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ICC ECHOES DISCREDITED NEO-CON DARFUR 'GENOCIDE' ALLEGATIONS AGAINST SUDAN

In giving the International Criminal Court the green light to proceed with the charge of genocide against Sudan's President al-Bashir, the ICC appeal chamber has endorsed discredited Neo-Con claims against the Sudan government.

In March 2009, the ICC pre-trial chamber initially rejected the chief prosecutor Luis Moreno-Ocampo's demand that the Sudanese president be charged with genocide. In doing so, it reiterated the position of the United Nations, the African Union and the European Union, among other observers of the Darfur situation, that there was no case for allegations of genocide.

The allegation of committing genocide is such an extraordinarily serious accusation that those making it should be in possession of unambiguous evidence before initiating legal action. However, Ocampo himself, by implication, admits that he has failed to gather sufficient evidence against al-Bashir. This is why in lodging his appeal to the pre-trial panel's rejection of the genocide charge, Ocampo asserted that the judges had been wrong in applying "*an evidentiary burden that is inappropriate for this procedural stage*". In other words, the judges hearing his initial genocide application had wanted to see concrete evidence that the chief prosecutor was not in a position to provide. Conveniently, and very revealingly, he now wants the case to proceed instead on the much weaker basis of "*reasonable grounds to believe*" that al-Bashir waged a genocidal campaign.

Antonio Cassese, the first president of the International Tribunal for the Former Yugoslavia, and the chairman of the UN commission of inquiry into Darfur, has argued that "strict conditions must be met to prove genocide." His 2005 inquiry found that genocide had not occurred in Darfur. He, together with Louise Arbour, the UN's High Commissioner for Human Rights, in a subsequent UN report on the ICC's performance in Darfur, were overtly critical of the standard of research in Ocampo's investigation. In particular, they criticised his failure to go to Darfur and conduct even "targeted and brief interviews".

The allegations of genocide made by Ocampo and the ICC are simply not supported by the evidence. **The leading academic expert on the Darfur crisis, Alex de Waal, has said that Ocampo's case is "so shoddy any**

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reasonable judge would throw it out". Even Ocampo's former senior prosecuting counsel on Sudan, Andrew Cayley, has argued tellingly: **"it is difficult to cry government-led genocide in one breath and then explain in the next why two million Darfuris have sought refuge around the principal army garrisons of their province."**

Dr Christophe Fournier, president of the International Council of *Médecins Sans Frontières*, the lead medical NGO in Darfur, has undermined Ocampo's hyperbole: "contrary to what the I.C.C. prosecutor stated to the U.N. Security Council in July 2008, the camps for displaced people in Darfur were not the ultimate instrument of 'genocide by attrition'. Despite the persistence of insecurity and localized episodes of great violence, international humanitarian aid has succeeded since 2005 in avoiding famine and lowering mortality and malnutrition rates to pre-war levels".

ICCwatch director, Marc Glendening comments: *"The decision by the ICC appeal chamber to pave the way for Ocampo's genocide charge to finally be adopted, despite no new evidence having been produced, demonstrates that the ICC is an illegitimate body with a dubious agenda. The court is being used to pursue the geo-political political agendas of western countries in the Third World, it has nothing in reality to do with enforcing a universal standard of justice, as it claims.*

We suspect the real reason that the chief prosecutor will get his way, is that the ICC is desperate to help him save face. It is commonly acknowledged that he has been a disaster in office. Even the president of the ICC Assembly of States Parties, Christian Wenaweser, has described Mr Ocampo as an 'incompetent' who doesn't 'know how to write an indictment'. Had his appeal to the correct decision last year by the pre-trial panel been rejected, his position would have become even more precarious. They have made a political decision to stand by him because for him to be forced out would be to admit that the ICC in general has been a woeful failure."

For more information concerning ICCwatch's critique of the International Criminal Court, please refer to **www.iccwatch.org**

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