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Report of the Working Group on the Universal Periodic Review*

Sudan

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

Introduction

1. At the outset, the Government of the Sudan would like to express its profound appreciation for the efforts of the Working Group members, the Troika and the Secretariat of the Human Rights Council exerted in the consideration and adoption of Sudan's first report under the Universal Periodic Review.
2. The Government of the Sudan has studied carefully the 160 recommendations addressed to the Sudan besides the 29 recommendations addressed to the Sudan and South Sudan and to the parties of the CPA.
3. Before we submit our position on the recommendations we think it is pertinent to make some clarification with regard to the methodology we adopted in terms of whether we accept or do not accept the recommendations.
4. Given the fact that the case of Sudan during the consideration of its first UPR Report was a relatively unique one, and bearing in mind that at the time of the submission of the report and the review Sudan was one state, and that following the referendum of 9th July 2011 South Sudan has become a separate State, a lot of effort has been exerted by the delegation of the Sudan during the review with the Secretariat of the Council and the Troika members with a view to identifying and classifying exactly what recommendations are addressed to the Sudan, the South Sudan and to both States (parties of the CPA). This effort culminated in grouping three types of recommendations: the first addressed to the Sudan; the second to the Sudan and South Sudan and the third to the South Sudan.
5. Therefore, the present document, which is presented by the Government of the Sudan, will only address the recommendations that belong to the first and the second groups.
6. During the negotiations with the Secretariat of the Council and the Troika members the delegation of the Sudan proposed that some of the recommendations which enjoy our partial support to be divided into two or more parts in order to enable us make concrete position as to whether we accept the recommendation or not. However, this was done to only few recommendations and the result was that a number of recommendations which would have enjoyed our support were only partially accepted.
7. It is also worth noting that some recommendations were based on inaccurate assumptions and while the recommendation itself seems to be accepted in its objective, the wording adopted gives false assertion to a situation which is not true. In such cases we accepted some of the recommendations but with clarification however for other recommendations we found it difficult to adopt the same approach.
8. Also we received some recommendations to do something that we have already done or already doing. Also In this case we accepted the recommendation and noted to the action already taken to enforce the recommendation.
9. In categorizing the recommendations we have followed the same thematic order adopted by the Secretariat of the Human Rights Council following the consideration of the Report.
10. We have classified our response to the recommendations into three parts:
 - The recommendations which we accept, and these recommendations will enjoy our commitment in terms of implementation;
 - The recommendations which we accept in part and they are followed by clarification to sort out which part of the recommendation we accept and which we do not accept;

- The recommendations which we do not accept, and also will be followed by clarification where necessary.

11. Based on the above introduction, we would like to submit our response to the recommendations as follows:

International obligations

12. The Government of the Sudan accepts the following recommendations:

83.2. Sudan is already member to the ICCPR since 1986.

83.5, 83.8, and 83.12. The Government has subjected the Convention on the Elimination of All Forms of Discrimination against Women to a wide consultative process with a view to bring on board the view points of the different sects of the society.

83.10. Some State laws have already prohibited female genital mutilations.

13. The Government of the Sudan accepts in part the following recommendations:

83.9 (As explained in paragraph 12). We do not accept to ratify CEDAW Optional Protocol at the present time.

83.11. We do not accept the phrase "ratify without any limiting reservations". The reservation is a right to the State under international law according to Vienna Convention on the Law of Treaties of 25 May 1969. The same explanation in paragraph 11 applies to the first part of this recommendation. We accept the second part of the recommendation insofar as it conforms with Sudan's Constitution and our obligations under international human rights treaties to which Sudan is party.

83.13. We do not accept the phrase "ratify, without reservations". As explained in recommendation 11 above.

83.1. We do not accept the second part to "issue a standing invitation". However, it never happened before that Sudan refused to receive a UN thematic or a country mandate holder.

83.14. We do not accept the first part of the recommendation to ratify the Rome Statute and to cooperate with the ICC

83.6 and 83.7. The Government does not think of acceding to the following international instruments at the meantime:

- The First Optional Protocol to the International Covenant on Civil and Political Rights. Sudan has a Constitutional Court which is the guardian for the human rights stipulated in the Constitution and the international human rights treaties to which Sudan is party;
- Optional Protocol of the Covenant on Economic, Social and Cultural Rights;
- Optional Protocol to the Convention against Torture and Other Cruel, Inhumane and Degrading Treatment or Punishment;
- Optional Protocol to Convention on the Elimination of Discrimination against Women;
- The Rome Statute of the International Criminal Court.

14. The Government of the Sudan does not accept the following recommendations:
83.3–4, 83.15–17.

Constitutional and legislative framework

15. The Government of the Sudan accepts the following recommendations:
83.18–19, 83.28–29, and 83.33.

83.20. By the end of the interim period and the secession of South Sudan on the 9th of July 2011, the Comprehensive Peace Agreement (CPA) is no longer a legislative reference for the Republic of the Sudan. A constitutional review process has now started with a view to promulgating a new permanent Constitution for the republic of the Sudan.

83.30. The legislative reform in Sudan is a continuous process. After the promulgation of the new Constitution, new laws will be enacted and a number of laws will undergo reform and compliance with the Constitution and Sudan's international obligations.

16. The Government of the Sudan does not accept the following recommendations:

83.21–27. The current National Intelligence and Security Services Act provide for judicial oversight and there is now a prosecutor appointed by the Minister of Justice who assumes the oversight and ensure the compliance of the Security Services with the Constitution particularly with regard to the rights of detainees.

83.31–32. Freedom of religion is guaranteed by the Constitution and the laws. Law provisions which are based on *Shariaa* are not applicable on non-Muslims.

Institutional and human rights infrastructure

17. The Government of the Sudan accepts the following recommendations:
83.34–38 and 83.40.

83.39, 83.41–45. The law establishing the independent National Human Rights Commission has been issued since 2009. The nomination of the Commissioners will take place soon.

83.46. A National and States Councils for Child Welfare are already in place.

Policy measures

18. The Government of the Sudan accepts the following recommendations:
83.47–52, 83.63–69.

83.53–54. On 14th July 2011 the Government of the Sudan and the Liberation and Justice Movement (an umbrella of a number of Darfur rebel movements) signed, after a long run of negotiations, in Doha, Qatar a Peace Agreement based on the outcome of the Darfur Stakeholders conference that held in Doha between 27 to 30 May 2011 and comprised representatives of all sects of Darfur community including: intellectuals, Academics, religious and tribal leaders, IDPs and refugees besides representatives of the Government and the rebel movements.

83.55. The Government of the Sudan has adopted a Fast Track Policy to facilitate the delivery of the relief assistances to the needy people in Darfur.

83.56. The Sudanese Police Forces are exerting huge efforts to secure the convoys of the relief assistances and to protect the aid workers in Darfur against the banditry acts of the rebels and other outlawed persons.

83.57–59. We generally agree with the objectives of these recommendations but that does not imply in any way an acknowledgement by the Government of the Sudan for the responsibility of the attacks against civilians in Darfur.

To prosecute those responsible for human rights violations in Darfur, the Government has established the office of the Special Prosecutor for Darfur crimes with a mandate to prosecute all those who have committed crimes in Darfur since the eruption of the conflict in 2003.

More recently a whole Chapter was added to the Criminal Act of 1991 providing for the protection of civilians in armed conflicts and criminalizing acts which constitute war crimes and crimes against humanity in accordance with the International Humanitarian law. Also a new Armed forces Act was issued in 2007 incorporating many of Humanitarian Law principles and standards.

83.60–62. We note that the government of the Sudan has formulated a National Plan of Action to Combat Violence against Women and created a federal unit for combating violence against women affiliated to the Cabinet. Also three States Committees for combating VAW were established in the three Darfur States and they are now working in close cooperation with the UN concerned agencies and NGOs.

Cooperation with human rights mechanisms

19. The Government of the Sudan accepts the following recommendations:

83.72. The Government has established a joint human rights forum with UNAMID human rights section to promote and protect human rights in Darfur. Three sub-forums were also established in the three Darfur states to assist the main forum.

83.73–74 Although the position of Sudan is to abolish the country specific mandate that targets specific countries on a selective basis.

83.76. The Government shared the outcome of the review and the recommendations with the national human rights network (an umbrella of a number of national human rights NGOs) and received its comments. The Government also intends to engage the civil society in the implementation of the action plan which was set for the enforcement of the accepted recommendations.

20. The Government of the Sudan does not accept the following recommendations:

83.70–71. Sudan has a long history of cooperation with the UN human rights mandate holders including hundreds of human rights monitors who are currently deployed in the country. In an extraordinary situation, Sudan used to host two filed missions: UNMIS and UNAMID, both missions have had human rights components. See also position on recommendation 1, paragraph 12.

83.75. We do not have a Special Rapporteur appointed to Sudan.

Equality and non-discrimination

21. The Government of the Sudan accepts the following recommendations:
83.77–80, 83.82–85.
- 83.81. The Constitution and the Sudanese laws explicitly provide for the equal pay for equal work for both men and women.

Right to life, liberty and security of the person

22. The Government of the Sudan accepts the following recommendations:
83.93, 83.95–101. The Constitution and the Child Act of 2010 prohibit the application of death penalty on persons below 18 years.
83.103–108, 83.112–115.
23. The Government of the Sudan accepts in part the following recommendations:
83.94. We only accept the part of the recommendation that calls for stopping the imposition of death penalty to children. As explained paragraph 21.
83.109. Although we do not understand what is meant by the “law that legalizes the Suna” and we do not have a “law that legalizes the Suna”. We accept the rest of the recommendation in so far as it complies with our Constitution and international law obligations.
83.110. We do not accept the part of the recommendation that calls for eliminating the corporal punishment from the penal code.
83.111. The Sudanese Armed Forces Act of 2007 strictly prohibits the recruitment and the use of Child soldiers. Recently and following the signing of peace accords with some of the rebel movements in Darfur the Government created a commission for Demobilization, Depopulation and Reintegration (DDR) of former combatants including child soldiers within the ranks of the rebel movements.
24. The Government of the Sudan does not accept the following recommendations:
83.86–92 and 83.102. In compliance with Sudan’s commitment under the ICCPR the death penalty in the Sudanese laws is confined to the most serious crimes. In murder cases there is room for pardoning by the relative(s) of the deceased and in such case the death penalty will not be imposed.

Administration of justice, impunity and rule of law

25. The Government of the Sudan accepts the following recommendations:
83.116–122. These recommendations are in line with the Government of Sudan’s strategy to adopt a policy of human rights protection through capacity building which involves training, raising awareness and widely disseminating human rights principles and standards throughout the country and at all levels.
83.124, 83.126–130. As explained in paragraph 18.
26. The Government of the Sudan accepts in part the following recommendations:

83.125. Although we accept the first part of the recommendation but death penalty is still part of the domestic punishment policy according to the Sudanese legal system.

27. The Government of the Sudan does not accept the following recommendations:

83.123. The currently fixed age for the criminal responsibility in the Sudanese Child Act, 2010 which is 12 years conforms to the international standard age on MACR.

Freedom of movement

28. The Government of the Sudan does not accept the following recommendations:

83.131. Because it is based on false assumption.

Freedom of expression

29. 83.132. We accept this recommendation.

Right to social security and to adequate standard of living

30. The Government of the Sudan accepts the following recommendations:

83.133–147. Although we understand that these rights are to be realized progressively, but these recommendations comports with the efforts exerted by the Sudan to develop and enforce socio-economic strategies that uphold these rights.

Right to education and cultural life of the community

31. The Government of the Sudan accepts the following recommendations:

83.148–156. As explained in paragraph 28.

Migrant, refugees, asylum-seekers, and IDPs

32. The Government of the Sudan accepts the following recommendations:

83.157–160. As explained in paragraph 17.

Recommendations directed to both governments and parties of the CPA

33. The Government of the Sudan accepts the following recommendations:

84.1–15, 84.17–18, and 84.22–29.

34. The Government of the Sudan accepts in part the following recommendations:

84.21. As explained in paragraph 13.

35. The Government of the Sudan does not accept the following recommendations:

84.16. As explained in paragraph 12.

84.19. After the secession of South Sudan, rights and freedoms of those existing in the Sudan will be determined by the Constitution and the laws according to our international obligations.

84.20. As explained in paragraph 23.
