims to be establishing a theocratic state based on the Ten Commandments. “Yes, we are fighting for Ten Commandments, is it bad? It is not against human rights. And that commandment was not given by Joseph. It was not given by LRA. No, that commandment was given by God.”

The LRA is accused of committing murder, abduction, mutilation, sexual enslavement of women and children, and forcing children to participate in hostilities.

On October 6, 2005, the ICC issued an arrest warrant for Kony, along with four other members of the LRA. There are 33 charges, including 12 counts of crimes against humanity (murder, enslavement, sexual enslavement and rape) and 21 counts of war crimes (murder, cruel treatment of civilians, intentionally directing an attack against a civilian population, pillaging, inducing rape, and forced enlisting of children into the rebel ranks).

Kony has told reporters that he would not be willing to stand trial at the ICC because he had not done anything wrong. When asked about the child soldiers he has enlisted, he responded, “We don't have any children. We only have combatants.”

## Vincent Otti



Vincent Otti was the deputy-leader of the Lord Resistance Army. He was reported dead sometime during October 2007, a fact that is in great dispute. Otti joined the LRA at its founding in 1987. He was a member of the “Control Altar,” the core leadership group that determines the LRA’s strategy. In 2006, Otti emerged as the chief spokesperson of the LRA. In 1994, the LRA attacked Otti’s hometown, killing more than 200 people. His brothers allegedly fled the village after the family was accused of breeding a killer. Otti also allegedly lead the “Balonyo massacre” in

February 2004, during which more than 300 villagers were shot, hacked and burned to death.

A warrant was issued for Otti’s arrest on July 8, 2005, and he was charged with 21 counts of war crimes and 11 counts crimes against humanity. There is much confusion surrounding Otti’s death. Sources from the Ugandan military reported that “Otti was killed on or around October 8, 2007, during a high command meeting that Kony convened at his base camp in Garamba,” when he disagreed with Kony over the peace process. However, LRA defector Sunday Otto claimed to be present at the execution which took place on October 2<sup>nd</sup> alongside two other officers.

Others have denied that Otti is even dead, such as LRA spokesperson Martin Ojul, who claimed that Otti was simply suffering from cholera. Kony himself claimed that Otti was alive, but was detained for plotting to kill him and “conspiring with the enemies of the LRA.” Finally, on January 23, 2008, Kony confirmed that Otti was dead, but did not offer any details. However, the ICC still believes him to be at large.

## Raska Lukwiya



Raska Lukwiya was the third highest ranking leader in the Lord’s Resistance Army. He was charged with enslavement and one count each of cruel treatment and attacks on civilians. He was killed on August 12, 2006 when fighting with the Uganda People’s Defense Force, while peace negotiations were underway.

Lukwiya’s name has officially been removed from case list of the ICC.

## Okot Odhiambo



Okot Odhiambo was name Deputy Army Commander of the LRA after the death of Vincent Otti in October 2007. He was also a member of the “Control Altar,” the core leadership group responsible for devising and implementing LRA strategy. According to the ICC arrest warrant, Odhiambo is described as a “ruthless killer,” the “one who killed the most,” and a “bitter man who would kill anyone.” On July 8, 2005, the ICC issued Odhiambo’s arrest warrant, and charged him with three counts of crimes against humanity and seven counts of war crimes.

On January 29, 2009, Odhiambo announced his intention to defect from the LRA and return to Uganda if the government would agree not to send him to the ICC. Henry Okello Oryem, Uganda’s state minister for international relations, has said that the ICC indictment will not be discussed until Odhiambo is in custody.

## Dominic Ongwen



Dominic Ongwen is the Brigade Commander of the Sinia Brigade of the Lord's Resistance Army. As the head of one of the four LRA brigades, Ongwen is a member of the "Control Altar" of the LRA that directs military strategy. Ongwen is the lowest ranking of the five LRA leaders for whom the ICC issued a warrant. He is charged with seven counts of crimes against humanity and war crimes. Ongwen was reported killed in October 2005, and was confirmed dead by LRA commanders. However, in July 2006, the ICC reported him to still be alive after genetic fingerprinting of the body confirmed that it was not Ongwen who died. In October 2007, Ongwen and his wife were featured in a film, "Picking up the Pieces," which gave further proof that he was still alive.

## Democratic Republic of the Congo



### Thomas Lubanga



Thomas Lubanga Dyilo is a former rebel leader from the DRC. He founded and led the Union of Congolese Patriots (UCP) and was a key player in the ethnic conflict of the Ituri region. On March 17, 2006, Lubanga became the first person ever arrested under a warrant issued by the ICC. His trial began on January 26, 2009. Human Rights Watch has accused the UPC, under Lubanga's leadership, of "ethnic massacres, murder, torture, rape and mutilation, as well as the recruitment of child soldiers."

The UPC allegedly killed 800 civilians on the basis of ethnicity between November 2002 and June 2003. During February and March of 2003, the UPC killed at least 350 civilians and forced 60,000 to flee their homes by destroying 26 villages in one area. It is also reported the Lubanga has about 3,000 child soldiers working for him between the ages of 8 and 15. In March 2004, the Congolese government authorized the ICC to investigate and prosecute "crimes within the jurisdiction of the Court allegedly committed anywhere in the territory of the DRC since the entry into force of the Rome Statute, on July 1, 2002." Lubanga became the first person to be arrested under an ICC arrest warrant on March 17, 2006, when Congolese authorities arrested him and transferred him into ICC custody. He has been held in ICC detention since March 17, 2006. His trial began on January 26, 2009.

The counts against Lubanga include the responsibility as a co-perpetrator of war crimes, consisting of: (1) Enlisting and conscripting of children under the age of 15 years into the *Forces Patriotiques Pour la Libération du Congo* (FPLC), and using them to participate actively in hostilities in the context of an international armed conflict from early September 2002 to June 2, 2003; (2) Enlisting and conscripting children under the age of 15 years into the FPLC and using them to participate actively in hostilities in the context of an armed conflict not of an international character from June 2, 2003 to August 13, 2003. The first count is punishable under article 8(2)(b)(xxvi) of the Rome Statute, and the second under article 8(2)(e)(vii). On the first day of trial, Lubanga showed no emotion when his charges were read, or when his lawyer filed his not guilty plea. Chief Prosecutor Moreno-Ocampo pledged to prove that Lubanga and his men forced child soldiers to rape, kill, and plunder for the FPLC. Deputy Prosecutor Fatou Bensouda explained that Lubanga exploited families by sending emissaries on recruitment campaigns to gather children.

Several former child soldiers testified during the trial, all under witness protection in private sessions. One child said that he was beaten so badly during military training that “one of his testicles had been damaged.” A witness who worked at a demobilization facility testified that they knew of a child who had suffered trauma in his family prior to being recruited to fight, and only wanted to return home to kill his father once he was released. The witness also testified to know a child who became epileptic as a result of the loud shooting he heard during military training.



Ocampo also spoke of the treatment of the young female child soldiers: “You will hear that as soon as the girls’ breasts started to grow, Lubanga’s commanders could select them as their forced ‘wives’ and transform them into their sexual slaves.” A witness testified that the girls in the camp were forced to sleep with the commanders and were sometimes told to have an abortion if they got pregnant, despite the lack of any medical facilities to perform such a procedure. The witness testified to seeing a 14 year-old girl die after an abortion because of “complications.” The Prosecution closed its case on July 17, 2009. The Defense is scheduled to begin sometime in October 2009.

## Germain Katanga



Germain Katanga is a former leader of the Patriotic Resistance Force in Ituri. On October 17, 2007, Congolese authorities surrendered him to the ICC to stand trial. In early 2003, Katanga emerged as the senior commander of the FRPI. In February 2003, he led an attack on the village of Bogoro, where rebels under his command went on an “indiscriminate killing spree,” killing at least 200 civilians, imprisoning survivors in a room filled with corpses, and sexually enslaving women and girls. Katanga was arrested by the Congolese authorities in early March 2005, in connection with the killing of nine UN peacekeepers in Ituri on February 25, 2005. He was held without charge until his transfer to the ICC in October 2007, where he is to stand trial for six counts of war crimes and three counts of crimes against humanity.

## Mathieu Ngudjolo Chui



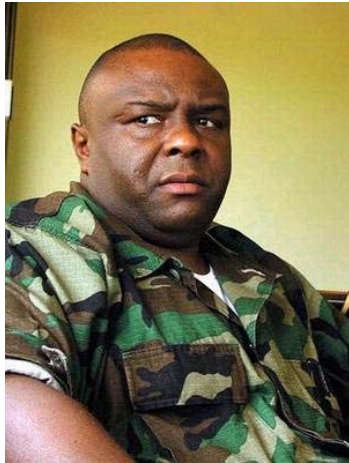
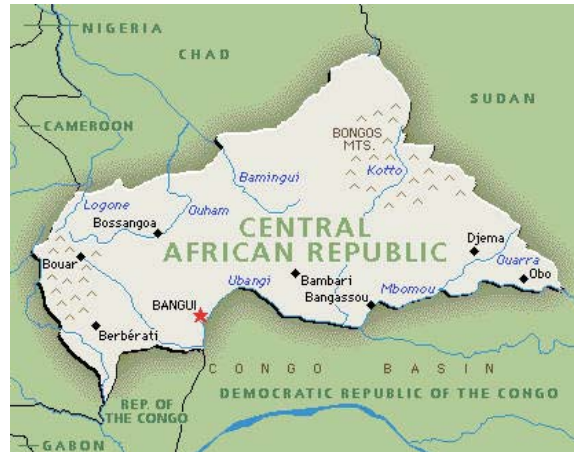
Mathieu Ngudjolo Chui is a colonel in the Congolese army and a former commander of the National Intergrationist Front and the Patriotic Resistance Force in Ituri. On February 6, 2008, he was arrested by the Congolese authorities and surrendered to the ICC to stand trial on six counts of war crimes and three counts of crimes against humanity. These charges include murder, sexual slavery and using children under the age of fifteen to actively participate in hostilities. He committed the attack on Bogoro village with Germain Katanga and is set to stand trial jointly with him.

## Bosco Ntaganda



Bosco Ntaganda is the military chief of staff of the National Congress for the Defense of the People, an armed militia group operating in the North Kivu province of the DRC. He is a former member of the Rwandan Patriotic Army and allegedly a former Deputy Chief of the General Staff of the Forces Patriotiques pour la Libération du Congo. He was charged with the war crime of enlisting and conscripting children under the age of fifteen and using them to actively participate in hostilities. He remains at large.

# CENTRAL AFRICAN REPUBLIC



## Jean-Pierre Bemba

Jean-Pierre Bemba Gombo is a politician in the DRC. He leads the Movement for the Liberation of Congo (MLC), a rebel group turned political party. In 2002, the President of the Central African Republic invited the MLC to come to his country to fight a coup attempt. Human rights activists accused MLC fighters of committing atrocities against civilians in the course of this conflict. The ICC has charged him with five counts of war crimes and two counts of crimes against humanity, including murder, rape, and torture. He was arrested near Brussels, Belgium on May 24, 2008 and was committed to trial on June 15, 2009.

## Darfur, Sudan



### Ahmed Haroun



Ahmed Haroun incited attacks against Darfuri civilians and recruited, funded and armed the Janjaweed militia, a group of nomadic armed forces that have been fighting for resources and land allocation with sedentary populations. In August 2003, he was accused of the forcible transfer of about 20,000 civilians and pressuring displaced persons to leave their displacement camps. The ICC has accused Haroun of 20 counts of crimes against humanity and 22 counts of war crimes, including murder, persecution, rape and torture. Sudan, which is not a member state

of the Rome Statute, has refused to surrender Haroun to the ICC, saying that they have no jurisdiction. In September 2007, the Sudanese government announced that Haroun would lead an investigation in the human rights violations in Darfur. The government also appointed him as a member of its committee overseeing the United Nations African Union Mission in Darfur [UNAMID], thus influencing the deployment of peacekeepers in Darfur.

### Ali Kushayb



Ali Kushayb is a former senior Janjaweed commander and currently sought under an arrest warrant by the ICC. He has been accused of personally attacking and murdering civilians in 2003 and 2004, as well as ordering numerous rapes, killings, and lootings. He has been arrested by the Sudanese government but has not been surrendered to the ICC.

## Omar al-Bashir



Omar al-Bashir is the current President of Sudan. He came to power in 1989 when he led a group of officers in a military coup that ousted the government. During his presidency, there have been several violent struggles between the Janjaweed militia and rebel groups such as the Sudan People's Liberation Army (SLPA), Sudanese Liberation Army (SLA) and the Justice and Equality Movement (JEM) in the form of guerilla warfare in the Darfur region. The civil war has resulted in over 2.5 million people being displaced, and the diplomatic relations between Sudan and Chad escalating to a crisis level. He is the first sitting head of state to be indicted by the

ICC, which has charged him with five counts of crimes against humanity and two counts of war crimes. He remains at large, since all the African Union members except Botswana and South Africa have declared that they will not honor the ICC's arrest warrant.

## Bahr Idriss Abu Garda



Bahr Idriss Abu Garda is the leader of the United Resistance Front, a rebel group fighting against the Sudanese government in Darfur. Previously, he was the vice president of the Justice and Equality Movement, an armed Islamist group that fought against the Sudanese government and pro-government militia in Darfur. He has been charged by the ICC with three counts of war crimes relating to a 2007 attack in which rebels surrounded and killed 12 AU peacekeepers. He is the first person to appear voluntarily before the ICC and the first person to be tried by the court in relation to Darfur. He denies the charges against him and is set to undergo a hearing to confirm the charges on October 12, 2009. He remains at liberty until the trial.



# Prosecuting Mass Atrocities: Defining a New U.S. Role within the International Criminal Court

## Introduction

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In January 2009, the International Criminal Court (ICC) began its first trial. Thomas Lubanga, former rebel leader of the Democratic Republic of the Congo is accused of recruiting and training child soldiers for combat. In March, 2009, the Court issued an arrest warrant for the current president of Sudan, Omar Al-Bashir. The warrant accuses al-Bashir of committing war crimes and crimes against humanity in Darfur, by ordering armed troops as well as Janjaweed militia to engage in a systematic campaign of killing, rape and starvation against members of the Fur, Masalit and Zaghawa groups.

The ICC is the only permanent international court capable of trying individuals accused of genocide, war crimes, and crimes against humanity when there is no other recourse for justice. The ICC was created by a treaty called the Rome Statute, which entered into force on July 1, 2002. The ICC only has jurisdiction in the most grave cases; specifically, when crimes are committed as part of a “plan or policy” of such crimes or of a “widespread commission.” Isolated war crimes and accidents are not part of the ICC’s mandate. Cases can be referred to the court by the United Nations Security Council or an ICC State Party, or on the Prosecutor’s initiative with the approval of the ICC judges. The ICC only takes cases when national systems are unwilling or unable to handle them – the ICC Prosecutor cannot take up a matter that has been investigated in good faith by national authorities, even if the national authorities ultimately decide not to prosecute.

The ICC carries forward the U.S. commitment to act to provide justice and recourse for victims of brutal atrocities. After allied troops liberated the concentration camps, the U.S. led the Nuremberg trials to provide justice for Hitler’s victims. The ICC helps spread democracy, rule of law, human rights, and justice by helping member nations reform their laws and judicial systems to meet these standards.

## Background- The Relationship between the U.S. and the ICC

In December 2000, President Clinton signed the Rome Statute treaty and expressed the importance of continued engagement with the ICC. He believed that cooperation with the Court was essential. President George W. Bush adopted a stringent policy of isolation and opposition against the Court during his first term. In 2002, President Bush authorized then-Under Secretary of State John Bolton to “unsign” the treaty by informing the United Nations that the U.S. did not intend to ratify the Rome Statute, relieving the U.S. of its obligations to undermine the treaty.

In her first address to the United Nations Security Council, U.S. Ambassador Susan E. Rice underscored the importance of a vibrant relationship between the U.S. and the ICC, signaling a shift in U.S. policy:

*“President Obama is committed to building strong international partnerships to tackle global challenges...The International Criminal Court, which has started its first trial this week, looks to become an important and credible instrument for trying to hold accountable the senior leadership responsible for atrocities committed in the Congo, Uganda, and Darfur.”*

## U.S. Cooperation with the ICC - Goals for 2009

The United States now has an opportunity to develop a more cooperative relationship with the Court that is both pragmatic and constructive. In 2009, the U.S. should:

**1. Reinstating the U.S. signature of the Rome Statute.**

Reinstating the signature and participation in the Review Conference process in particular would have a strong symbolic impact in distinguishing the new administration from its predecessor. The reinstatement would also help reestablish the United States as a positive presence within international institutions. The United States can reinstate its signature of the Rome Statute by a note to the United Nations Secretary-General so requesting. The Secretary-General would report this note as a footnote to the name of the United States on the list of signatories for which he is responsible.

**2. Responsibly participate in the ICC's governing body, the Assembly of State Parties and the 2010 ICC Review Conference.**

Israel, Russia, and China have not signed the Rome Statute either, yet they consistently send observers to the Courts governing body, the Assembly of State Parties. It is in the best interest of the United States to also send an observer to the Court to weigh in and voice U.S. interests on issues. The U.S. will be able to influence the continuing work on defining the crime of aggression, an important issue for the United States. During the Review Conference, the Court will also consider its stance on terrorism and drug crimes. The U.S. has a stake in all of these issues and should participate in a responsible manner to define aggression and address the other issues.

**3. Expand, deepen and further the official channel of U.S. cooperation with the Court.**

U.S. national interests are already engaged to varying degrees in the Court's current cases and will increase further if the prosecutor's current preliminary examinations of Colombia and Afghanistan become formal investigations. During the second Bush administration, the U.S. offered to cooperate with the Court on Darfur and established a formal channel of communication with the ICC's Office of the Prosecutor. Since it is so important to bring justice to these heinous criminals, support for the ICC should be expanded and normalized. Cooperation with the Court can both clarify and help protect those interests. The governments of Uganda, the DRC and Central African Republic asked for the ICC's help in investigating atrocities in their countries. In Uganda, more than 20,000 children have been abducted by rebels to serve as child soldiers and sex slaves. In the Democratic Republic of Congo, militias are raping and massacring thousands of civilians. In Central African Republic, from October 2002 till March 2003, numerous killings, looting, massive rapes and large-scale sexual crimes occurred. The U.S. should bring to bear its unparalleled diplomatic and intelligence resources, like unclassified reports, satellite images and soft power, to help build cases against mass murderers and encourage other countries to cooperate with these important investigations.

For more information, contact Abigail Long, Programs Coordinator, at [along@globalsolutions.org](mailto:along@globalsolutions.org) or 202-546-3950 x105 or Don Kraus, CEO, at [dkraus@globalsolutions.org](mailto:dkraus@globalsolutions.org) or at 202-330-4103.

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(Original Signature of Member)

111TH CONGRESS  
1ST SESSION

# H. CON. RES. \_\_\_\_\_

Calling on the President to support United Nations Security Council referrals of situations involving genocide, war crimes, and crimes against humanity to the International Criminal Court, to cooperate with investigations and prosecutions conducted by the International Criminal Court, and participate as an observer at meetings of the Assembly of States Parties to the Rome Statute.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. KENNEDY submitted the following concurrent resolution; which was referred to the Committee on \_\_\_\_\_

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# CONCURRENT RESOLUTION

Calling on the President to support United Nations Security Council referrals of situations involving genocide, war crimes, and crimes against humanity to the International Criminal Court, to cooperate with investigations and prosecutions conducted by the International Criminal Court, and participate as an observer at meetings of the Assembly of States Parties to the Rome Statute.

Whereas the preservation of international peace and security rests on adherence to the rule of law and the principles of justice by the nations and peoples of the world;

Whereas international peace and security are threatened by the commission of the most serious international crimes, including war crimes, genocide, and crimes against humanity;

Whereas the prosecution of individuals suspected of committing the most serious international crimes is often impeded by domestic, political, and legal obstacles;

Whereas the inability of local and national court systems to prosecute those individuals responsible for the most serious violations of international criminal law demonstrates the need for an international mechanism for ensuring that such violations are prosecuted;

Whereas while ad hoc courts have demonstrated the success of international tribunals in addressing the atrocities committed in specific conflicts, they have significant limitations;

Whereas the ability of ad hoc courts to punish and deter the most serious international crimes is severely limited by the difficulty of creating and sustaining them;

Whereas, on July 1, 2002, the Rome Statute of the International Criminal Court entered into force and the permanent International Criminal Court (ICC) was created;

Whereas the ICC has jurisdiction over only the most serious violations of international criminal law committed after July 1, 2002, including war crimes, crimes against humanity, and genocide;

Whereas these are the most serious and horrendous crimes imaginable, and the failure to systematically punish such crimes offends universally accepted standards of law and morality and threatens the establishment of peace and security;

Whereas the ICC follows universally accepted international law in defining war crimes, crimes against humanity, and genocide, including the Convention on the Prevention and Punishment of the Crime of Genocide (1948) and the Geneva Conventions (1949), but it does create any new international crimes;

Whereas the ICC was designed as a court of last resort, not as a replacement for national judicial systems;

Whereas the ICC only has jurisdiction if local courts are too weak, too damaged, or too corrupt to try those responsible for the most serious violations of international criminal law;

Whereas the ICC guarantees the right to a fair trial, including a prohibition on trials in absentia, the right to cross-examine witnesses, protection against double jeopardy, and protection from self-discrimination;

Whereas more than half the countries of the world, 98, have ratified the Rome Statute and become members of the ICC;

Whereas the democracies of the world have overwhelmingly embraced the ICC, more than 70 percent of the world's democracies are already members of the ICC and many more have indicated a desire to join;

Whereas almost all of the most significant allies of the United States are already members of the ICC, including the United Kingdom, Canada, Australia, France, Germany, Italy, New Zealand, South Korea, and many others;

Whereas new democracies in Eastern Europe, Latin American, and Africa are also strong supporters of the ICC, joining the ICC helps them strengthen the rule of law

and respect for human rights, protecting against a return to tyranny;

Whereas the ICC has investigated human rights abuses, war crimes, and genocide in the Democratic Republic of the Congo, Central African Republic, Uganda, and Sudan;

Whereas in the Democratic Republic of the Congo, government forces and rebel militias have killed hundreds of thousands of civilians and devastated large portions of the country;

Whereas in Uganda, more than 20,000 boys and girls, some as young as 9, have been abducted by the Lord's Resistance Army to serve as child soldiers and sex slaves;

Whereas the ICC issued an arrest warrant for the President of Sudan, Omar al-Bashir, for war crimes and crimes against humanity;

Whereas in the Darfur region of Sudan, government-backed forces have conducted a campaign of ethnic cleansing and genocide that has killed nearly 400,000 people; and

Whereas none of the individuals responsible for the atrocities in the Democratic Republic of the Congo, Central African Republic, Sudan, or Uganda are likely to be prosecuted by the local court systems, the ICC is the only hope for punishing those responsible for the worst atrocities: Now, therefore, be it

1        *Resolved by the House of Representatives (the Senate*  
2 *concurring)*, That it is the sense of Congress that the  
3 President, acting through the Secretary of State and the  
4 permanent representatives of the United States to the  
5 United Nations, should—

1           (1) support United Nations Security Council re-  
2           ferrals of situations involving genocide, war crimes,  
3           and crimes against humanity to the International  
4           Criminal Court (ICC), except where such a referral  
5           would not be in the national interest of the United  
6           States;

7           (2) include as stated policy of the United States  
8           Government to support the mandate and purpose of  
9           the Rome Statute of the ICC, notwithstanding its  
10          prior letter of May 6, 2002, to the United Nations  
11          Secretary-General;

12          (3) cooperate with investigations and prosecu-  
13          tions conducted by the ICC, except where such in-  
14          vestigations or prosecutions are not in the national  
15          interest of the United States;

16          (4) facilitate active participation as an observer  
17          at meetings of the Assembly of States Parties to the  
18          Rome Statute to ensure that the ICC develops in a  
19          manner consistent with the national interest of the  
20          United States; and

21          (5) remove any limitations in United States pol-  
22          icy that address restriction and limitation of the as-  
23          sistance to and cooperation with the ICC.