

## China, Russia quash ICC efforts to press Sudan over Darfur crimes

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January 11, 2008 (THE HAGUE) - A United Nations Security Council, UNSC, statement calling for the Sudanese government to comply with the International Criminal Court, ICC, by handing over two men suspected of war crimes in Darfur has been scrapped due to opposition from China and Russia.

The countries, two of the five permanent UNSC members, refused to endorse the presidential statement which urged the Government of Sudan, GoS, to cooperate fully with, and provide any necessary assistance to the ICC.

Human rights workers, officials and court representatives are now calling for the UNSC to take a tougher stance.

Back in March 2005, the UNSC referred Darfur to the ICC under Resolution 1593 because it considered the situation in Sudan a threat to international peace and security. The resolution urged all states to cooperate fully with the court.

In April 2007, ICC judges issued arrest warrants for government minister Ahmed Harun, and Janjaweed commander Ali Kushyb. However, the GoS refused to accept the jurisdiction of the ICC over crimes in Darfur, insisting that the Sudanese justice system is capable to trying suspects.

Khartoum refuses to cooperate with the court, and in a show of defiance, Harun has been promoted to minister in charge of humanitarian affairs, and as liaison for the new UN-African Union hybrid peacekeeping force, UNAMID.

The statement calling for greater cooperation from the GoS was drafted after the ICC prosecutor reported in December that a second wave of atrocities was being committed against 2.5 million Darfurians, who had previously been forcibly displaced from their homes and are now living in camps.

In his report, Prosecutor Luis Moreno-Ocampo spoke of a "calculated, organised campaign by Sudanese officials to attack individuals and further destroy the social fabric of entire communities", as well as an increasing number of attacks against humanitarian personnel and peace keepers.

He gave examples of the joint attack on the town of Muhajiriya by allied GoS and Janjaweed forces on October 8, 2007 in which 48 civilians praying in a mosque were rounded up and slaughtered, as well as a Sudanese airforce bombing of Adilla in August the same year which displaced a further 20,000 people.

Moreno-Ocampo asked the UNSC to send a strong, unanimous message to the GoS, requesting compliance and the execution of arrest warrants for Harun and Kushyb.

"It would be inaccurate and confusing to convey in any way to the GoS that the arrest warrants and the obligation to comply with Resolution 1593 will go away," said Moreno-Ocampo.

At the time, the then president of the UNSC, Italy's ambassador Marcello Spatafora, described the contents of Moreno-Ocampo's report as "very disturbing". Following the prosecutor's briefing, he said a UNSC declaration should be drafted.

"We cannot stay silent, and have to send a strong message [to the Sudanese authorities] so we propose this to the members and ask the countries to circulate a draft. It is now under consideration," he said.

Slovakia, Italy, UK, France, and Belgium then proposed a statement, citing the ICC arrest warrants for Kushyb and Harun, and urged Khartoum to cooperate with the ICC "in respect of these individuals".

However, on December 7, after two days of discussions between the 15 members of the UNSC, the statement was suddenly abandoned.

In an apparent about-turn, Spatafora told journalists that a statement was "not needed" because UNSC members had already been "loud and clear" about their views that the GoS should cooperate with the ICC.

UN sources told IWPR that China and Russia felt the presidential statement was not conducive to humanitarian, political and peacekeeping efforts.

UK ambassador to the UN John Sawyers suggested that China was responsible for blocking December's statement. He said he

was "confident that if the Chinese had not taken such a firm line against the statement, it would have been adopted".

ICC watchers, such as David Donat Cattin from Parliamentarians for Global Action, were not surprised the statement was scrapped and feel that it would not have made any real difference to the Darfur crisis.

"It would have been a nice political move, but would not have added anything to the legally binding Resolution 1593," he said.

But representatives of rebel groups in Sudan are disappointed that the UNSC has backed down.

Ahmed Diraige, chairman of the Sudan Federal Democratic Alliance and former head of the National Redemption Front, said in order to stay credible and respected by Darfurians, organisations such as the UN and ICC must prove they are fulfilling their duties.

"The resolve of the international community to bring people in Sudan to justice is a farce. The UNSC and ICC have passed resolutions and indicted individuals, but have no means of enforcing decisions and the government is defying them, and not handing individuals over," said Diraige.

"One has been promoted to status of minister of humanitarian affairs when he is accused of violating human rights. This is very damaging to the reputation of these institutions. People will laugh and say they do not exist and are only names."

He told IWPR that the international community must take a tougher stance against the Sudanese authorities.

"People in Darfur have lost faith. Injustices are continuing. The international community, international institutions and heads of state are not doing anything," he said.

Justice minister of the rebel Justice and Equality Movement, JEM, Bushara Suleiman, said that whether Kushayb and Harun end up in The Hague is entirely dependent on pressure from the UNSC on the government, and is calling for further sanctions.

"The UNSC need to impose oil sanctions, which is the only thing which will stop the genocide in Darfur, but [permanent member] China will never allow this," he said.

"The Chinese have a UNSC veto and also have oil interests in Sudan. So rebels need to control cities like El Genina, El Fasher and Nyala, because any other sanctions will not convince the GoS to comply with the ICC."

China buys most of Sudan's oil, and rebels accuse the country of indirectly funding Khartoum's campaign in Darfur by investing in the country's oil industry and thereby channelling money to the government.

Bushara told IWPR that those who have committed crimes have to be taken to the ICC and that "we will fight until this happens. For us it is clear. We need comprehensive sanctions".

But Sawyers is not confident about the resolve of fellow UNSC members over imposing progressively more hard-hitting sanctions against Sudan.

"If we press for further sanctions, we might find a number of other countries, not just China, but also Russia, Libya, Vietnam South Africa being cautious about applying that pressure," he said.

Observers point out that the current sanctions imposed against Sudan by the UNSC are not working.

Cattin said that a travel ban currently in place against Harun is short-sighted because "experience tells us that the best way to arrest these people is to allow them to travel and arrest them outside Sudan".

Steve Crawshaw from Human Rights Watch said that blame for the UNSC's half-hearted response to the Darfur crisis cannot be laid solely at the feet of China and Russia.

He said that right across the UNSC, there has been a lack of will to help the ICC, and added that the body was sending out "confusing signals" to Sudan.

In mid-2007, as the UN negotiated with the Sudanese authorities to send a deployment of hybrid peacekeepers to Darfur, the UNSC did not want to acknowledge the GoS was failing to cooperate with the ICC in case it ruined the deal.

Crawshaw said that Khartoum was praised by the UN for cooperating in discussions over peacekeepers, with UN Secretary General Ban Ki-Moon failing to raise the issue of justice on a trip to Sudan.

"You can't have Khartoum praised, and not mention that Harun was appointed as the liaison to UNAMID. This is a shameful slap in the face to the UN, and every government has to confront this," added Crawshaw.

Belgium's UN ambassador Johan Verbeke told IWPR he has "again and again stressed the importance of the fight against impunity in Sudan, particularly in relation to the case of Harun, and succeeded in making an increasing number of UNSC members sensitive to the issue.

"Belgium will not accept Sudan's utter defiance of its obligations."

These are welcome words for ICC prosecutors after what they describe as "months of silence from the international community".

An ICC spokesperson told IWPR that "it is now up to the members of the UNSC to live up to their responsibility and ensure that the GoS respect its obligations under Resolution 1593 and cooperate with the ICC, in particular through the arrest and surrender of Harun and Kushayb".

The Chinese and Russian delegations to the UN declined the opportunity to respond to interview requests from IWPR.

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