

Sudan: National Courts Have Done Nothing on Darfur

ICC Prosecution Needed; Government Must Hand Over Indicted Suspects

(New York, June 11, 2007) – Khartoum’s continuing failure to prosecute the perpetrators of crimes in Darfur in Sudanese national courts underscores why Sudan should fulfill its obligation to hand over indicted suspects to the International Criminal Court (ICC), Human Rights Watch said today. The Security Council is expected to visit Khartoum on June 17.

Sudan’s chief justice, Jalal el-Din Mohammed Osman, announced the creation of the Special Criminal Court on the Events in Darfur in order to serve as “a substitute to the International Criminal Court” in June 2005. However, [Human Rights Watch documented](#) that only 13 cases had been brought before the courts in their first year of operation. The cases involved low-ranking individuals primarily accused of relatively minor offenses such as theft. None of the crimes charged reflected the massive scale and gravity of the atrocities in Darfur. No senior commanders or superiors were charged for their part in the atrocities.

“The continuing failure of Sudanese courts to bring justice for crimes in Darfur makes ICC prosecutions essential,” said Sara Darehshori, senior counsel in Human Rights Watch’s International Justice Program. “In discussions with government officials, Security Council members should insist that Khartoum hand over suspects indicted by the ICC.”

In the past year no new cases have been tried before the Special Criminal Courts on the Events in Darfur. On the contrary, two members of Military Intelligence who had been convicted for the murder of a 13-year-old boy, who had been tortured to death while in their custody, were granted amnesty last June. The amnesty was given under Presidential Decree No. 114, which grants a general amnesty. It applies to members of the armed movements that signed the Darfur Peace Agreement, subsequent signatories to the agreement, and parties to tribal conciliations in Darfur. It is not clear how broad the application of the amnesty is or whether it should apply to Sudan’s military.

Very little else has happened at the Special Criminal Courts on the Events in Darfur. Two low-ranking members of Military Intelligence who had been convicted of murder in the court in Fashir in 2005 for their role in the death in custody of a 60-year-old rebel suspect were hanged on April 22.

Papers filed by the International Criminal Court prosecutor on February 27 indicate that Sudan's Judicial Investigations Committee, which was established to investigate cases highlighted in National and International Commissions of Inquiry reports, has been investigating several incidents in Darfur. Although the committee has purportedly issued over 100 warrants, only 10 have been executed. One of those is for the ICC suspect Ali Kosheib, who is reportedly in custody in Sudan. However, the committee's investigations have not yet led to charges in any of the cases. No further information has been publicly available on the committee's progress and no other activity by the Special Criminal Courts on the Events in Darfur has been discernable in the past year.

"Khartoum's Special Court for Darfur has done even less this year than the year before," said Darehshori. "Sudanese officials repeatedly claim that the national courts will try these cases, but no action has been taken whatsoever."

Since early 2003, tens of thousands of civilians have been assaulted, raped and killed, hundreds of villages destroyed, and approximately 2 million people forcibly displaced by the conflict. Several issues, including broad immunity provisions for members of the armed forces, national security agencies and police, and laws making prosecution of sexual violence difficult, create roadblocks for effective national prosecutions in Sudan. In order for a case to be considered inadmissible before the ICC, a state must show that it is genuinely willing and able to prosecute the crimes in national courts.