



DARFUR, THE INTERNATIONAL CRIMINAL COURT AND THE UNITED STATES

Since the Darfur conflict began in 2003, more than 200,000 people have reportedly been killed and 2.5 million have been driven from their homes and villages. Civilians in Darfur have been subject to widespread atrocities, including mass rape, murder, persecution, torture, and forced displacement. The US has labeled the situation in Darfur as genocide. In response to this crisis, on March 31, 2005, the UN Security Council passed Resolution 1593 referring the Darfur situation to the International Criminal Court (ICC) and authorizing the Court to investigate and prosecute individuals most responsible for atrocities in Darfur. The referral is an unexpected and significant precedent in how the Court receives cases and a new approach to pursuing international justice. It will be particularly important if the Security Council helps with arrests, such as by so authorizing the new peacekeeping force in Sudan. The US facilitated this breakthrough by abstaining on the referral, citing the need for the international community to work together to end the climate of impunity in Sudan. The US abstention marked a major shift in practice away from its overt antagonism towards the Court.

On May 2, 2007, the Court took a major step towards accountability by issuing its first arrest warrants in the Darfur investigation for Ahmad Muhammad Harun, former Minister of State for the Interior of the Government of Sudan and current Minister of State of Humanitarian Affairs, and Ali Muhammad Ali Abd-Al-Rahman (also known as Ali Kushayb), a Janjaweed militia leader. Together, these individuals are charged with 51 counts of war crimes and crimes against humanity, including murder, rape, torture, and persecution. Sudan is obligated to comply with the ICC arrest warrants and required to surrender and transfer the two suspects to the Court for indictment and eventual trial. The ICC Prosecutor will likely seek additional arrest warrants as he builds on the evidence collected in the investigation over the past two years as well as during the current cases.

Following the referral, members of the Bush Administration have spoken positively about the work of the Court and publicly expressed willingness to cooperate with it on Darfur. Additionally, the US Department of State established an official channel for assistance to the ICC Prosecutor. In May 2007, the US welcomed the ICC arrest warrants and urged the Sudanese government to cooperate with the ICC. US politicians, such as Senator John McCain and former Senator Bob Dole, have also advocated US cooperation with the Court. They support sharing US satellite images and intelligence with the Court for its Darfur investigation.

Thus, there is a new US approach to the Court in practice, even if not a change in policy. The US acknowledges and accepts the Court as a useful mechanism to provide justice for victims of atrocities, such as those in Darfur. The continuing crisis in Darfur as well as growing domestic and international concern and calls for accountability have induced greater flexibility in the US stance towards the Court and provided a more conducive environment for cooperation. The ICC's efforts to end impunity for atrocities committed in Darfur are not only important with respect to promoting accountability, deterring future abuses, and providing justice for victims but also in a larger context to contributing to a lasting peace in Darfur. The further development of a more collaborative relationship between the US and the Court would not only be a positive step in addressing the situation in Darfur but also in affirming US commitment to international justice.

For more information on the ICC's Darfur investigations and the US position on the ICC, visit www.amicc.org.

Researched and drafted by Amitis Khojasteh

Updated August 2, 2007

