

ICC Suspect Dealing With Darfur Crisis

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Humanitarian affairs minister alleged to have supplied and armed tens of thousands of Janjaweed militiamen.

At a United Nations Security Council, UNSC, briefing last week Luis Moreno-Ocampo, the Chief Prosecutor of the International Criminal Court, ICC, expressed concern that the minister in charge of Darfur's humanitarian crisis is indicted at the court for crimes against humanity and war crimes.

Ahmad Harun - who now deals with Darfur's four million civilians reliant on aid, as well as two million forced from their homes into camps - was formerly Sudan's minister of state for the interior.

An ICC arrest warrant was issued against him in April 2007 for allegedly coordinating murders, rapes, torture, forced displacement and unlawful imprisonment of innocent civilians in Darfur.

"Presiding over this dire situation is the same individual sought by the court, now minister of state for humanitarian affairs, Ahmad Harun," Luis Moreno-Ocampo told the UNSC on June 7.

At the briefing, Moreno-Ocampo reminded council members that evidence he gathered suggests Harun resourced and armed tens of thousands of Janjaweed militia men to support Sudanese army violence against civilians in Darfur in 2003 and 2004.

The chief prosecutor alleged that in his role as head of the Darfur Security Desk, Harun funded and incited the Janjaweed, with the aim of provoking further atrocities against civilians.

Moreno-Ocampo is gathering information about fresh crimes spilling over to refugee camps in Chad as well as the Central African Republic, where he has just launched another investigation into violence that followed a coup attempt by former army chief François Bozizé in October 2002.

At the Security Council briefing, he expressed concern over recent reported attacks against UN, AU and humanitarian aid workers, disproportionate air strikes by Khartoum causing "loss of life and new displacement of civilians", and more reports of women being raped when venturing outside IDP camps.

Moreno-Ocampo told the council that while Sudan has not signed up to the ICC statute, existing Security Council resolutions require the authorities there to arrest and hand over Harun, as well as Janjaweed militia leader Ali Kushayb who is also indicted by the court.

He said that he is seeking cooperation from the international community - including the UN, AU and ICC member countries - to lobby Sudan to arrest the men.

With no police force of its own, the ICC relies on countries involved to extradite suspects to The Hague.

But Sudan refuses to accept the ICC's jurisdiction and continues to downplay the scale of the situation in Darfur.

As a court of last resort, the ICC will not act if a case is investigated or prosecuted by a national judicial system, unless proceedings are not genuine.

After the ICC opened investigations into Darfur in 2005, Khartoum established a Special Criminal Court for the Event in Darfur, SCCED, to prosecute war crimes suspects, but this has been widely discredited as a sham by human rights groups.

In November 2006, ICC prosecutors asked to talk to Harun but the Sudanese authorities refused.

Foreign Affairs Minister Ali Ahmed Kerti added in February 2007 that Khartoum was investigating events in Darfur and another investigation could not take place on its territory.

Moreno-Ocampo maintains that the case against Kushayb - who is under criminal investigation and has been in Sudanese custody since November 2006 - is admissible because he is being investigated for different crimes to those included in the ICC indictment against him.

In relation to Harun, ICC prosecutors, who met with Sudan's Judicial Investigations Commission and Justice Ministry officials in February 2007, found "no indication" that he has been subject to any criminal investigation in relation to Darfur.

On June 11, Human Rights Watch, HRW, said that Khartoum's continuing failure to prosecute the perpetrators of crimes in Darfur in Sudanese courts makes ICC prosecutions essential, and underscores why Sudan should fulfil its obligation to hand indicted suspects to the ICC.

Leslie Lefkow, Darfur expert from HRW, said that retaining Harun as humanitarian affairs minister, in spite of the arrest warrant against him and continuing crisis in Darfur, is a "clear indication that there is no change of attitude or policy in Khartoum".

She told IWPR that for many victims in the region, it was important that a government minister was identified as one of the ICC's first suspects, as an "indicator of the central policy and campaign of the Sudanese government".

Lefkow said that it is symbolically and politically significant that someone who previously played such a key role in Khartoum's Darfur policy was then appointed minister of state for humanitarian affairs - a key position for dealing with the international community and implementing government policy.

"It is highly cynical and reflects the government's total denial of what has been happening in Darfur," said Lefkow.

Lefkow stressed that Sudan's policy on Darfur comes from higher up the command chain than Harun, who is merely one of the implementers.

She said that policies that underpin the regime's lack of accountability, prosecutions and progress with the Janjaweed are a "coordinated strategy involving many people".

The way his ICC arrest warrant is being flagrantly disregarded by Khartoum shows how "important it is for Moreno-Ocampo to continue to investigate up the chain of command", she said.

Lefkow added that with Sudan showing "no willingness to undertake real accountability", now it is time for the authorities to hand Harun and Kushayb over to the ICC.

Ayesha Kajee, from the South African Institute of International Affairs, has just returned from Darfur. She told IWPR that the Sudanese government does not seem convinced there is sufficient evidence against the minister to initiate an investigation of its own.

Harun's position as humanitarian affairs minister reflects Sudan's refusal to acknowledge the ICC's jurisdiction, and is a "gesture of defiance against the international community", she went on.

Sudan has not only refused to cooperate with the ICC, but for months also resisted a UN resolution calling for the deployment of up to 20,000 peacekeeping troops in Darfur.

Now under mounting international pressure, Khartoum finally agreed to a revised plan for up to 20,000 joint UN-African Union peacekeepers for Darfur, at a meeting of Sudanese, UN and AU officials in Ethiopia on June 12.

This agreement comes ahead of a UNSC mission to Khartoum on June 16 to press for an end to the conflict, after reports by the AU and UN missions in Darfur, and a UN Human Rights Council's mission in March, confirmed the government's continuing responsibility for aerial bombing and ground attacks against civilians.

Like the existing AU force, which is under-funded and ill-equipped, the mandate of the new hybrid UN-AU force will be to uphold the ceasefire and keep peace, rather than actively confront combatants and make arrests.

As part of the negotiations for the bolstered peacekeeping force, a mandate to include arresting ICC indictees was considered, but rejected.

Kajee told IWPR that while the UN could mandate their own personnel to apprehend suspects, she suggested this was "unlikely".

According to Kajee, those currently under investigation by ICC and Sudanese authorities include local tribal leaders who command loyalties within Darfur, and any attempt to arrest them could upset the balance of the current very fragile peace.

Kajee feels a balance must now be reached between getting badly needed peacekeepers into Darfur, and arresting ICC indictees.

She says the international community will opt for more peacekeepers, even with a diluted mandate, as “the priority is peacekeeping, rather than arrests”.

However, it could be argued that in Darfur at the moment, there is no peace to keep.

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