

Comments on Africa

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ICC Implications: A Breed of Violence

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Whilst the international community applauds the step towards justice represented by the recent and rather controversial International Criminal Court (ICC) indictment on Sudan's President Bashir, very few are looking at its impact on Sudan's fragile security situation and the fatal consequences that jeopardize the country's stability and security.

The ICC indictment was issued against the background of allegations of genocide and crime against humanity committed in the Darfur region in western Sudan. The intention is to challenge the impunity that worsens conflict in Sudan and elsewhere in the world. However, one should look at the political nature of the ICC that issued the arrest warrant and its relationship to the UN Security Council. One of the five permanent members of the UNSC, the United States (US) is a major player in the politicisation of the conflict in Darfur and renounced its signature of the Rome Statute of the ICC. Ironically, the Rome Statute was described by former Undersecretary for Political Affairs, Marc Grossman, on behalf of the Bush Administration, as a "flawed outcome" built on "flawed foundations", claiming "these reservations were serious enough for the US to withdraw its participation from the process". The Bush Administration also described the ICC as a threat to US sovereignty, interestingly, exactly the same argument being used by the Sudanese Government in response to the arrest warrant.

Sudan is now undergoing an interim period of six years as per the Comprehensive Peace Agreement (CPA), which has put an end to a long and agonizing civil war.

The upcoming elections in February 2010 will be the first multi-party elections held in 25 years, followed by a referendum on the independence of the south of Sudan, which will determine the future of the country with regard to its present form.

The ICC indictment has been met with a furious reaction by the Sudanese government. In retaliation, sixteen humanitarian aid agencies, accused of spying and passing information to the ICC, were expelled from the region and the entire country. Among them were two of the largest operations in Darfur, as well as three national organizations. This has made it extremely challenging for the remaining organizations to fill the 60 per cent humanitarian gap, as estimated by the UN, and leaving 2.5 million people in the internally displaced people (IDP) camps, in desperate need of food, water and medical care. Although not as well publicized as Darfur, there are other areas of concern around the country that depend entirely on foreign aid in, for example, health and education services.

The government claims the indictment is a Western tool to undermine the state's sovereignty and a deliberate attempt to change the regime. It also considers any cooperation with the ICC as recognition of the Court, giving it legitimacy, which will be like "a sword of Damocles hanging over their head" as stated by the Minister of State for Foreign Affairs, Ali Karti.

The refusal of Sudan's ruling party, the National Congress Party, to cooperate will most likely result in economic and diplomatic sanctions in the short term, which will have social repercussions. Politically, the ICC decision has had a knock on effect on the peace negotiations that were taking place at the time. In addition, there is a division amongst the political forces in the north about how to deal with the crisis, while the position of the Sudan People's Liberation Movement (SPLM) is blurred as they have no particular stance. However, against all

expectations, the indictment has pushed the NCP to unite internally and has brought them the support of a number of African, Islamic and Arab countries.

The Government of Sudan (GoS), however, does not have many options. Primarily, they can pursue a course either of confrontation or of dialogue that leads to some sort of settlement. The UNSC has the power to declare a no-fly zone all over Darfur. It can also authorize military intervention under Chapter 7 of the United Nations Charter, in order to support the AU-UN Hybrid Mission in Darfur. In the event that a state of emergency is declared, this would mean total collapse of the CPA as well as dividing Sudan into many states and potentially unleashing political violence by Islamic extremist groups.

There might be a different scenario here, as the policy of the new American administration is leaning towards dialogue and seeking to build bridges. The GoS's decision to allow back four American aid agencies on 12 June 2009 suggests that this policy is beginning to bear fruit. Alternatively, some Sudanese political leaders have suggested an African trial would be a preferable way to address the issue. However, for the international community to accept a settlement, there is consensus that it would be conditional on surrendering two high profile NCP members, the return of all expelled NGOs with no exception, that the current President steps down and does not stand in the up-coming elections.

Twenty years of frustration and anger might make some assume that the indictment will empower internal resistance and provoke revolution. As a matter of fact, many communities within Sudan who are fed-up with the regime see the indictment as fundamentally undermining the authority of the NCP. On the other hand, some look at the condemnation of Bashir as a victory and a way to eventually get rid of the regime.

However, the majority of Sudanese cannot turn a blind eye to the fact that a proportion of the evidence used to condemn Bashir is motivated by international and regional players' own interests rather than simply the execution of justice. In addition, the indictment came at a time when the world was witnessing the total silence of the same international organizations about the shelling in Gaza. To many, this confirms the sense that there are double standards being applied by the most powerful countries in the international community. For example, the war in Gaza was described as "violence" by the EU External Relations Commissioner, and "military escalation" by the French Foreign Ministry, in contrast to the ease with which the violence in Darfur is described with the stronger term of genocide. .

While the ICC has now sought to punish the Government of Sudan, there is much evidence to prove that support that could have been provided at an earlier

stage and prevented the situation from escalating to its current horror, did not materialize, despite the promises made. Examples of this are the failure of the international community to support the Darfur Peace Agreement and the African Mission in Darfur. Furthermore, three and a half years have passed since the CPA was signed and yet donor communities have not fulfilled their commitments.

Political options are not yet exhausted, for example there is scope for further peace negotiations as a number of key organizations have shown willingness to participate. Further, the experience of Sudan and other countries in violent conflict with interventions from the international community shows that, for peace to be sustained, the solution to the problems in Sudan cannot be imported, but should be developed by the Sudanese themselves. There is no doubt that violence breeds more violence and Iraq and Afghanistan are living examples of this. ■

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