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Sudan: Security Council should support ICC prosecutions

On the eve of the report of the Prosecutor of the International Criminal Court (ICC) to the United Nations Security Council on the situation in Darfur, Amnesty International urges the Council to reject calls to block prosecutions of persons charged with crimes against humanity and war crimes and to take immediate, concrete steps to ensure that all persons named in ICC arrest warrants are arrested and surrendered to the ICC.

Despite its obligations under Security Council resolution 1593 of 2005, Sudan does not cooperate with the ICC and has taken no serious step to investigate and prosecute anyone suspected of crimes against humanity and war crimes committed in Darfur, as the Prosecutor reported in the past. Instead of heeding the Security Council's request to cooperate fully with the ICC, some states and organizations have invited a fugitive from international justice, President Omar al Bashir, for official visits and meetings with complete impunity.

Four years ago the Security Council used its powers under Chapter VII of the UN Charter to refer the situation in Darfur to the ICC; now it is its duty to use the same powers to direct Sudan to hand all persons named in ICC arrest warrants over to the ICC and direct all other states to arrest and surrender them promptly to the ICC, as Brazil announced it would do. They must face a fair trial in an independent court without the possibility of the death penalty.

In addition, Amnesty International believes that the Security Council should define a framework to ensure the implementation of resolution 1593 and ICC decisions concerning the situation in Darfur. Such a framework could include using the existing sanctions committee established pursuant to resolution 1591(2005) to cover those named in ICC arrest warrants or establishing some other body to oversee the implementation of measures intended to enforce the ICC arrest warrants. Such a body could direct each member state to provide reports on what steps they have taken to ensure that they have the legislation and procedures in place to arrest persons named in ICC arrest warrants and to implement ICC requests concerning their arrest, when such persons visit their countries.

Background

The International Criminal Court is examining three cases in relation to the situation in Darfur:

- In April 2007, the ICC issued international arrest warrants against Sudanese government minister Ahmad Harun and Janjawid militia leader Ali Kushayb, both suspected of war crimes and crimes against humanity. The Sudanese government has so far refused to arrest them or hand them over to the ICC.

- On 4 March 2009 the International Criminal Court issued an arrest warrant for Sudanese President Omar al Bashir on charges of crimes against humanity and war crimes. The Sudanese government has so far refused to arrest him or hand him over to the ICC.
- On 20 November 2008, the ICC Prosecutor applied for arrest warrants to be issued against three commanders of armed opposition groups operating in Darfur, accused of war crimes arising from an attack on the AU Mission in Sudan (AMIS) in December 2007, in which 12 peacekeepers were killed. On 18 May 2009 Bahar Idris Abu Garda, a leader of the United Resistance Front (URF), appeared voluntarily before the ICC in response to three counts of war crimes.