



## President Omar Al Bashir Visits Kenya

30-08-2010

### **Kenya Ignores ICC Arrest Warrant and Plays Host to President Omar Al Bashir of Sudan**

Last Friday, Sudanese President Omar Hassan al-Bashir attended the signing ceremony in Nairobi of the new Kenyan Constitution. His provocative visit, which followed a visit to Chad one month earlier, has triggered critical comments both from outside Kenya as from within the country. USA President Obama expressed his disappointment in Kenya's decision to host Bashir, whilst the European Union's foreign policy chief Catherine Ashton expressed her concerns and reminded Kenya of "its obligations under international law to arrest and surrender those indicted by the ICC."

The International Criminal Court (ICC) itself has reported Kenya to the UN Security Council and the Assembly of States Parties to the Rome Statute "in order for them to take any measures they may deem appropriate." Kenyan Prime Minister Odinga, who apparently was kept in the dark about the visit and has more than once said that President Bashir needs to answer for the crimes that were committed under his charge, has asked for a proper explanation of the visit.

The ICC has issued warrants for the arrest of Bashir, who is accused of having committed war crimes, crimes against humanity and genocide in the Darfur

region. Kenya, which is a State Party to the ICC Statute, was legally obliged to arrest the Sudanese President, but refused to do so. Bashir was even invited, and given a prominent, visible role during the ceremony.

Kenyan government officials have explained that the arrest of Bashir would have adversely affected peace in the Sudan and Sudan's stability was said to be vitally linked to Kenya's continued peace and well being. Richard Onyonka, Deputy Minister of Foreign Affairs, told reporters "that Kenya's obligation to the ICC notwithstanding, the country has a legitimate and strategic interest in ensuring peace and stability in the sub-region and promoting peace, justice and reconciliation in the Sudan".

Kenya's Transport Minister, Amos Kimunya, even stated that "we should be thankful to Bashir, that he took the risk on an international warrant against him, to travel out of Sudan to honour the people of Kenya on this momentous occasion." The message "we're giving to the world by having heads of state from the region... is that Kenya is at peace with its neighbours," Kenya's Foreign Minister Moses Wetengula told the BBC.

The refusal to arrest Bashir is in flagrant violation of Kenya's legal obligations under the ICC Statute, but in accordance with the AU's repeatedly expressed – and highly controversial- political stance against the ICC and its intention to try the Sudanese President. In the AU's view, the ICC is a Northern-controlled tribunal that is merely targeting Africa and Africans. The Court lacks legitimacy among AU member states, and the AU has ordered its Member States not to cooperate with the ICC in the Bashir case.

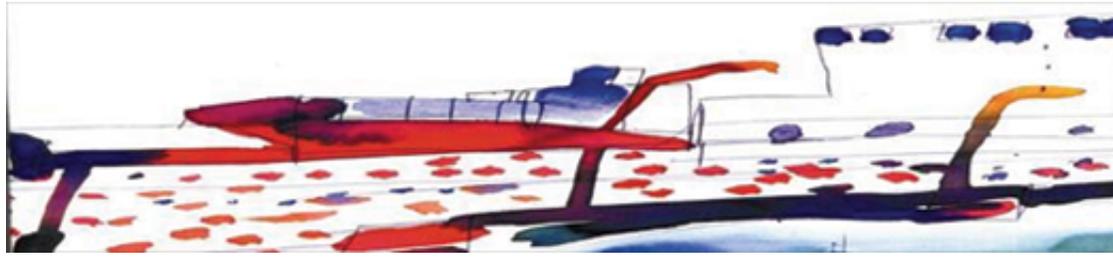
Kenya's stance in the Bashir case raises doubts as to whether the country will be willing to cooperate with the ICC in the situation concerning the post-election violence in 2007 which erupted in Kenya itself. It is believed that many prominent Kenyan figures have played a role in funding and organizing the ethnic violence that killed at least 1000 people. The ICC Prosecutor, Mr. Luis Moreno-Ocampo, has announced that he intends to file his first cases against perpetrators of the 2007 election violence later this year.

The events of last week demonstrate that the question "The Al-Bashir Arrest Warrant: The World vs Africa or the African Union vs the People of Africa?" will

continue to trigger passionate debates. For an overview of the discussions on this topic as held at an AFLA seminar last April see the [Conference Report](#).



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