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مجلس حقوق الإنسان
الدورة الرابعة
البند ٢ من جدول الأعمال

تنفيذ قرار الجمعية العامة ٢٥١/٦٠ المؤرخ ١٥ آذار/مارس ٢٠٠٦
المعنون "مجلس حقوق الإنسان"

مذكرة شفوية مؤرخة ٥ آذار/مارس ٢٠٠٧ موجهة من البعثة الدائمة لجمهورية
السودان لدى مكتب الأمم المتحدة بجنيف إلى أمانة مجلس حقوق الإنسان

تهدى البعثة الدائمة لجمهورية السودان لدى مكتب الأمم المتحدة وسائر المنظمات الدولية في جنيف
تحياتها إلى أمانة مجلس حقوق الإنسان وتتشرف بأن تحيل طيه مذكرة* تتعلق بالبعثة الرفيعة المستوى التي أوفدها
مجلس حقوق الإنسان لتقييم حالة حقوق الإنسان في دارفور واحتياجات السودان في هذا الشأن.

وإذ تطلب البعثة الدائمة لجمهورية السودان إلى أمانة مجلس حقوق الإنسان تعميم هذه المذكرة كوثيقة
رسمية من وثائق الدورة الرابعة لمجلس حقوق الإنسان، تنتهز هذه الفرصة لتعرب مرة أخرى للأمانة عن فائق
تقديرها.

* استُنسخت المذكرة في المرفق كما وردت، باللغة التي قدمت بها فقط.

Annex

The Cooperation of the Sudan Government

The promotion and protection of human rights is a noble cause which is of great necessity for the whole of humanity. The Human Rights Council was established to attain that objective in a constructive manner based on cooperation and genuine dialogue with States and guided by objectivity and constructive international dialogue and cooperation.

The 4th Special Session was characterized by three unprecedented elements which are as follows:

- 1- The concerned country cooperated in its convening,
- 2- The concerned country cooperated on attaining its decision by consensus,
- 3- The concerned country accepted to issue the entry visas to five of the members of the Mission, and to the 6th member Mr. Ramcharan subject to resolving a technical issue which was agreed to take place in Geneva between the State Minister for Foreign Affairs of the Sudan Government and the President of the Council on Monday, 12/2/2007. Unfortunately this agreed upon plan was rejected by the Head of the Mission Mrs. Judy Williams and the attempt to find a solution for that technical issue was aborted by the hurried travel of the Mission to a destination other than the one in the mandate of the Mission - which is Darfur - to previously unconceived directions which are Addis Ababa and Chad.

The Sudan Government's Legal Objections

The objections of the Sudan Government on the selection of Mr. Ramcharan in the Mission were based on two procedural and substantive basis:

1. Procedurally:

The President of the Council requested from each of the Coordinators of the five regional groups to nominate three persons so that he could choose one as a member of the Mission. The GRULAC group nominated five persons from four countries. Mr. Ramcharan who was appointed as representing GRULAC was not in that list of nominees of GRULAC.

The Sudan Government considers the appointment of Mr. Ramcharan as ultra vires and this raises the question of the legality of the composition of the Mission.

2. Substantively:

The Mission was supposed to be composed of objective and impartial persons. This is the minimum pre-qualification for any persons required to make a fair and sound judgment at any level of assessment. This is a basic principle which is recognized by all legal systems and traditions in the whole world and in all civilizations. It is unfortunate that Mr. Ramcharan is publicly known of not possessing that essential element of impartiality on the issue of Darfur in particular and on the Sudan in general.

Since April 2004 and up to 13th December 2006 - the date of the Special Session on Darfur - he was well known to be a zealous outspoken person against the Government of the Sudan. By

accepting the membership of the Mission, he resembles a judge who declares a severe sentence on an accused person and then asks the clerk of the court to lead him to the site of the crime to interview the witnesses.

On 7th May 2004, Mr. Ramcharan denounced the Government of the Sudan in what he called “its Arab proxy militia” as responding to what he called “the black African rebels” in western Sudan with a (“reign of terror” of massive human rights violations which “may constitute war crimes and/or crimes against humanity”) according to a new United Nations report released that day by the then Acting UN High Commissioner for Human Rights, Bertrand Ramcharan. On 14th May 2004 the same allegations were repeated in French.

He was furthermore quoted in an article by Rene Wadlow as follows: Dr. Bertrand Ramcharan, stressed: “First, there is a reign of terror in this area (the provinces of Darfur); second, there is a scorched-earth policy; third, there is a repeated war crimes and crimes against humanity; and fourth, this is taking place before our very eyes”.

Mr. Ramcharan kept repeating those allegations up to the day of the Special 4th Session on Darfur i.e. 13th December 2006, when he chaired a special session organized by four NGOs on Darfur Crisis in the UN premises in Geneva and he repeated the same above mentioned allegations and even adding to them the allegation of genocide. (See a photo for Mr. Ramcharan chairing that session on the web site: www.un.org.)

The Sudan Government is of the opinion that Mr. Ramcharan had disqualified himself from the membership of the Mission by making publicly a prejudgment on the situation in Darfur.

The Sudan Government has every reason to fear the involvement of Mr. Ramcharan in the Mission and has every excuse to fear that the forthcoming report of the Mission may refer to the false and unfounded allegations Mr. Ramcharan used to raise against the Government of the Sudan of committing genocide, war crimes and crimes against humanity in Darfur. An expected contribution from him could be an unrelated report based on prejudgment and politicization which emphasizes the responsibility to protect. This is a theme he kept advocating which is based on the above mentioned crimes.

The issue of the entry visas

The Sudan Government has never objected to issue the visas for the members of the Mission. The message it kept repeating all the way through since the adoption of the resolution by consensus was that: the Sudan Government welcomes the Mission in line with the invitation it had extended to 19 distinguished Ambassadors from Geneva who visited Darfur in two trips on 5th and 12th of November 2006 and in line with invitations extended by the Sudan Government to the President of the Council and the Bureau and regional Coordinators to visit Darfur at their convenience.

The Sudan Government reiterated its delight to fully cooperate with the Mission. In the same time the Sudan Government kept raising questions about the legality of the membership of Mr. Ramcharan. The Chairman of the Human Rights Council is well acquainted with this. This was

expressed to Mrs. Judy Williams in the three visits she kindly paid to the Sudan Mission in Geneva.

The Chairperson of the African Group and the Representative of the African Union in Geneva made consultations with the Chairman of the Human Rights Council, the Mission of the Sudan and Mrs. Judy Williams. They called for a meeting in the office of the Representative of the AU, Ambassador Masri, which was attended by the Ambassador of the Sudan and Mrs. Judy Williams. Ambassador Masri said to Mrs. Judy Williams: "I have good news for you, the Ambassador of Sudan will tell you." The latter opened his speech by assuring Mrs. Williams that the Mission is very welcome in the Sudan and that the Sudan Government will cooperate with it and that the Sudan Consulate was instructed by the Government to issue the visas to the members of the Mission immediately subject to a small technical problem pertaining to the visa of Mr. Ramcharan which will be delayed until Monday, 12/2/2007. The reason for that is the desire of the Sudanese State Minister of Foreign Affairs to arrive in Geneva on Sunday 11/2/2007 purposely to meet with the Chairman of the Human Rights Council to raise a technical problem about the legality of the membership of Mr. Ramcharan and that the Chairman agreed to hold that meeting on Monday, 12th.

Mrs. Judy Williams immediately replied that "I am not going to give the Sudan Government a veto right to decide who will and who will not enter the Sudan from the members of the Mission". The Chairman of the African Group H.E. Ambassador Servansing of Mauritius reiterated the need for cooperation between the Mission and the Sudan Government and advised for more dialogue to resolve the issue amicably.

On Friday, 9th February the Mission's secretary withdrew the passports from the Sudan Consulate under the expressed desire to get the entry visas to Addis Ababa before the end of the day. The Consul of Sudan in Geneva requested him to return the passports back until he receives the instructions of the State Minister for Foreign Affairs of the Sudan who was supposed to arrive Geneva on Sunday, March 2007

On Saturday, 11th February the Mission left to Addis Ababa to the surprise of the Sudan Mission which did not understand why a Mission which was mandated to go to Darfur has suddenly changed its direction to another neighboring country. The understanding of the Sudan Government was that the Mission has arranged for meetings with the concerned AU representatives who are on the field in Khartoum and the three capitals of Darfur.

The Sudan Mission in Geneva received from Mrs. Judy Williams a fax sent from Addis Ababa on the 14th of February 2007 at 11:05 giving an ultimatum to the Sudan Government to issue the visas for all the members of the Mission including the nine French security officers before 12:00 noon on that same day. She further added that "We regret to inform you that any further delay in the issuance of visas beyond 12:00 noon on 14 February 2007 will make the proposed visit to the Sudan impracticable and will compel us to proceed with our work through alternative arrangements."

Then at 12:12 of the same day, the Sudan Mission received another fax from Mrs. Judy Williams to the effect that "I deeply regret that visas for the Sudan have not been issued to the High-Level Mission in time for it to conduct a visit to the country. Consequently, we are forced to consider

this as a denial of access to the Sudan and to seek other means to carry out the responsibilities entrusted to us by the decision of the Human Rights Council.”

The Minister of Foreign Affairs of the Sudan sent a letter on 18th February 2007 to the Secretary General of the UN denouncing the inappropriate approach in which the Head of the Mission addressed the Sudan Government and her way of handling this matter and reiterated the full commitment of the Sudan Government to cooperate with the Human Rights Council and its mechanisms which as he stated is unprecedented. Furthermore, he affirmed his Government’s commitment to receive an independent, impartial, objective and neutral Mission.

The Sudan Government does not understand yet why Mrs. Judy Williams rejected right away the proposal to wait until the Sudanese State Minister arrives to tackle the matter within 48 hours. The composition of the Mission took almost 48 days why not to wait for 48 hours to resolve the issue of a visa for one person? Isn’t there a need to travel to Darfur to meet its people and to see on the ground whether human rights protection is provided to them and what additional protection can be provided?

The Sudan Government is of the opinion that those members of the Mission who proceeded to Chad have missed a rare opportunity of cooperation of the concerned country and have rather preferred the approach of confrontation which the Sudan Government strongly denounces. The people of Darfur will benefit nothing from such a confrontation which would merely disclose a hidden political agenda, which is contradictory to the spirit of this newly established Human Rights Council.

Those members have also missed a precious opportunity to deliberate with the Sudan Government and the civil society in the Sudan about their technical and material needs and the capacity building programmes required in the Sudan for the protection and promotion of human rights which is an integral and very essential component of the decision S.4/101 of the Human Rights Council.

Consultation with the concerned Country

The resolution of the 4th Special Session prescribed that there should be consultation with the concerned Country. This was one of the reasons of adopting that decision by consensus. Consultation was supposed to be the corner-stone for the Mission at all its stages.

According to decision S-4/101 on Darfur and the Sudan, the logistics of the Mission have also to be done in consultation with the concerned country i.e the Sudan Government. Unfortunately up to this moment the Sudan Government was not consulted neither on the terms of reference, programme in Geneva or Khartoum or the three States of Darfur or the security arrangements needed for the Mission in Sudan. The Mission’s Secretariat sent nine passports to the Sudan Consulate for the issuance of visas for nine French military officers with arms to protect the Mission while in the Sudan. The Sudan Mission requested consultation about this matter since the Sudan Government committed itself to fully protect the Mission members by the police forces. The Sudan Mission did not find and response to such a request and the State Minister for Foreign Affairs was planning to discuss this issue on his visit to Geneva on the 12th of February. When the Ambassador of the Sudan said to Mrs. Williams: “We are going to protect the members of the

Mission like our honourable guests” she replied: “We are not your guests, we are coming to investigate”.

The Sudan Mission expressed its complete respect for the independence of the Mission; however, there is an essential need for consultation and cooperation between the Mission and the concerned country. Without that it is inconceivable how can such a Mission appropriately fulfill its mandate.

Conclusion

The Sudan Government has consistently expressed its desire to cooperate with the Human Rights Council and its mechanisms. The Council appreciated that trend in its decision S-4/101 of the 4th Special Session. The Minister of Foreign Affairs of the Sudan reiterated that commitment in his letter to the UN Secretary General on 28th February 2007.

The illogical and hasty diversion of the Darfur Mission to Addis Ababa and Chad needs justification. It is evident that those who left for Chad from the members of the Mission have no serious desire to meet the people of Darfur and to discuss the situation with them on the ground.
