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HUMAN RIGHTS SITUATIONS THAT REQUIRE THE COUNCIL'S ATTENTION

Interim report on the situation of human rights in Darfur prepared by the group of experts mandated by the Human Rights Council in its resolution 4/8 presided by the Special Rapporteur on the situation of human rights in the Sudan and composed of the Special Representative of the Secretary-General for children and armed conflict, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Representative of the Secretary-General on the situation of human rights defenders, the Representative of the Secretary-General on the human rights of internally displaced persons, the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, its causes and consequences.¹

¹ The annexes to the present report have not been edited by the editing unit of the United Nations Office at Geneva.

Summary

The group of seven mandate holders (hereinafter “the group of experts”) carried out its task, mandated by the Human Rights Council in its resolution 4/8 (“Follow up to decision S-4/101 of 13 December 2006 adopted by the Human Rights Council at its fourth special session entitled ‘Situation of human rights in Darfur’”), of ensuring the effective follow-up to and fostering of the implementation of resolutions and recommendations on Darfur, as adopted by the Human Rights Council (hereinafter “the Council”), the Commission on Human Rights and other United Nations human rights institutions, as well as the task of promoting the implementation of relevant recommendations of the other United Nations human rights mechanisms, taking into account the needs of the Sudan, safeguarding the consistency of these recommendations and contributing to the monitoring of the human rights situation on the ground. In the present interim report, the group of experts reviews the efforts of the Government of the Sudan to implement the recommendations of the group of experts, bearing in mind that the implementation must be carried out in an ongoing and sustained manner and that the group of experts is due to present a final report to a forthcoming session of Council as requested in Council resolution OM/1/3 adopted on 20 June 2007.

As part of its review process, the group of experts held a meeting in Geneva to consider the responses of the Government of the Sudan to its recommendations and in particular to identify areas of progress achieved, as well as shortcomings that still need to be addressed. These recommendations are entitled “Compilation of recommendations of the experts group to the Government of the Sudan for the implementation of Human Rights Council resolution 4/8”, and are contained in the annex to the report of the group of experts on the situation of human rights in Darfur (A/HRC/5/6). In this document, the group of experts indicated specifically and in as clear and precise a fashion as possible the kinds of action that the Government of the Sudan should take to implement each recommendation. Moreover, the group outlined the steps to be undertaken to implement the recommendations over the short and medium terms. The Government of the Sudan has endeavoured to address these recommendations and to report back to the group of experts in terms of the indicators that were set out in its compilation of recommendations. The group of experts thanks the Government for meeting with it and for its ongoing cooperation in providing information in a spirit of constructive dialogue.

The group of experts underlines its role in assessing the measures taken by the Government of the Sudan to implement the recommendations they have compiled. It will provide the Council with as detailed a description and analysis of the status of implementation as possible in its final report to be presented in December 2007. For several reasons, the group of experts has decided not to present a detailed evaluation of the current state of affairs in relation to the implementation of the specific recommendations in the present interim report. Most importantly it wishes to give the Government of the Sudan the maximum possible time to undertake initiatives responding to its recommendations and to report back on those measures and any impact they may have had. In addition, the group of experts remains keen to obtain as much detailed information as possible from all relevant sources so that it has a more clear and detailed sense of the situation on the ground.

Nevertheless the group of experts, on the basis of the information so far received, concludes that while certain recommendations have been partially implemented, it is not in a position to report that a clear impact on the ground has been identified. Regarding other recommendations, first steps towards implementation have been taken in some cases, whereas in others, recommendations remain to be implemented. The group of experts regrets that certain short term recommendations were not addressed by the Government at all or, in other cases, information provided was unrelated to them. The group of experts reiterates that the ultimate measure of the Government's implementation of the recommendations compiled by the group has to be concrete improvements in the human rights situation on the ground in Darfur.

The group of experts reiterates its earlier invitation to all concerned United Nations bodies and agencies, including the Office of the High Commissioner for Human Rights, to provide the necessary support and technical assistance to the Government of the Sudan to assist it in implementing the recommendations of the group of experts, and it encourages donors to continue providing funds in this regard.

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Introduction

1. Arising out of its deep concern over the ongoing violations of human rights and international humanitarian law in Darfur, the Human Rights Council adopted without a vote at its fourth session, on 30 March 2007, resolution 4/8 on the “Follow-up to decision S-4/101 of 13 December 2006 adopted by the Human Rights Council at its fourth special session entitled ‘Situation of human rights in Darfur’”.
2. In its resolution 4/8, the Council decided to convene a group of seven mandate holders “to work with the Government of the Sudan, the appropriate human rights mechanisms of the African Union and to closely consult with the Chairman of the Darfur-Darfur Dialogue and Consultation (DDDC) to ensure the effective follow-up and to foster the implementation of resolutions and recommendations on Darfur, as adopted by the Human Rights Council, the Commission on Human Rights and other United Nations human rights institutions as well as to promote the implementation of relevant recommendations of other United Nations human rights mechanisms, taking into account the needs of the Sudan in this regard, to safeguard the consistency of these recommendations and to contribute to monitoring the human rights situation on the ground” (para. 7).
3. The group of experts is presided over by Sima Samar, Special Rapporteur on the situation of human rights in the Sudan and is composed of Radhika Coomaraswamy, Special Representative of the Secretary-General for children and armed conflict, Philip Alston, Special Rapporteur on extrajudicial, summary or arbitrary executions, Hina Jilani, Special Representative of the Secretary-General on the situation of human rights defenders, Walter Kälin, Representative of the Secretary-General on the human rights of internally displaced persons, Manfred Nowak, Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment and Yakin Ertürk, Special Rapporteur on violence against women, its causes and consequences. Mr. Kälin serves as rapporteur for the group of experts. The group of experts has been serviced mainly by the Africa Unit of the Capacity Building Branch, in the Office of the High Commissioner, by the assistants from the Special Procedures Branch to the seven Council mandate-holders that comprise the group of experts, as well as by a coordinator.
4. The group of experts recalls its mandate to ensure the effective follow-up and to foster the implementation of relevant resolutions and recommendations on Darfur in a process of facilitation and dialogue with the Government of the Sudan.
5. The group of experts presented its first report to the Council (A/HCR/5/6) on 13 June 2007. In this report, the group reiterated its concerns regarding the human rights situation in Darfur expressed by the Council in resolution 4/8; identified priority areas for implementation; listed a number of specific recommendations to be implemented in the short or medium term and identified as particularly relevant for improving the human rights situation in Darfur; and urged the Government of the Sudan to implement without delay the recommendations it committed itself to put into practice, and to continue its dialogue with the group of experts on the implementation of its other

recommendations. Annexed to the report was a compilation of recommendations including relevant time-frames and indicators for assessing implementation.

6. The Council, in its resolution OM/1/3 requested “the group of experts to continue its work for six months and to submit an update to the session of the Council in September 2007 and a final report to the following session of the Council”. The present interim report with its two annexes is submitted in accordance with this resolution.

7. In preparing the present interim report, the group of experts continued to follow the methodology used in its earlier work:

(a) To establish its cooperation and work, in a transparent manner, with the Government of the Sudan and other relevant partners within the international community;

(b) To identify obstacles to the implementation of previous recommendations;

(c) To differentiate short from medium term recommendations with a view to assisting the Government of the Sudan to implement fully the recommendations identified in the annex to its first report (A/HRC/5/6) and to keep the victims of past and ongoing violations of human rights and humanitarian law in central focus, as well as to reduce such violations in future.

I. ACTIVITIES

8. The United Nations High Commissioner for Human Rights, on 20 June 2007, encouraged the principals of United Nations humanitarian agencies active in Darfur to assist her Office and the group of experts in providing relevant information on the implementation of the recommendations which would be reflected in this interim report.

9. The Government of the Sudan, on 24 July 2007, transmitted to the group of experts a document entitled “Plan of the Advisory Council on Human Rights towards implementation of the short term (July-September) recommendations of the experts group”. This plan of action (annex I) lists a series of workshops, training seminars and other activities and identifies the financial needs of the Government of the Sudan for their implementation.

10. On 21 August 2007, the Government of the Sudan submitted to the group of experts a progress report on the implementation of the short term recommendations (annex II) and supplementary information continues to be received.

11. The group of experts met in Geneva from 17 to 19 September 2007 to review the status of implementation. On 18 September, it met with a high level inter-ministerial delegation and representatives from the Permanent Mission of the Sudan to the United Nations Office at Geneva to discuss areas of progress, obstacles encountered, and areas that required the Government’s urgent attention.² On 19 September, it met to take

² The inter-ministerial delegation was led by Mr. Abdeldaiem Zumrawi, Deputy Minister of Justice, and included Dr. Abdelmonim Osman M. Taha, Rapporteur of the Advisory Council on Human Rights, Dr.

account of the Government's update and to reflect further upon measures which the Government should adopt to ensure full implementation of the group's recommendations.

12. In addition, on behalf of the group of experts, the Office of the High Commissioner has actively sought the participation of the relevant human rights mechanisms of the African Union and consulted the Chairman of the Darfur-Darfur Dialogue and Consultation (DDDC). The group of experts received a letter dated 17 September 2007 from the African Commission on Human and Peoples' Rights (ACHPR), informing it that Commissioner Bahame Tom Nyanduga, Special Rapporteur on Asylum-seekers, Refugees, Internally Displaced Persons and Migrants in Africa was appointed focal point to liaise with the group of experts. The group met with Commissioner Nyanduga on 19 September 2007 in Geneva, exchanged views and information and pledged future cooperation.

13. The group of experts expresses its appreciation to the Government of the Sudan for its excellent cooperation during the period under review; its endeavours to address the recommendations compiled by the group of experts; the timely reporting back to the group; and the very open and constructive dialogue with the high level inter-ministerial delegation and representatives from the Permanent Mission of the Sudan to the United Nations Office at Geneva.

14. The group of experts also thanks the United Nations Mission in the Sudan (UNMIS), United Nations agencies in New York and Geneva and all others, including non-governmental organizations, who provided information on the current status of implementation of recommendations according to the time frame and indicators specified by the group of experts (A/HRC/5/6, annex I).

II. STATUS OF IMPLEMENTATION OF SHORT TERM RECOMMENDATIONS

15. In line with its previous report to the Council (A/HRC/5/6), the group of experts has been working with the Government of the Sudan with a view to promoting improvements in the human rights situation in Darfur according to the following four principal areas of concern:

(a) Human rights protection, including protection of civilians and internally displaced persons, protection of women against violence, children and armed conflict, protection against summary executions, arbitrary detention, disappearances and torture, protection of witnesses and victims, and protection of human rights defenders;

Hassabo Mohamed Abdelrahman, Commissioner for Humanitarian Assistance, Brigadier General Hassan Hamid Mohamed, Ministry of Defence. The delegation also included Ambassador Ibrahim Margani Ibrahim Mohamed Kheir, Permanent Representative, Ms. Rahma Salih Elobeid, Minister Plenipotentiary, Ms. Igbal Ishag Mohamed Elamin (Second Secretary), from the Permanent Mission of the Sudan to the United Nations Office at Geneva.

- (b) Humanitarian access, including protection of humanitarian workers from harassment and attacks, facilitating access to civilians, including those displaced;
- (c) Accountability and justice;
- (d) Monitoring of implementation of recommendations.

16. In order to assess the current status of implementation of its recommendations (A/HRC/5/6, annex), the group of experts considered information provided to it by the Government of the Sudan either in writing or orally during the meeting held on 18 September 2007 as well as other information received. Written updates by the Government are annexed to this report (annex II).

17. The group of experts, in line with its task of presenting an update on ongoing activities, notes certain discrepancies between information provided by the Government of the Sudan and other sources. The group of experts has to rely on a variety of sources to assess whether there have been real improvements as a result of any measures taken. The information received so far from the Government and other sources, including UNMIS and other United Nations bodies, the appropriate human rights mechanisms of the African Union, the Chairman of the Darfur-Darfur Dialogue and Consultation, has not allowed the group of experts to provide the Council with any meaningful and objective assessment of the present status of implementation of the recommendations compiled by the group of experts and the eventual impact of such implementation on the actual human rights situation on the ground.

18. The group of experts will provide the Council with as comprehensive as possible a description and analysis of the status of implementation in its final report in December 2007. For several reasons, the group of experts has decided not to present as yet a detailed evaluation of the current state of affairs in relation to the implementation of the specific recommendations. Most importantly it wishes to give the Government of the Sudan the maximum possible time to undertake initiatives responding to its recommendations and to report back on those measures and any impact they may have had. In addition, the group remains keen on obtaining as much detailed information as possible from all relevant sources in order to get a clearer and more detailed view of the situation on the ground. In this regard, it will make a concerted effort to obtain and analyse pertinent information in the very limited time available before it must submit its final report.

III. CONCLUSIONS AND RECOMMENDATIONS

19. The group of experts, taking into account the challenges faced by the Government of the Sudan, welcomes its fresh commitment to work with the Council and the United Nations to implement pre-existing recommendations in the field of human rights. It appreciates the high degree of cooperation, flexibility and openness of its interlocutors during the period under review

20. The group of experts welcomes the efforts made by the Government of the Sudan towards implementation of its short-term recommendations. It concludes that while certain recommendations have been partially implemented, it is not in a

position to report that a clear impact on the ground has been identified. Regarding other recommendations, first steps towards implementation have been taken, whereas still other recommendations remain, at least for the present time, without implementation. The group of experts regrets that certain short term recommendations were not addressed by the Government at all or, in other cases, information provided was unrelated to them. The group of experts reiterates that the ultimate measure of the Government's implementation of the recommendations compiled by the group has to be concrete improvements in the human rights situation on the ground in Darfur.

21. The group of experts is aware of the short period of time that was available to the Government within the framework of this mandate for implementing the recommendations compiled by the group and its limited financial and human resources. In addition, the dynamics of the conflict with an increasing number of armed actors may render the implementation of certain recommendations difficult. It reiterates, however, that these factors cannot be invoked as obstacles for effectively addressing human rights violations in Darfur.

22. The group of experts reiterates its concern about reports of ongoing serious violations of international humanitarian law and human rights by the various parties to the conflict. It emphasizes the obligation of all parties to the conflict to abide by their commitments under international law and to make all efforts to comply with all human rights recommendations that have already been made by various United Nations bodies, as well as to work within the framework of the Abuja peace agreement and other appropriate forums, to comprehensively address the perilous human rights situation in Darfur.

23. The group of experts emphasizes the essential work being carried out by UNMIS human rights monitors and other actors in the field and reiterates that the Government must provide human rights monitors with full and unhindered access to all regions of Darfur, including all places where persons are deprived of their liberty, as well as to investigation records, and that monitors must be allowed to interview victims and persons deprived of their liberty in private.

24. The group of experts expresses its hope of receiving information relevant to the preparation of its next report from the Government of the Sudan, the appropriate human rights mechanisms of the African Union and the Chairman of the Darfur-Darfur Dialogue and Consultation, UNMIS, other United Nations agencies, programmes and human rights mechanisms, as well as other actors involved in human rights and humanitarian work in Darfur.

25. The group of experts recommends that the Human Rights Council:

(a) Urge the Government of the Sudan to continue and intensify its efforts to implement, without delay, the recommendations compiled by the group of experts in accordance with the specified time frames and indicators (A/HCR/5/6);

(b) Call upon the Government of the Sudan to address impunity and ensure that all allegations of violations of human rights and international

humanitarian law are duly investigated and that the perpetrators are promptly brought to justice;

(c) Reiterate its call to all parties to the conflict to put an end to all acts of violence against civilians, with special focus on women, children, the elderly, persons with disabilities, and internally displaced persons, as well as humanitarian workers;

(d) Invite relevant United Nations bodies and agencies, including the Office of the High Commissioner for Human Rights, to provide the Sudan with support and technical assistance, in accordance with assessed needs, for the implementation of these recommendations;

(e) Call upon donors to provide, on the basis of needs assessment, funds for this support and technical assistance.