"I WAS ELECTROCUTED": TORTURE IN SUDAN FROM 2011-2015
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INTRODUCTION:

This report examines the use of torture by Sudanese security agents from 2011 to 2015. Sudanese security agents implicated include the National Intelligence and Security Service (NISS), National Police Service, the Sudan Armed Forces (SAF) and the Rapid Support Forces (RSF).

Torture is used by security agents for, among other reasons, to intimidate detainees and extract confessions. The use of torture is exacerbated by the fact that Sudan lacks domestic laws that specifically address torture. Furthermore, Sudanese laws provide security agents with immunity provisions for committing torture which creates an atmosphere of impunity and denies torture victims justice.

The report is therefore presented as follows: it provides an international, regional and national legal framework of torture; details the procedural safeguards within Sudan for detained persons and highlights their weaknesses; torture in practice in Sudan supported by victim testimonies; and the obstacles faced by victims while reporting cases of torture. The report concludes with recommendations from ACJPS to the Government of Sudan to curb torture.

METHODOLOGY:

The information collected in this report is based on both primary and secondary data. The primary data includes analysis of domestic legislation and victim testimonies. ACJPS interviewed approximately eighteen torture victims who were interviewed in person, over the telephone and through internet communication services. The interviews were carried out by ACJPS’s Lawyers’ Network and Najlaa Ahmed.

The secondary data used for analysis of this report includes but is not limited to international human rights instruments, reports from United Nations human rights bodies, reports from various international human rights organisations and newspaper articles.

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1 This concern was also addressed by the African Commission on Human and Peoples’ Rights in its Concluding Observations and Recommendations on the 4th and 5th Periodic Report of the Republic of Sudan, available at: http://www.achpr.org/files/sessions/12th-eo/conc-obs/4thand5th-2008-2012/concluding_observation_.pdf, pg. 5.
DEFINITION OF TORTURE

Article 1 of the United Nations Convention Against Torture (UNCAT) provides the internationally recognized definition of torture. It defines torture as:

“any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”

This definition therefore, provides three main elements of torture:

a. Severe and intentional infliction of mental or physical suffering;

b. The harm caused must be for a specific purpose; and

c. The harm must be caused by or with permission from a public official or a person acting in an official capacity.²

LEGAL FRAMEWORK

INTERNATIONAL LEGAL FRAMEWORK

Universal Declaration of Human Rights (UDHR):
The UDHR prohibits torture under article 5 which provides:

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.

The UDHR as a declaration is non-legally binding; however, many view the UDHR as having customary international law status.

International Covenant on Civil and Political Rights (ICCPR):

Sudan has been party to the ICCPR since 1986. Article 7 of the ICCPR reads:

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.

The ICCPR has strengthened this right by making it non-derogable under any circumstance which is reflected in article 4 (2).³

United Nations Covenant against Torture (UNCAT):

Sudan is only a signatory to the UNCAT and not a state party. However, even though Sudan has not ratified the UNCAT, article 18 of the Vienna Convention of the Law of Treaties puts an obligation on states that have signed an international treaty to refrain, in good faith, from acts that would defeat the object and purpose of the treaty. Therefore, pending a decision on ratification, Sudan has an obligation to refrain from acts that would defeat the purpose of the UNCAT.

² International law limits culpability of torture to state officials because it is assumes that states will punish private persons under domestic law, i.e. through criminal law provisions.

³ The Human Rights Committee (HRC) has explained in General Comment No. 20 that article 7 has no limitation. The HRC states that, "even in situations of public emergency, no derogation from the provision of article 7 is allowed and its provisions must remain in force". The HRC goes on to state that, "no justifications or extenuating circumstances may be invoked to excuse a violation of article 7 for any reasons, including those based on an order from a superior officer or public authority", Section 3, Human Rights General Comment No.20, U.N. Doc. HRI/GEN/1/Rev.1 at 30 (1994). Furthermore, the Four Geneva Conventions of 1949 that regulate armed conflicts make a provision under common article 3 (a) prohibiting torture under any circumstances.
Convention on the Rights of the Child (CRC):
Sudan ratified the CRC in 1990. Article 37 (a) puts an obligation on state parties to ensure that children are not subjected to torture.

REGIONAL LEGAL FRAMEWORK
African Charter on Human and Peoples’ Rights:
The African Charter on Human and Peoples’ (African Charter) prohibits torture under article 5 which reads:
“Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.”

In 2002, during the 32nd Ordinary Session of the African Commission on Human and People’s Rights (African Commission), the Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (Robben Island Guidelines) was adopted. These guidelines provide minimum standards essential for states to combat torture within their jurisdictions which ensures their obligations under regional and international law. Part 1 of the Robben Island Guidelines calls upon states to ratify relevant regional and international human rights instruments and co-operate with international mechanisms; criminalise torture in accordance with article 1 of the UNCAT; observe the principle of non-refoulement; and combat impunity and set up complaints and investigation procedures. Part II of the Guidelines provides basic procedural safeguards for those deprived of their liberty and conditions of detention. Part III of the Guidelines addresses the needs of torture victims.

Article 5 (3) of the ACRWC puts an obligation on state parties to ensure that their legislative, administrative, social and educational measures protect children from torture.

NATIONAL LEGAL FRAMEWORK
Interim National Constitution:
Article 27 (3) of the 2005 Interim National Constitution (INC) of Sudan provides that all the international human rights treaties ratified by Sudan become part of the Bill of Rights. The automatic domestication of international human rights treaties puts on obligation on Sudan to respect, promote and protect the human rights enshrined in the treaties that Sudan has ratified.

Article 33 of the INC prohibits torture. It stipulates that:
‘No person shall be subjected to torture or to cruel, inhuman or degrading treatment’. This article, unlike the international and regional instruments Sudan is party to, omits cruel, inhuman or degrading punishment.

There are no specific laws that criminalise torture in Sudan. There are however, various laws that criminalise offenses that can amount to torture. These are:

4 The second edition of the guidelines is available at: http://www.achpr.org/instruments/robben-island-guidelines-2008/
Criminal Act 1991:

a. Influencing the course of justice, Article 115 (2):
   This article states:
   "every person who, having public authority entices, or threatens, or tortures any witness, or accused, or opponent to give, or refrain from giving any information in any action, shall be punished, with imprisonment, for a term, not exceeding three months, or with fine, or with both".
   This article falls short of the internationally recognized definition of torture as it applies only to judicial proceedings and the punishment is insufficient given the gravity of torture.

b. Causing intentional wounds, Article 139(1):
   Article 139 (1) of the 1991 Criminal Act states,
   "whoever commits the offence of causing intentional wounds, shall be punished, with retribution (qisas), where its conditions are satisfied, and where the conditions are not satisfied, or retribution (qisas) is remitted, he shall be punished, with imprisonment, for a term, not exceeding five years, or with fine, or with both, without prejudice to the right of dia."
   In practice this article is consistently applied in prosecution of the act of torture.

c. Offence of hurt, Article 142 (2):
   Article 142 (2) provides for the offence of hurt,
   "[w]here hurt has occurred by dangerous means, such as poison, or intoxicating drugs, or where hurt is caused with the intention of drawing a confession from another or compelling that other to do an act contrary to the law,"

   Under this provision, the offender is punished with imprisonment for a term not exceeding two years or a fine.

d. Intimidation, Article 144:
   Article 144 provides that intimidation occurs when one person,
   "threatens to harm another or any person in whom that other is interested, intending thereby to threaten, or compel him to do what he is legally not bound to do, or forbear from doing what he is legally bound to do"; or "makes any gesture, or preparation intending thereby to use criminal force, or knowing that such gesture, or preparation is likely to make any person present to apprehend that he is about to use criminal force, against him".

National Security Act, 2010:

Article 51 (3) of the National Security Act 2010 (NSA) provides that detained persons are to be treated in a manner that safeguards their dignity and ensures that they are not physically or morally hurt.

Article 51 (8) of the NSA 2010 empowers the competent prosecutor to monitor places of detention to ensure that they comply with detention regulations and receive any complaints from detainees if procedures are not being adequately followed.

Additionally, article 59 of NSA stipulates that any National Intelligence and Security Service (NISS) member shall be punished for abusing the powers conferred upon him/her by using their position in NISS to obtain material or moral benefit for themselves or others or causes harm to others. This provision applies only in cases where a NISS member abuses their power and position, in order to obtain benefits or cause harm to others.
This provision is inadequate as it does not clarify nor refer to the situations or circumstances where an act could be considered abuse of power, or the kind of harm. It also does not set a supervisory body responsible for disciplinary as well as preventive measures. Notwithstanding, accountability of the security services should comprise measures that provide justice for past abuses, including vetting, disciplinary and criminal sanctions as well as reparation, and seek to prevent future violations.

**Criminal Procedures Act, 1991:**
Article 4 (e) of the Criminal Procedures Act, 1991, stipulates that prejudice to witnesses in any way is prohibited. This can be interpreted to include that witnesses should not be subject to any injury or ill-treatment.

**PROCEDURAL SAFEGUARDS FROM TORTURE FOR PERSONS IN DETENTION IN SUDAN**

Sudanese laws provide procedural safeguards aimed at preventing torture in detention but as will be seen below, these are rarely adhered to.

**Criminal Procedures Act, 1991:**
Article 81 of the Criminal Procedures Act 1991 puts an obligation on the Prosecution Attorney to inspect places of detention on a daily basis and to, among other duties, ensure that arrested persons are treated in accordance with the law. The visits from the Prosecution Attorney are therefore supposed to give detained persons an opportunity to report cases of torture. In practice however, the Prosecution Attorney hardly ever inspects places of detention. Out of the eighteen victims ACJPS interviewed, none reported to have received visits from the Prosecution Attorney during their detention.

**National Security Act, (NSA) 2010:**
Article 49 (1) (d) of the NSA 2010 puts an obligation on NISS officers to: “maintain the human dignity, honour and fundamental freedoms and refrain from persecuting acts”. Additionally, as mentioned earlier, article 51 (3) of the NSA 2010 provides that arrested and detained persons in custody shall, “be treated in a manner safeguarding his/her dignity and he/she shall not be physically or morally hurt”.

In practice however, NISS officials are one of the main perpetrators of torture on detained persons. Half of the victims we interviewed had been tortured while in NISS custody.
“I WAS ELECTROCUTED”: TORTURE IN SUDAN FROM 2011-2015

TORTURE IN PRACTICE IN SUDAN

This section will provide testimonies of individuals who have been tortured while in detention.

TORTURE IN PLACES OF DETENTION

The majority of the victims that were interviewed by ACJPS were subjected to torture while in detention. The detention is usually a result of arbitrary arrests that are carried out without arrest warrants targeted at political opposition party members, human rights defenders and activists. Many of these cases included torture of detainees from members of marginalised ethnic groups with perceived support to armed rebel movements. Torture was primarily used as a tool to extract information or confessions as will be seen below.

Mr. Mohamed Hassan AlimAlboshi is an engineer by profession and has openly criticised the ruling party and government on issues like corruption which have led to his arrest and detention by security personnel on numerous occasions. He narrated to ACJPS that while giving a speech near the Libya market in Omdurman to the Sharara Youth Movement in January 2011, he was detained by NISS and taken to the NISS offices in Bahri near Shandi Bus station where he was subjected to torture for twenty one days. Mr. Alboshi was subjected to the following: he was burnt with electric shocks on his body i.e. his hands and testicle, beaten with sticks, NISS security personnel removed his clothes and poured hot water on his body, he was sleep deprived for three days, threatened with rape, and hung upside down. He was released after forty eight days in detention.

Mr. Rahama Alnour Mohamed Ahmed, is a father of five children who resides in Mrinja east of Almarabee Wad Allilibaih, White Nile State. He recounted that:

“On 16 May 2014, the body of Mr. Hassan Balla was found at around 12:00pm. Later that day, while while attending the funeral of Mr. Balla, two police detectives came to the funeral place and took me to the police station. A Lieutenant investigator, Mr. Mohamed Osman asked me about the death of Mr. Balla. I told him I had no idea about the death. They (Lieutenant Mohamed Osman and five other detectives) immediately began beating me with a cable and stick. They brought a rope and tied my hands and legs and hung me on chairs and beat me with water hose pipes and electricity wires. They beat me on the soles of my feet, my back, my legs and knees with a stick. The Lieutenant swore to divorce his wife – to show his insistence- that they would not release me unless I told them how the deceased was killed.  They put me in a car and the Lieutenant ordered them to bring [a] spade, hammer and a double ended hand digger. The Lieutenant brought a sack, threw it at my face and said, “Do you know why we got all of these things? We will dig your grave and this sack will be your shroud, because you don’t want to admit.” They took me to Aljazera Aba Police Station where I was detained in a cell. At around 9pm, they tied my hands and legs and hang me on chairs and began kicking me with their boots while beating me with a black water hose pipe for about anhour. As a result, my knee got twisted. The Lieutenant and the five men are the people who tortured me. They left me hanging on the chairs for about half an hour. They released my legs and ordered me to jump on my feet. I was not able to jump as my knee was twisted but they continued beating me while ordering me to jump. My health deteriorated and I began to urinate blood. I was detained for two months and fourteen days at Aljazera Aba Police Station before I was transferred to Kosti Prison”.

ZX, a Dafuri student, was arrested in October 2014 by NISS officials from the Al-Zahra Women’s Dormitory at Khartoum University. She narrated that on arrest:

“I was beaten with batons and kicked on my head and other body parts. A NISS official ripped off my toub as he pushed me inside the vehicle. I was left with a light night gown that didn’t cover my entire body. When we arrived at the detention facility, I was beaten. I could not stand up properly due to the pain from the beating. I vomited frequently because of the poor food and so embarked on a three day hunger strike protesting the food and terrible prison conditions. As a result of my protest, I was transferred to solitary confinement. A female officer used my toub to strangle me because I refused to eat. I was interrogated about my political activities, accused of mobilizing Dafuri students for political protests, including a group of seventy female Darfuri students who the NISS alleged I was mobilizing with for large-scale protests”.

ZX was threatened with sexual harassment and sexual abuse. She recounts:

“I was accused of opening a brothel and recruiting girls in the dorms to join the brothel. The NISS officials said they could file two cases against me. They said they had identified girls willing to testify that I am a prostitute and run a brothel. They alleged that I am not a virgin and one officer threatened to, ‘try me out in bed’. They also threatened to film the rape which would be released to the public after my detention and, ‘I would not be able to lift my head because of this’.”

ZX was also forced to take four unknown pills on a daily basis and had blood drawn from her without her consent. During her month long detention, ZX was regularly beaten with gun butts and electrocuted while shackled and blindfolded. ZX was released in November 2014 but experiences memory loss, pain on her hand, fingers and legs and has visible bruises from the beatings. Her legs were swollen and bruised at the time of the interview.

Ms. Kirsten Amal, was a financial accounting student at the Khartoum University. On 5th October 2014, while in her room at Alzhra Students’ Hostel, Kirsten heard an announcement over the public address system demanding students of Darfuri origin to leave their rooms. She heard screams and closed the door to her room. Ten minutes later, three men dressed in plain clothes entered her room. They grabbed her by her hands with one of the men groping her chest and slapping her across the face. They took her out of her room while she was dressed in her pajamas to the compound, put her inside a Prado with tinted windows and blindfolded her. She recalls that some of the officers told her that, “we will take you to our premises where we take people from your area [meaning people from Darfur] and we will beat you there”.

Ms. Amal suspects that she was taken to the NISS offices near Shandi bus station because it is located near a train station and she heard a train pass by.

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6 Her name has been withheld for security purposes.
7 Toub is a traditional wrap dress in Sudan.
8 Kirsten Amal is not the victim’s real name. Her name has been withheld for security purposes.
9 Alzhra Student Hostel is a hostel that houses female students who attend university within Khartoum. On 27 September 2014, the National Students Welfare Fund (NSWF) released a warning that students that were not pursuing their studies at Khartoum University should evacuate the hostel within one week. NSWF argued that this was due to their investigations carried out by their engineering team that revealed the hostel had structural defects. The students however, protested against NSWF’s decision which resulted in the government evacuating the students which led to the arrest of various students, including Ms. Amal.
Ms. Amal was led to a room for interrogation. Inside the room, the blindfold was removed. The room had two people inside it with two chairs and a bed. While sitting in the ground, she was hit across the face. The men inside the room asked her to put her head down and proceeded to beat her. Every time she looked up to see who was beating her, this angered them and so they beat her even more. One of the men groped her chest and called her names. He told her that, “you Darfur people destroyed your home and have come to destroy Khartoum too”. They accused her of sleeping with men. When Ms. Amal started crying, they threatened to rape her. They asked her to lie on the bed to inspect whether she was a virgin. Her crying intensified and she refused to lie on the bed. This led to one of the men hitting her with a stick on her head and kicking her in the stomach until she became unconscious.

When Ms. Amal woke up, she discovered that she was blindfolded and had her hands handcuffed and feet shackled. She was transferred to Omdurman Women’s prison on 6th October 2016. A prison guard brought her food but she refused to eat it. The prison guard started beating her to force her to eat. She informed the prison guards that she had a headache and felt feverish. She was given medicine which she was told were painkillers. Her situation worsened and she was taken to Amel Hospital, a NISS hospital. She was hospitalized until 13th October 2016 when NISS ordered her release due to concerns that she would die in their custody.

Mr. Abdelmonin Rahama is a prominent poet and human rights activist. He was arrested by security personnel in Ed-Damazin, Blue Nile state immediately after the conflict broke out on 2nd September 2011. Mr. Rahama revealed to ACJPS that during detention, he was interrogated about his affiliation with SPLM/N. He was beaten with electric cords, a radio antennae, butts of machine guns and water hose pipes.
The officers who detained him often kicked him with their boots - sometimes on his face-, walked and jumped on his body. His hands and legs were tied and he was suspended upside-down from wooden beams and threatened with rape. Mr. Rahama was released on 17th August 2012.

Mr. Alkhir Mubarak Ahmed Abdalla, an employee of the Forests Administration from the Alhadar tribe, was arrested on 22 September 2011. He narrates:

“I was arrested by Corporal Mr. AbdelazimElteb from the SAF Military Intelligence in El Damazin. He took me to the Fourth Division Infantry Intelligence Unit in El Damazin. I was detained with seventy five others in a cell that was 3x4 meters. During the interrogations, I was kicked and whipped with electric wires, black water hose pipes and curtain wires. At night, between 2:00am and 3:00am, the soldiers would pour cold water on all of us in the cell. After twenty days in this facility, we were transferred to a facility in Sinja. The seventy five of us were divided into pairs and chained together on our legs for a total of four months. We did everything chained together: prayed, went to the toilet and slept. They beat me and forced me to run inside the prison, especially at night. During the interrogations, the soldiers slapped me on my face and ears and also forced me to take off my clothes. They made me put my head through the arm of a chair, while one of them sat on the chair. I was forced to stay in this position while I was beaten with electric wires and water hose pipes, and while they kicked my back and head with their boots. After six months, I finally saw a doctor. They only managed to take me to the doctor after most of the marks on my body from the torture had healed. Some of the marks on my back are still visible”.

Mr. Muzamil Aldaw Abbas, a male secondary school teacher of the Alhamaj tribe, was arrested by the military and intelligence personnel on 2ndOctober 2011 inside the yard of Al-humaira Secondary School in Ed Damazin. He recounted:

“I was forced into a Land Cruiser by eleven security and military personnel. I was blindfolded with my shirt. As my hands were tied behind my back, I was beaten and struck with a bicycle lock on my head and other parts of my body. Due to the severe beatings and torture, my thumb on my left hand was broken. To date, I have pain from the beatings. I was detained in isolation cell number three that was 1x1 meters at the Military Headquarters in Damazin with twenty other detainees. They used to pour cold water on us. The security personnel were from Khartoum said to me, “Blue Nile is not yours, go to the South with slaves, you are ‘akuffar’. I was transferred to Sinja with another detainee and we were chained to one another for four months. During this time, I was beaten with water hoses and electric and fan wires. They also put us in sacks and some of us were electrocuted”.

Mr. Alkhir Mubarak Ahmed Abdalla, an employee of the Forests Administration from the Alhadar tribe, was arrested on 22 September 2011. He narrates:
AD, a student at the time, was arrested in November 2013 in Shamshaga Village, Abu Kershola, Southern Kordofan State. He was arrested in a raid of his village by SAF Military Intelligence, NISS, Popular Defence Forces (PDF) and RSF personnel. He and approximately 27 residents of his village, including his mother, were taken to abandoned homes near his village and detained. He was interrogated about his support to the Sudanese Revolutionary Front (SRF), beaten with sticks, hoses and gun butts, suspended up-side down from the ceiling and burnt with molten plastic bottles. AD informed ACJPS that he witnessed the shooting and killing of two detainees during interrogations. After twenty days, AD was transferred to, the SAF Fifth Infantry Division in El Obeid, North Kordofan State, where he was beaten regularly during interrogations about his student activities. He was brought before a military court on charges of undermining the constitutional system (article 50) and waging war against the state (article 51) Criminal Act, 1991. In April 2014, AD was acquitted of the charges and released following an intervention from lawyers from Darfur Bar Association. AD has experienced several medical issues, including trouble walking.

**ADMISSION OF STATEMENTS OBTAINED AS RESULT OF TORTURE**

Contrary to Sudan’s international human rights obligations, confessions of guilt obtained as a result of torture are admissible as evidence in court. Article 10 (1) of the Evidence Act 1983 stipulates that, ‘evidence shall not be rejected merely because it has been obtained by unlawful means whenever the court is satisfied with the genuineness of its substance’. It can be argued that such a provision encourages torture of detained persons by security personnel in order to obtain forced confessions.

S.A was arrested while driving a truck. The truck was searched by the police and seized for carrying drugs. S.A was charged with drug possession three days after his arrest. Mr. Fath Alaim Ibrahim Alshiekh, a lawyer, was hired by S.A’s family to represent S.A. Mr. Alshiekh was however only allowed to see S.A seven days after S.A’s initial arrest. When Mr Alshiekh finally saw S.A, he noticed beating marks on S.A’s body. S.A told Mr. Alshiekh that the police had inflicted torture on him which caused him to confess to drug possession. S.A described the torture as follows: he was beaten with a black water hose pipe and whip; his testicles were pulled hard until he fainted and the police inserted snuff into his nose until he became unconscious. Consequently, he suffered continuous sneezing until he was unable to breathe.

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13 His name has been withheld for security reasons.
14 Article 14 (3) (g) of the ICCPR provides that no person facing a criminal charge shall be, ‘compelled to testify against himself or confess guilt’.
15 S.A is not his name. His name has been withheld for security purposes.
The police waited until S.A’s wounds had healed before presenting him before court to ensure that there was no evidence of torture on his body just in case he raised this before the judge. Mr. Alsheikh further explained that he advised his client to obtain medical form 8; however, the police intimidated S.A and forced him to retract his request. The police also informed S.A that if he withdrew his request, they would make the witness who was supposed to testify against him “disappear”. Mr. Alsheikh averred that:

“when the case was referred to the court, I requested the judge to send the accused to the doctor for a medical check-up. The court upheld my application, however, the court did not write down its order on the case’s record. The medical report indicated that there were scratches on the accused’s body”.

When the court hearing commenced, Mr. Alsheikh questioned the investigator about the marks on the S.A’s body but the investigator responded that S.A had tried to resist arrest. Mr. Alsheikh requested the court to investigate the torture allegations. However, the court dismissed the application on grounds that the medical report merely indicated the existence of scratches on the accused’s body. The criminal court later dismissed the drug charges on grounds of insufficient evidence.

Mr. Taha Mohamed lives in Almarabee Wad Allibaih. On 20th May 2014, at around 8am, Mr. Mohamed was walking in Almarabe Market when he was arrested by eight police officers. He knew one of the police officers, Mr. Alshareef from Aljazera Aba. He was taken to Almarabee police station and detained in detention cell. At Almarabee police station, Mr. Mohamed was asked about the death of Mr. Hassan Balla. Mr. Mohamed informed the police officers that he did not know anything about Mr. Balla’s death. He was taken back to his cell. In the afternoon, Mr. Mohamed was taken to an office where he was ordered to take off his shirt, trousers and shoes. He was tied up with a rope after which a Lieutenant Mohamed Osman and five other detectives began beating him with an electric cable and water hose pipe for two hours. Mr. Mohamed alleges that Mr. Alshareef was among the men that beat him. They also said to him, “you do not want to admit that RahamaAlnour Mohamed Ahmed and Sam (not his real name) killed the deceased?” Mr. Mohamed informed his assailants that he did not know the deceased or how he was killed. After this he was returned to his cell.

In the morning, Mr. Mohamed was transferred to Aljazera police station where he was beaten again in the manner mentioned above for three hours. After the beating, he was taken to Aslaya where he would be presented before a judge. In Aslaya, he was told to tell the judge that he saw Mr. Rahama Alnour Mohamed Ahmed and Sam killing the deceased or they would return him to his cell and beat him again. Mr. Mohamed told the judge what he was instructed to say. The judge did not bother asking how Mr. Mohamed knew this information. After this, he was taken to Aljazera Aba police station where he was detained for more than two months before he was transferred to Kosti prison.
In another case, the Rabak Criminal Court sentenced three accused persons to death for murder (article 130) and joint acts in execution of criminal conspiracy (article 21) of the Criminal Act, 1991 on 26 January 2015. The court dismissed the murder charges against the fourth accused and ordered a criminal case be opened against him for witnessing the murder and not reporting it to the authorities. When the four accused persons were brought before the judge for confessions, they alleged to have been tortured to confess to the murder. The four accused were arrested by the police in May 2014 and subsequently subjected to torture. Witnesses to the case also alleged to have been tortured to confess to seeing the accused persons with the deceased and were promised release in exchange of their confessions. One of the witnesses stated that he had been raped and had medical reports to show the effects. The court however, did not take any of the torture allegations into account when convicting the accused. The court further ordered that a case be opened up against the witnesses for screening or harboring offenders (article 107) of the 1991 Criminal Act.\textsuperscript{19}

**OBSTACLES FACED BY VICTIMS WHILE REPORTING CASES OF TORTURE**

**IMMUNITY PROVISIONS IN STATUTES**

Various laws in Sudan that govern security personnel have provisions that have blanket immunities. The provisions provide security personnel with immunity for actions carried out during official duty, when torture actually occurs. These immunities perpetuate impunity of various human rights abuses, including torture, committed by security personnel. These laws include:

\textbf{a. The National Security Act, 2010:}  
Article 52 (3) of the National Security Act, 2010 provides that no civil or criminal proceedings shall be brought against a NISS official unless they have been approved by the Director. The article adds that the Director shall only give approval for civil or criminal proceedings only when they relate to unofficial actions.

\textbf{b. The Police Forces Act, 2008:}  
Article 45 (1) of the Police Forces Act states, “[w]ithout prejudice to general prosecution power of investigation, no criminal procedure will be taken against any police officer if the police legal affairs decided, the act constitute a crime, committed while executing his official duty or as a consequence of those official duties or carrying out of any lawful order, issued thereto in this capacity thereof, and he shall not be tried, without permission of the Minister of the Interior.”

\textsuperscript{19} Information collected by ACJPS legal monitors.
c. Armed Forces Act, 2007:

Article 34 (2) of the Armed Forces Act, 2007 states, “No proceedings shall be taken against any officer, or soldier, who commits an act, which constitutes an offence, which occurs in the course, or by reason of his/her discharge of his/her duties, or carrying out of any lawful order, issued thereto in this capacity thereof, and he/she shall not be tried, save upon permission, issued by the President of the Republic, or whoever he may authorize.”

BARRIERS WHILE REPORTING CASES OF TORTURE

Even in cases where the immunities mentioned above have been lifted, victims of torture have faced various barriers that make it extremely hard to report cases of torture. As a result, investigations are slowed down which discourage them and others from reporting such cases and inadvertently being denied justice.

A. P.,\textsuperscript{20} at the time a student at the University of Khartoum, was away from the campus when students held a protest at the University in December 2011. When he returned, a police officer at the main campus gate stopped him. The police officer was joined by his colleagues who threw A.P down and began kicking him and hitting him. They also used racial slurs saying, “you are from the South, what are you doing here?” “You Southerners are the cause of all our troubles”. A.P was dragged into a police truck while being beaten. He was taken to Omdurman police station where officers refused to detain him because he was bleeding and in poor health. He was then taken to Khartoum police station but the police there also refused to detain him. The men who had initially arrested him took him to Khartoum hospital and left him there.

After receiving treatment, A.P filed a case against the police in February 2012. His first obstacle was refusal of the hospital to fill out form 8, a medical report that would attest his physical injuries. Nonetheless, the form was issued a week later. The second obstacle was from the Attorney General who asked A.P to provide witnesses to the torture and names of the perpetrators. A.P provided the first name of the Lieutenant in Charge of the Police Force and recorded a testimony three times on request of the Attorney General but the Attorney General refused to refer the case to the court. A.P and his lawyers followed up the case for two years but eventually gave up because no progress was made.

In other cases, even when perpetrators of torture are sentenced by the courts, the sentences are never implemented. An example is Alhajair Suliman Alawad. Alawad, a farmer in his late 40s from Almaknyah village in River Nile State who was arrested by police in June 2011. He informed ACJPS that the police beat him severely with sticks and kicked him with their work boots. He recounts that the police also:

“tied my hands and legs and suspended me upside down from the window bars. There, they beat me with sticks on the soles of my feet and put hot chili on my nose, eyes and other sensitive body parts, which resulted in both eye and urinary infections. They also threatened to rape me. My health deteriorated as a result of the torture and I have since experienced kidney failure and other serious health issues. With assistance of lawyers, I filed a criminal case against the police officers. After more than eight months, the lawyers were able to lift the immunity of the officers and the case reached court three months later. On 30 June 2013 the court convicted the six officers.

\textsuperscript{20} His name has been withheld for security purposes.
The court sentenced four police officers to two years and six months imprisonment and a fine of five thousand Sudanese Pounds (5000SDG). The court also formally sentenced one of the defendants to six months in prison and the sixth defendant with a fine of one thousand five hundred Sudanese Pounds (1500 SDG). To date, the decision of the court has not been implemented”.

The other barrier victims face that has been reported by lawyers representing torture victims is that the trials for offending officials are held in courts that are presided over by fellow security agents, raising serious concerns regarding fair trial standards. The lawyers further stated that these courts do not adhere to the fair trial standards enshrined in the INC 2005 and international laws that Sudan is party to. Furthermore, the courts are unwilling to hear testimonies from civilian witnesses and courts usually dismiss charges or issue lenient sentences.

**STATUTE OF LIMITATION**

As prescribed by article 38 (1) of the Criminal Procedure Act, 1991, the offence of hurt has a limitation of five years and the offences of torture and intimidation have limitations of two years. Farouk Mohamed Ibrahim Alnour v Sudan Government, is a Constitutional petition that challenged article 38 (1) on statute of limitations of the Criminal Procedure Act, 1991 arguing that it contradicted the right to litigation protected under article 35 of the INC, 2005. The applicant had been detained on 30th November 1989 by members of the security forces. During his detention, the applicant was subjected to interrogations about the courses he was teaching and his colleagues. He was subjected to repeated kicking, beating, prolonged submersion in ice water, threats of rape, death and sleep deprivation of up to ten days.

The Constitutional Court dismissed the appeal and held that the provisions in Sudanese law pertaining to statutory limitations and immunities were not unconstitutional. The Court argued that the purpose of the provision was to confirm the principle of legal stability thereby ensuring that an accused was not exposed to long periods of accusation. The Court added that the statute of limitation is an expression of the need to resolve the criminal case in a certain time and so doesn’t violate any constitutional right. These provisions are problematic in light of the fact that victims of torture have to go through a process of having security personnel’s immunities lifted which take a long time thereby elapsing their ability to lodge complaints of torture.

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21 Article 142 (2) of the Criminal Act 1991
22 Article 115 (2) of the Criminal Act 1991
23 Article 144 of the Criminal Act 1991
24 Case No: MD/GD/18/2007
LACK OF PROTECTION FOR VICTIMS AND WITNESSES OF TORTURE

Article 4 (3) of the 1991 Criminal Procedure Law stipulates that witnesses should not be subjected to any injury or ill treatment. Beyond this general prohibition, Sudanese law does not provide for the effective protection of victims and witnesses in torture cases.26

Additionally, people who have tried to create awareness of torture cases have been criminally charged. There are no adequate safeguards for the protection of victims of torture. Ms. Safia Ishag is a member of Girifna, a Sudanese non-violent resistance movement. She was arrested by two plain clothed men on 13 February 2011 and was taken to a building near the Shandi bus station (Khartoum North) known to belong to the NISS. Inside the building, three men subjected her to rape, beatings and verbal abuse. She filed a complaint against the men involved on, 16 February 2011, but after an initial inquiry her case was closed. Following threats from the authorities, she decided to leave the country. Five journalists reported about her case in the newspapers and called for an investigation into the allegations but criminal charges were brought against them by NISS.27

A number of international organizations reported that the Sudanese authorities intimidated the journalists who reported on the allegation.28 Most of the lawyers who were involved in this case had constant concerns regarding counter-charges and prosecution of the defence due to intimidation by NISS, which had also made it impossible for Safia to access justice in Sudan.

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26 See ACJPS and REDRESS submission to the UN human rights committee supra pg 42-43
27 For more information about the case see the submission of the complaint by REDRESS Trust and African center for justice and peace studies before the African commission on human and people’s rights available at: http://www.redress.org/downloads/complaintsafia-ishag-mohammed-issa-v-sudan18february2013nosig.pdf
CONCLUSION AND RECOMMENDATIONS

It is clear from the foregoing that torture is endemic in Sudan, and is exacerbated by the legislation in place that perpetuates the practice due to weak laws that do not directly criminalise torture or provide immunity for perpetrators. It is under this premise that ACJPS calls upon the Government of Sudan to adopt the following recommendations:

- Make provision for an article in the 1991 Criminal Act that defines torture according to international standards and has an adequate punishment for perpetrators of torture;
- Ratify the UN CAT;
- Repeal all laws that provide immunities for security agencies.
- Train security agencies on human rights, specifically, international standards prohibiting torture;
- Repeal provisions in the laws that permit confessions obtained as a result of torture and enact provisions that reject confessions obtained as a result of torture; and
- Permit human rights bodies such as the National Human Rights Commission and civil society organisations to inspect places of detention to ensure that detained persons are treated humanely according to international standards.