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Sudan: National court for crimes in Darfur lacks credibility

Tomorrow's opening of a special court set up by the Sudanese Government to try alleged Darfur war criminals is "doomed to failure," Amnesty International said today, unless the country undergoes serious legal reforms ensuring independence of the judiciary and brings about an end to the current climate of intimidation.

"We fear that the establishment of the special court may just be a tactic by the Sudanese government to avoid prosecution by the International Criminal Court," said Kolawole Olaniyan, Director of Amnesty International's Africa Programme.

"On the one hand, the Sudanese government is claiming that it is able to punish the crimes it is accused of condoning for the last two years; on the other hand, it continues to crack down on those who expose or criticise such human rights violations."

On Sunday, the independent Khartoum Monitor newspaper was closed down, based on a two-year-old High Court ruling revoking its license. The ruling stemmed from an appeal by the Sudanese security forces. Enforcement of the ruling came as the Sudanese authorities threatened legal action against the daily over an editorial critical of killings by the police of war-displaced persons in a squatter camp near the capital city.

Similarly, at the end last month, two staff members of the medical aid agency Medecins Sans Frontieres were charged with "publishing false information" and "crimes against the state" by Sudanese authorities -- two months after the organisation published a report exposing the plight of victims of rape in the war-torn Darfur region.

"What we have here is a court system that is willing to silence newspapers and aid workers who are attempting to speak the truth about human rights violations in Sudan. How can we trust that same system to bring to trial those accused of these violations?" asked Kolawole Olaniyan.

Amnesty International said that to ensure fair, impartial and independent trials over the grave crimes committed in Darfur, the Sudanese authorities should:

- abolish Articles 31 and 33 of the National Security Forces Act, which allows the security forces to keep people in prolonged incommunicado detention and gives them immunity for acts of torture;
- abolish the Specialised Criminal Courts in Darfur, which accept evidence obtained under torture, limit the right of appeal of those accused, and can hand down sentences of death, amputation or flogging;
- abolish Article 10 of the Law of Evidence, which allows courts to use evidence obtained under duress;

provide guarantees for the safety and confidentiality of victims and witnesses of human rights violations in Darfur and the rest of Sudan; and
ensure that everyone has equal access to justice and that legal fees in criminal cases are not a barrier to obtaining effective remedies.

Background

The creation of a national court for crimes in Darfur comes a week after the Prosecutor of the International Criminal Court (ICC) announced the opening of its investigation into the war crimes and crimes against humanity committed in the Darfur region in the past two years. The Sudanese government has stated that no Sudanese suspect would be handed over to the ICC.

Public Document

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