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Technical assistance and capacity building

Report of the Independent Expert on the situation of human rights in the Sudan


Comments by the State*

* The present document is being issued without formal editing.

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A. Introduction

1. The Sudan thanks the Independent Expert on the situation of human rights in the Sudan for availing the opportunity to comment on the observations and findings of the draft report which was received by the Sudan's Permanent Mission in Geneva as an attachment to his note verbal dated 1st of July 2020, and in which he welcomes receiving the response of the Sudanese authorities by 16 July 2020 (i.e. 15 days period including transmission time and weekend). In this regard, Sudan would like to refer to Article 13(c) of the Annex to HRC Resolution 5/2 of 18 June 2007 (Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council) which provides that the State concerned shall be given adequate time to respond. *Paragraph 74 of the Manual of Operations of the Special Procedures of the Human Rights Council of August 2008 states that: ideally, six weeks should be allowed for Government comments to be taken into account.*
2. Since the establishment of the special procedures in respect of the Sudan, Sudan continued to engage and cooperate with the mandate holders, a fact that has been affirmed in all HRC resolutions under the Agenda Item concerned. The postponement of the IE visit to Sudan during his current mandate would be justifiable taking into consideration the recent developments worldwide, due to health measures related to (Covid-19 Pandemic), specially the regulations and travel of travels imposed by the UN Secretary General and the High Commissioner for Human Rights.
3. Sudan hopes that the Independent Expert will take into consideration the present comments by the Government of the Sudan in his final report, and request the OHCHR Secretariat to circulate the same as an addendum to the IE's report, pursuant to Article 8 (d) of the Annex to HRC Resolution 5/2.

B. General Observation

4. Sudan reiterates its stance that the present report, as the previous IE reports, follows the same methodology applicable to reports considered under Item 4 of HRC Agenda, a matter that is considered as departure from the actual mandate which focuses on the provision of technical assistance and capacity-building to improve human rights in the Sudan, as mentioned in the HRC resolution 39/22. Strict observance of the mandate and ensuring that recommendations do not exceed the mandate, are important conditions for the work of mandate-holders provided for in article 7 of the Annex to HRC resolution 5/2.

C. Key Developments

5. On 17th August 2019, The Transitional Military council and Forces of Freedom and Change signed the Constitutional Document; consequently, a Transitional Government presided by the Prime Minister Dr. Abdalla Hamdok, was formed. The Constitutional document stipulates a bill of rights, including all freedoms aiming at promoting and protecting human rights in the country on the basis of the slogan of the revolution "Freedom, Peace and Justice". It provides, inter alia, the establishment of independent national commissions, such as the Law Reform Commission, the National Commission for Human Rights and the Commission of Transitional Justice.
6. As the Constitutional Document prioritizes achieving comprehensive peace in the country, the Transitional Government has been seriously engaging in peace talks taking place in Juba. After several painstaking rounds of negotiations between the parties, reaching a peace deal looks imminent with 95% of the issues agreed upon.
7. The Government of Sudan has provided a conducive environment in which all human rights, including freedom of media and journalism, freedom of opinion and expression, freedom of peaceful assembly and association are well protected, in accordance with the Constitutional Document.
8. In the context of the implementation of the provisions of the Constitutional Document on peace-building, promotion of human rights and achievement of development and

economic growth, Sudan has requested the assistance of the United Nations in supporting the transitional period through deployment of a United Nations political mission. Accordingly, the United Nations Integrated Mission in Support of the transition in Sudan (UNITAMS), was established, by Security Council resolution 25/24 of 4 June 2020.

9. In accordance with resolution 42/35 issued by the Human Rights Council and the agreement concluded between the Government of Sudan and the United Nations Office of the High Commissioner for Human Rights concerning the establishment of a Country Office for Human Rights in Sudan, the office was opened in Khartoum and declared operational in accordance with its mandate, as per article 17 of the agreement signed between the government and OHCHR. In line with the agreement for establishing a cooperation mechanism, the Minister of Justice established a National Mechanism, to address issues related to the Transitional Justice in Sudan, composed of representatives from the Country Office for Human Rights, and relevant department in the Ministry of Justice.

10. The Sudanese relevant authorities have embarked on revising and amending multiple national legislations to bring them in line with international human rights instruments and to enhancing the rule of law. In this regard, amendments were endorsed by the President of the Sovereign Council, including the following:-

- (a) The Law of the Human Rights Commission and the Justice System of 2020.
- (b) The Miscellaneous amendments (fundamental Rights and Freedoms) Act of 2020, including repealing of a number of miscellaneous articles that degrade women's dignity, criminalizing of Female Genital Mutilation FGM and allowing women the right to travel abroad with their children without the father's permission.
- (c) The Informatics Offenses Act (Amendment) 2020. The most prominent feature of the amendment is increasing the penalty with a view to protecting the rights to privacy, preventing defamation, spreading rumors, and the dissemination of harmful publications.
- (d) The Criminal Code (amendment) 2020.
- (e) Abolishment of the Death Penalty for apostasy.
- (f) Abolishment of the execution of the Death Penalty for persons under 18 years.
- (g) Decriminalization of consuming, purchasing, and selling Alcohol for non-Muslims.
- (h) Abolishment of lashing as an official punishment, except Hudud punishment.

11. In line with the implementation of the Constitutional Document, the Government has recently appointed 18 Civilian Governors for Sudan constituent states (Wilaya), including two women.

12. Within the Transitional Government's plans to address the country's economic crisis, and in accordance with the terms of the Constitutional Document, the government has adopted comprehensive plans to revive the economy and normalize its relations with regional and international financial institutions.

D. Recent Development: in the political, institutional and economic fields: Paragraphs (9-18)

13. Sudan has undertaken economic, social and cultural reforms, in different areas, including wages increase for the public sector, providing financial & material support to poor families. Also, in response to the Covid-19 pandemic, and to reduce the impact of the emergency on the private sector, the government provided financial assistance to those affected by health measures due to the pandemic, in cooperation with UNFPA to support the population during the Pandemic.

14. Regarding the economic reforms, High-level Emergency Committee has been established, to address the economic crisis and develop plans for economic reform.

15. At the initiative of the Federal Republic of Germany, the Sudan Partnership Conference was convened on 25 June 2020, with a remarkable participation of partners from states and international organizations including the UN. The conference was an important step towards reintegration of the country into the international community. It provides necessary political and economic support to Sudan to overcome the challenges of the transitional period. Sudan wishes to reiterate its thanks and appreciation to all the partners that have participated in the Conference.

16. In accordance with measures and policies proposed by the World Health Organization, Sudan declared Public Health Emergency in March 2020, in response to COVID-19 pandemic, including border closures, and intensified measures to combat the spread of the pandemic.

17. Despite the fact that Sudan has been cooperative in the field of combating terrorism, Sudan remains on the list of countries sponsoring terrorism, a matter that hinders foreign investments in the country. In this respect, negotiations are under way to remove Sudan from that list.

Legal reforms and ratification of international instruments:

18. Sudan is committed to carrying out legal reforms, rebuilding and developing the legal system, ensuring the independence of the Judiciary and Attorney General.

19. The Attorney General formed committees to investigate all crimes committed in Darfur.

20. Regarding the international Human Rights instruments, the Sudan has made several laws amendments and reforms by enacting legislations, such as, The Miscellaneous Amendments Act 2020.

21. With regard to the protection of women's rights, the Public Order Law has been repealed. Amendments to the Criminal Act 1991, including criminalization of Female Genital Mutilation (FGM), were introduced. Also, Death Penalty shall not be executed on Pregnant Women.

22. In accordance with UNSC resolution number 1325, the National Plan for Women, Peace and Security has been adopted.

23. With reference to paragraph (27) of the IE report, the Government affirms its commitment to reinforce the tasks of the transitional period, in accordance with Article 5/8 of the Constitutional Document. In this context, the Legal Reform Commission Act 2020 has been adopted.

24. Regarding immunities, the Constitutional Document stipulates that all persons, institutions, officials and civil society organizations are subject to the rule of law and accountability.

(a) The process of acceding to the following HRs instruments is under way: - The Convention Against All Forms of Discrimination Against Women.

(b) Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment.

(c) The Convention for the Protection of Persons from Forced Disappearance.

(d) The Convention on the Protection of the Rights of Migrant Workers and Members of their Families.

(e) The Protocol to the African Charter on Human and People's Rights on the Rights of women in Africa (Maputo Protocol).

(f) The Protocol on the Statute of the African Court of Justice and Human Rights.

E. Civic Space

25. The provisions of The Constitutional Document reaffirmed all rights stipulated in the Bill of Rights, including Freedom of Expression, Association and Assembly. Regarding Informatics Offences Act 2007, an amendment has been done in 2020.

26. Sudan reviewed several laws, including the Voluntary & Humanitarian Work Act 2006. The Ministry of Labor and Social Development embarked on a comprehensive process of restructuring the Humanitarian Affairs Commission according to the institutional reform plans. Regarding the Trade Unions, Steering Committees have been established; to carry out the work. A committee has been formed from relevant authorities, to review the Trade Union Act.

F. Freedom of the Press and the Harassment of Journalists

27. Sudan is committed to the protection and promotion of the Freedom of Opinion and Expression as provided in the Constitutional Document, and signed the Global Pledge to protect Freedom of the Press.

28. Regarding journalist Lina Awad and Human Rights defender Aida Abdel Qader, Sudan wishes to indicate that the aforementioned were involved in publishing and disseminating false information about health conditions in North Darfur Hospital. Following initial investigations, they were released immediately.

G. National Human Rights Commission

29. Sudan affirms its commitment to establish the National Commission HR in compliance with the Paris Principles. A related act is underway.

H. Women's rights

30. The Constitutional Document affirms the participation of women in political institutions. It allocates more than 40 % of seats for women in the Legislative Council. In addition, women were appointment in the Sovereign Council and the Cabinet. Recently, two women Governors were also appointed.

31. With regard to the immunities granted to the General Intelligence Service, the Constitutional Document states that the role and functions of General Intelligence are confined to collecting and analyzing information.

32. Regarding the standard operating procedures to protect women from all forms of violence, Sudan adopted effective legal and practical measures with zero tolerance to impunity. Moreover, also, the Unit of Combating violence against women adopted standard measures which have been signed by the ministers and stockholders concerned.

I. The National Committee on the Dismantling of the Former Regime

33. Within the process of implementation of the Constitutional Document, Sudan adopted the law for Dismantling the Former Regime, Fighting-corruption, and Recovery of Stolen Assets, 2020. According to the law, a Committee has been formed and assumed its mandate according to the Constitutional Document.

J. Human Rights Situations in Conflict-affected Areas/ Darfur

34. The Transitional Government is currently negotiating with armed movements from Darfur and other regions and signed a preliminary peace agreement in January this year.

Recently, the Government and the Sudan People's Liberation Movement (Agar) SPLM (N) signed security arrangements protocol. A Comprehensive Peace Agreement is expected to be signed soon.

35. Regarding the violent incidents that took place in Darfur region last month, the Government deployed a Joint Security Force in the region (Army- Police- Security), to maintain peace and protect civilians.

Southern Kordofan and Blue Nile:

36. With regard to the intercommunal conflict in Kadugli, South Kordofan on May 11, 2020, a national committee has been formed to investigate the incidents

37. Sudan does not concur with the Independent Expert's description of the governmental and judicial institutions as weak. Reforming governmental and judicial institutions in the country is an ongoing process.

Eastern Sudan

38. On the conflict that took place in Eastern Sudan, mediation efforts were made by the Native Administration in the state, which led to signing a reconciliation agreement between the Bani Amer and Nuba tribes. A committee was established to investigate the recent incidents in the region.

K. Independent National Investigation Committee of 3rd June 2019

39. An independent National Committee of Inquiry has been established to investigate the incidents of June 3rd., 2019 in accordance with Article (16/7) of the Constitutional Document. The mandate of the committee was extended due to the Covid_19 pandemic. Moreover, three women joined the committee.

L. Technical Assistance and Capacity Building

40. The Transitional Government welcomes the cooperation with the OHCHR office, to ensure the implementation of its mandate in Sudan, as well as the establishment of the UN Political Mission in Sudan in accordance with the UN Security Council Resolution 2524/2020"(UNITAMS).

M. Conclusions and Recommendations:

Peace and Ratification:

41. Based on the implementation of the Constitutional Document, peace talks are taking place in Juba between the Sudanese Government and the Armed Movements of various factions. Remarkable progress has been achieved and negotiations are ongoing. Communications with the Sudan People's Liberation Movement, (SPLM), Abdul Aziz Al-Helu faction and the Sudan Liberation Movement (SLM), led by Abdel Wahid Nour are continuing with a view to persuading them to join the negotiations.

42. Regarding the establishment of the 12 Independent Commissions, some of them were already established and the rest will follow.