



April 2012

*Excellences, Ladies and Gentlemen:*

The East and Horn of Africa Human Rights Defenders Project and the African Centre for Justice and Peace Studies welcomes the work of the Commission on human rights in Sudan, noting that the Commission authorized a fact finding mission to Darfur in 2004 in response to attacks against civilians by the Government of Sudan and issued Provisional Measures in November 2011 regarding the situation in South Kordofan.

We are troubled by the complete failure of the Government of Sudan to implement the Commission's Concluding Observations and Recommendations on the Third Periodic Report and past decisions of the African Commission in which the Commission requested the Republic of Sudan to abolish corporal punishment and revise national security laws. We would like to take this opportunity to draw your attention to the current situation in Sudan.

The use of torture to intimidate activists when the government feels threatened by political events is commonplace. It is used systematically to suppress opposition, obtain confessions or to discriminate against marginalized groups, including Darfurians and Southerners on a regular basis. Political opponents, students, journalists and human rights defenders are particularly at risk due to their background, perceived affiliation, or engagement in activities.

In South Kordofan, international and national organizations, including the media and United Nations, report that the Sudan Armed Forces and other security forces have been responsible for the torture, forced disappearances and ill treatment of both civilians and perceived political opponents throughout the state. In Blue Nile, the majority of the victims are opposition activists, either members or perceived members of the Sudan Peoples' Liberation Movement – North (SPLM-N). It has been consistently reported that detainees are held inhuman detention conditions and interrogated by the NISS.

Darfurians continue to be subject to torture and ill-treatment on the grounds of their political affiliation, their human rights work or their ethnic origin. In Khartoum, several Darfurians were tried and sentenced to death following proceedings that relied on confessions allegedly extracted under torture during incommunicado detention

The National Intelligence and Security Services (NISS), police forces, army, and militia groups have been responsible for committing torture, using a range of methods, including beatings, often with sticks or other objects, electric shocks, rape, or the threat thereof, mock executions, sleep, food and medical deprivations, and incommunicado detention in poor conditions. In police stations, there is often an isolated room designated specifically for torture.

Impunity for these crimes is grounded in the judicial system. The 2010 National Security Act, allows security officials to detain suspects for up to four and a half months without judicial review before charges must be levied. Other acts provide immunities for state officials for any criminal acts committed in the course of official duties. The secrecy covering the operations of the National Intelligence and Security Services (NISS), including concealment of their detention facilities and the status of their detainees, have allowed them the latitude to act almost entirely without oversight or public scrutiny.

Commenting on the last periodic report submitted by Sudan, the Commission noted that torture committed by security forces exists. They recommended that Sudan criminalize torture, end corporal punishment and repeal article 22 of the National Security Act. The Government of Sudan has failed to implement the Commission's recommendations

Taking into account the submission of the Republic of Sudan's Fourth and Fifth Periodic Report to the African Commission, we would like to take this opportunity to humbly make the following recommendations to the members of the African Commission when reviewing the report:

- Request the Government of Sudan to criminalize the act of torture and hold the perpetrators accountable;
- Remove barriers to accountability for torture by repealing immunities provisions in the Armed Forces Act, the Police Act and the National Security Act; extending if not removing altogether statutes of limitation for the offence of torture; and enacting laws providing adequate protection against threats, harassment and assaults on victims, witnesses and human rights defenders
- Ensure that national laws align with the Interim National Constitution and that adequate custodial safeguards, including the prohibition of arbitrary arrest and detention, incommunicado detention, and access to a lawyer of one's choice from the beginning of proceedings and the right to be brought before a judge within 24 hours of detention are implemented.

Thank you