

SUDAN

Special Decisions or Action Taken Re: Reporting, Including Urgent Action Procedure

CERD A/54/18 (1999)

Chapter II

Prevention of racial discrimination, including early warning and urgent procedures

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A. Decisions adopted by the Committee at its fifty-fourth session

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Decision 5 (54) on the Sudan

1. Acting under its early warning and urgent action procedures, the Committee, at its 1303rd meeting, on 21 August 1998 (see CERD/C/SR.1303), decided to review the situation in the Sudan at its fifty-fourth session. Specifically, the Committee expressed concern over persistent reports that human rights conditions had continued to deteriorate in the Sudan. The Committee appreciates the dialogue with the State party at its 1329th meeting (see CERD/C/SR.1329).
2. The Committee notes that in the Sudan questions of ethnicity, religion and culture are deeply intertwined and that, in many respects, the ongoing civil conflict is fueled by this complex interrelationship.
3. As the now 16-year-old civil war in the territory of the State party has claimed as many as 1.9 million lives since 1983, the Committee expresses its concern over the ethnic dimensions of the conflict.
4. The Committee is gravely concerned at the numerous reports that all parties to the armed conflict have engaged in attacks on civilian populations of other ethnic origins, including summary executions, malicious and militarily unjustified destruction of civilian property, the diversion of relief supplies and the forcible recruitment of child soldiers. In addition, the Committee is concerned at reports that the State party has regularly bombed non-military targets.
5. The Committee continues to express deep concern over reports of grave abuses directed at ethnic minorities in the Nuba Mountains in central Sudan, a situation that the Committee, when it previously considered the Sudan, referred to as "a vast programme of ethnic cleansing" (A/48/18, para. 107). Concern was also expressed about the State party's role in the conflict that has erupted in the Darfur.
6. The Committee notes that the State party declared a ceasefire in July 1998 for some famine

stricken regions in the war zone. The Committee welcomes reports that this ceasefire was extended for an additional three months in January 1999.

7. The Committee also expresses deep concern over reports from UNICEF that thousands of Sudanese of different ethnic origins have been enslaved, most of them women and children abducted by armed militia based in Government-controlled parts of the country. The Committee welcomes the State party's recently announced intention to prosecute those involved in the slave trade and looks forward to the State party taking immediate effective measures to achieve the freedom of all those enslaved.

8. While the Committee welcomes the adoption in 1998 of a new constitution through a national referendum, the Committee expresses concern over the non participation of Sudanese in the south of the country in the referendum process and reports indicating that lawyers, trade unionists and other activists who questioned the constitutional adoption process were arrested. Moreover, the Committee regrets that the fundamental rights enshrined in both the Constitution and in earlier human rights decrees of 1993 have not been implemented in practice.

9. As a result, therefore, of the continuing human rights crisis, the Committee urges the State party to take the following steps to implement its treaty obligations under the International Convention on the Elimination of All Forms of Racial Discrimination:

(a) To implement immediately effective measures to guarantee to all Sudanese, without distinction, freedom of religion, opinion, expression and association; the right to security of person and protection by the State against violence or bodily harm; the right to study and communicate in a chosen language; and the right to enjoy their own culture without interference;

(b) To respect its obligations under humanitarian law, particularly article 3 common to the Geneva Conventions of 12 August 1949 and customary international law applicable to internal armed conflicts;

(c) To ensure that its police and security forces, and any paramilitary or civil defence forces acting with the support of the Government or under Sudanese military command, respect human rights and humanitarian law, including the provisions of the Convention, and that all those responsible for violations of any of the obligations contained therein are brought to justice;

(d) To take effective steps to protect internally displaced communities within the territory of the State party and to address the problems associated with the displacement of significant segments of the country's population due to war. The State party should consider giving effect to the provisions of the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2) of the Special Representative of the Secretary General on internally displaced persons. In particular, the State party must recognize that all displaced persons have the right freely to return to their homes of origin under conditions of safety and that once returned all displaced persons have a right to have any property that was seized in the course of the conflict restored to them and to participate equally in public affairs upon their return;

(e) To implement a public education campaign urging tolerance with respect to ethnic, cultural and religious diversity.

10. The Committee welcomes the statement of the representative of the State party recognizing the right of the people of the south of the country to self-determination.

1332nd meeting
19 March 1999

CERD CERD/C/SR.1642 (2004)

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-fourth session

SUMMARY RECORD OF THE 1642nd MEETING

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CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

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Decision (5) 54 on the Sudan

53. The CHAIRMAN said that in the light of information received by the Committee on the increasingly serious situation in the Darfur, further information should be provided by the State party. He thought it appropriate to use the same criteria as had been set for requesting further information from the Russian Federation on the situation of the Meskhetian Turks. On receipt of further information from the State party, the Committee could decide whether the situation required urgent action.

54. It was so decided.

CERD A/59/18 (2004)

Chapter II. Prevention of racial discrimination, including early warning and urgent procedures

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17. The following sections provide the text of the decisions adopted by the Committee under the early warning and urgent procedures at its sixty-fifth session:

Decision 1 (65)

Situation in Darfur

The Committee on the Elimination of Racial Discrimination,

Alarmed by the current events in Darfur,

Convinced that these events have an ethnic and racial dimension,

Acting in pursuance of its mandate, which is to ensure the universal application of the International Convention on the Elimination of All Forms of Racial Discrimination and to promote the measures necessary for understanding among racial and ethnic groups,

Referring to its decision 5 (54) of 19 March 1999 on the Sudan, and particularly paragraph 5 thereof,

Recalling the letter sent by the Chairman of the Committee on 12 March 2004, calling on the State party to submit to it before 31 July 2004 detailed information on the current situation in Darfur,

Noting that the State party has not forwarded the requested information to it,

Taking note of Security Council resolution 1556 (2004) of 30 July 2004, in which the Council condemned all acts of violence and violations of human rights and international humanitarian law by all parties to the crisis, in particular by the Janjaweed, including indiscriminate attacks on civilians, rapes, forced displacements and acts of violence, especially those with an ethnic dimension, and expressed its utmost concern at the consequences of the conflict in Darfur on the civilian population, including women, children, internally displaced persons and refugees,

1. *Calls* for strict compliance with Security Council resolution 1556 (2004) and all measures that it prescribed, in order to ensure the prompt cessation of large-scale violations of human rights in Darfur and, in particular, violations of the International Convention on the Elimination of All Forms of Racial Discrimination;
2. *Considers* that the deployment in Darfur of an adequately reinforced African Union-led protection force with the support of the League of Arab States and the logistical and financial assistance of the European Union and the United States should greatly facilitate the speedy implementation of Security Council resolution 1556 (2004).

1668th meeting
18 August 2004

CERD, A/60/18 (2005)

CHAPTER II. PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES

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18. The following decisions were adopted by the Committee under the early warning and urgent procedures at its sixty-sixth session:

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Decision 2 (66) on Darfur

The Committee on the Elimination of Racial Discrimination,

Taking into consideration its regular practices as well as its obligation to inform, under its early warning and urgent action procedure, of any warning signals that a situation may deteriorate still further,

Referring to its decision 1 (65) of 18 August 2004 on the same subject,

Recalling its declaration on the prevention of genocide of 11 March 2005,

Recommends to the Secretary-General, and through him, to the Security Council, the deployment, without further delay, of a sufficiently enlarged African Union force in Darfur with a Security Council mandate to protect the civilian population, including those in camps, displaced persons and refugees returning to their homes in Darfur, against war crimes, crimes against humanity and the risk of genocide.

*1701st meeting
11 March 2005*

CERD CERD/C/SR.1701 (2005)

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION
Sixty-sixth session
SUMMARY RECORD OF THE 1701st MEETING

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

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Draft decision 2 (66) on the situation in Darfur (document distributed in the meeting room in English only)

17. Mr. de GOUTTES suggested the text should contain a reference to the Committee's previous decision on Darfur, decision 1 (65).

18. Mr. VALENCIA RODRÍGUEZ said that, in his view, paragraph 11 of the Declaration on Prevention of Genocide should have been retained. He had been supported in that opinion by certain Committee members and in particular by a number of NGOs which considered the situation in Darfur to be one of genocide. He maintained that the risk of genocide had still not disappeared, and he hoped the Committee would not find itself discussing the matter *ad infinitum*, as had happened with the situation in Rwanda, 10 years previously.

19. Given that it was the Committee's decision to adopt the paragraph in question as a separate text, however, he wished, in the interests of consistency, to propose an amendment to bring the text into line with paragraph 12 of the Declaration, namely rewording the last part of the final sentence to read "... returning to their homes in Darfur, against genocide, crimes against humanity and war crimes".

20. Ms. DAH said it was regrettable that there had not been time to take account of all the elements required to substantiate the text of the draft decision, most notably the report of the International Commission of Inquiry.

21. She agreed that reference should be made to the Committee's previous decision on Darfur, and in her view there should also be a reference to paragraph 12 of the Declaration just adopted.

22. Mr. SHAHI agreed that reference should be made to the Committee's previous decision.

23. With regard to the operative paragraph of the draft decision, he pointed out that the Committee's prevention procedure required that a matter be referred, not to the General Assembly, but to the Security Council through the Secretary-General. He suggested the text should be amended accordingly.

24. Mr. AMIR said that the International Commission of Inquiry had spent some considerable time in the Sudan conducting its investigation before arriving at the finding that there was no firm proof of

genocide in the Darfur conflict. He understood the concerns of some members who were not entirely satisfied with that finding, but the Committee must nevertheless presume the innocence of the parties concerned until there was sufficient evidence to the contrary. He therefore urged the Committee to adopt a suitably cautious approach in its draft decision.

25. Mr. KJAERUM endorsed Mr. Valencia Rodríguez' remarks concerning paragraph 12 of the Declaration on Prevention of Genocide and suggested the insertion of a further preambular paragraph in the draft decision recalling that Declaration and reproducing the text of paragraph 12 thereof concerning the question of impunity.

26. Referring to the operative part of the draft decision, he suggested that the phrase "including camps" should read "including those in camps" since it referred to the situation of the civilian population.

27. Mr. HERNDL said that he was in favour of the draft decision on the situation in Darfur, but that the text before the Committee required some redrafting. For instance, in the preambular paragraph, the words "regular work" should be replaced by "practices". A reference should also be included to the Committee's decision 1 (65) of 18 August 2004.

28. Referring to the operative paragraph, he noted the Committee should make its recommendations to the Security Council through the Secretary-General, rather than through the General Assembly. Also, the insertion of the word "possible" before the last phrase "war crimes and crimes against humanity" would allow for inclusion of a reference to genocide. Although there was no confirmation of genocide in the Darfur conflict, it was possible that it existed, and that should be reflected in the draft decision in line with the Committee's duty to inform the Security Council under its early warning and urgent action procedures.

29. Mr. THORNBERRY, referring to the preambular paragraph, questioned the appropriateness of the phrase "regular work". He also suggested that the word "warning" should be inserted before "signals". With regard to the operative paragraph, he agreed that the Committee should make its recommendations through the Secretary-General. He also suggested that the phrase "the possibility to deploy" should read "the possibility of deploying". However, he was not in favour of including a reference to genocide. That matter was already dealt with separately in the Declaration on Prevention of Genocide; in any event, the Commission of Inquiry had not substantiated any of the allegations of genocide and the Committee should respect its findings.

30. Mr. TANG Chengyuan said that the findings of the Commission of Inquiry were well known: there was no evidence of genocide, and therefore no reference to it was appropriate. In keeping with its mandate under its early warning and urgent action procedures, the Committee might request the Government of the Sudan to provide information on the situation in Darfur, but he seriously questioned the need to adopt a special decision on the matter.

31. Mr. LINDGREN ALVES said that the conflict in Darfur had been a subject of concern to the United Nations for some considerable time, and that various resolutions and decisions had been adopted, including by the Commission on Human Rights, to no avail. The Committee had also issued

its own decision on the matter in 2004. More recently, the conflict had attracted greater attention in connection with the findings of the Commission of Inquiry and Security Council resolution 1585 (2005). However, in view of the difficulty the Committee was having in reaching agreement, he suggested that it should defer consideration of the draft decision until its sixty-seventh session. That would give it more time to assess whether a further decision was really warranted, in the light of recent developments and a possible deterioration in the situation, and to draft a suitable text on the basis of all the suggestions made during the current discussion.

32. Mr. de GOUTTES said he disagreed. The Committee should continue discussion until it reached agreement on a suitable text. He endorsed the suggestions of Mr. Herndl and Mr. Thornberry concerning the preambular paragraph. He also agreed on the need to refer to the Committee's previous decision on the subject. He suggested that the words "and the risk of genocide" should be added at the end of the last part of the operative paragraph, which should meet the concerns expressed about the findings of the Commission of Inquiry.

33. Mr. KJAERUM said it was important for the Committee to adopt a decision during the current session. If it delayed any longer it would miss the opportunity of addressing the issue when it was relevant and when there was a possibility of bringing some influence to bear on the international community. He hoped that account would be taken of his suggestion to add a paragraph referring to the question of impunity, but he would not press the matter.

34. Mr. SHAHI endorsed most of the amendments suggested by members, who now seemed to be drawing closer to consensus. Nonetheless, one further amendment was necessary: the deletion of the word "possibility" with reference to the deployment of the African Union force.

That term would make the text of the draft decision weaker than the decision issued the previous year, which had referred quite simply to "deployment", yet the need to deploy an enlarged force was now more urgent than ever.

35. The CHAIRMAN invited the members who had suggested amendments to hold consultations with Mr. Shahi with a view to elaborating a final version of the draft decision.

The meeting was suspended at 5 p.m. and resumed at 5.20 p.m.

36. Mr. SHAHI said that, following consultations, the following text for the draft decision was put forward for the Committee's consideration:

"The Committee on the Elimination of Racial Discrimination,

Taking into consideration its practices as well as its obligation to inform, under its early warning and urgent action procedure, of any warning signals that a situation may deteriorate still further,

Referring to its decision 1 (65) adopted on 18 August 2004,

Recalling its Declaration on Prevention of Genocide,

Considers it imperative to dispel the climate of impunity that is conducive to war crimes and crimes against humanity by referring the perpetrators to the International Criminal Court at an early stage of indications of genocide,

Recommends to the Secretary-General, and through him, the Security Council, the deployment, without further delay, of a sufficiently enlarged African Union force in Darfur with a Security Council mandate to protect the civilian population, including those in camps, displaced persons and refugees returning to their homes in Darfur, against war crimes, crimes against humanity and the risk of genocide."

37. Mr. THORNBERRY suggested the insertion of the word "regular" before "practices" in the first preambular paragraph. He also suggested that it might be appropriate to include the date of adoption of the Declaration on Prevention of Genocide in the third preambular paragraph.

38. Ms. DAH endorsed Mr. Thornberry's suggestion concerning the date but said that there seemed to be no need to reproduce the text of paragraph 12 of the Declaration. The second preambular paragraph should therefore read simply: "Recalling its Declaration on Prevention of Genocide of 11 March 2005,".

39. The CHAIRMAN said he took it that the Committee wished to adopt the revised text of the draft decision, as read out by Mr. Shahi and amended by Mr. Thornberry and Ms. Dah.

40. It was so decided.

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