

## **German company facing criminal charges for constructing Sudanese dam**

*Text of commentary by Editor-in-Chief Mahjub Muhammad Salih entitled in the "Sounds and Echoes" column: "The Merowe Dam in the Arena of International Justice" published in Arabic by liberal Sudanese newspaper Al-Ayyam on 16 May*

Whatever the disputes about the Marawi Dam in Sudan and its effect on the inhabitants of the regions submerged under its water, it seems the dam is destined to capture international attention once again by becoming a legal precedent when a German company faces criminal charges in a Frankfurt court in Germany.

In designing the dam and supervising its construction, the company is accused of having violated human rights and endangered the lives of the inhabitants of the area that were submerged. The case was filed by one of the inhabitants of the region as representative of the affected inhabitants, together with a voluntary international human rights organization, namely the European Centre for Constitutional and Human Rights (ECCHR).

The court has received the criminal case petition filed by Ali Askuri as representative of the families whose houses were submerged under water and whose fruit gardens and animal flocks were destroyed. Two of the directors of the Lahmeyer International GmbH, based in Frankfurt, were named in the case.

Since the company was responsible for "designing, building, and operating the dam project", the defendants were accused of having been aware in advance of the dangers that would result if the dam is built before alternative houses are made available to the inhabitants of the region. The plaintiffs claim the two defendants were aware of the dangers to the lives and property of the local inhabitants resulting from this project. Consequently, the company colluded in the violations by the Sudan government of the rights of the inhabitants and caused thousands of them to become homeless.

Mrs Miriam Saage, a director in ECCHR, explained the implications of the case to the press. She said that the German company participated in a reckless manner in violating the rights of the region's inhabitants without making prior arrangements for shelter and food for those affected.

Before the court started hearing the case, one of the directors accused responded in the German press to Mrs Miriam's statements. He said that the inhabitants of the region were warned a sufficient time before the operation of the dam and before water reached their areas.

He said that a limited number of inhabitants not exceeding 200 or 300 persons insisted on not leaving the area even though they were notified and warned. This will be the focus of the company's defence, thus the general prosecution will look into the arguments of both sides before deciding whether the case should go to court or not.

The plaintiffs said they are going to provide to the general prosecution evidence to support their complaint. This will include a video filmed by Al-Jazira TV Channel showing what happened when the dam's waters inundated the areas of the plaintiffs in Amri and Al-Manasir in 2008.

If the general prosecution decides that the case warrants going to court, this will be the first precedent of its type where a company executing a project is held responsible for human rights claims that can arise from such projects.

The fact is that discussing this responsibility began in 2007 when the special UN representative assigned to study the responsibility of transcontinental companies for human rights when they

undertake international operations began to study and draft a framework for the responsibility of companies in protecting human rights. If the criminal case on the Marawi Dam reaches court, it will constitute a precedent in this domain.

Thus, the Marawi Dam has been spotlighted on the international arena from another angle after lengthy debate about it in Sudan. It now appears likely to provide an international precedent. Even if the general prosecution rejects the case, the reasons it will cite for this rejection with [presumably will] provide a legal precedent in the future.

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