



Seeking Reparation for Torture Survivors



PROJECT FOR CRIMINAL LAW REFORM- SUDAN (PCLRS)

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This paper is designed to provide a succinct overview of the Project. It seeks to explain the importance of the Project in the current context and its goals, aims, methods and expected results.

Overview of the Project

The Project for Criminal Law Reform-Sudan PCLRS (hereinafter PCLRS) works to advance the process of bringing Sudanese law in conformity with the National Interim Constitution and international standards as stated in article 27 of the bill of rights. Such reform is critical in advancing human rights and the rule of law in Sudan. It is particularly important in recognising the rights of the most marginalised people in Sudan with a view to preventing violations, enhancing access to justice and combating impunity. Criminal law reform is also fundamental to repairing past violations.

The Project is based on the values of respect for human dignity, justice, the rule of law, fairness, public participation in decision making and institutional accountability. It seeks to improve the capacity of civil society to engage in criminal law reform and to build an inclusive movement towards criminal law reform. It encourages and facilitates discussions between concerned groups to increase debate on criminal law reform, also with a view to suggesting the manner in which those reforms may be put in place. It will engage with, and provide recommendations and legal advice to lawmakers as it is ultimately the task of the Parliament to adopt legislation.

The Project was established by the Redress Trust (REDRESS), a UK based nongovernmental organization working to promote justice for survivors of torture and related international crimes [www.redress.org] in partnership with the Khartoum Centre for Human Rights and Environmental Development (KCHRED). The organisations are responsible for the management of the Project. Participation in the Project itself is welcome and open to anyone and any body sharing the basic tenets of human rights and rule of law.

Project Rationale: The need for criminal law reform

Sound criminal laws are essential to any society based on the rule of law that seeks to protect the physical, psychological and material integrity of persons and other recognised values. Yet, criminal laws are often the source of human rights violations, be it because the laws are overly vague, harsh, discriminatory, or because they criminalise conduct that should not be criminalized. Criminal laws may also fail to ensure accountability of perpetrators of serious human rights violations and to provide justice for its victims. States, international bodies and individuals worldwide have stressed the importance of making sure that criminal laws do not violate human rights.

There are a range of international human rights standards applicable to Sudan which relate to criminal law. Many of these standards form part of treaties to which Sudan is bound, others still, have been recognized as part of 'customary international law,' law which is recognized as part of the values of the international community as a whole, binding on all nations.

It is important for Sudan's laws to be fully consistent with these standards. This is especially important, given the strong commitments to human rights set out in the National Constitution and the Comprehensive Peace Agreement.

Sudan is at a critical juncture. Experts in criminal law and a range of others interested in the subject widely acknowledge that many provisions of Sudan's criminal law are inconsistent with human rights and contribute to human rights violations. The laws have failed to protect the most marginalized groups in society. This includes women, in particular with regard to rape legislation and discrimination, internally displaced persons and persons belonging to particular communities. Criminal laws do not adequately take into consideration the diversity of Sudan's society, which consists of over 85 ethnicities and various religions. Criminal laws are also often too broad, criminalising behaviour that is protected by such rights as freedom of expression. Legislation also facilitates violations such as arbitrary arrest and torture because there are few safeguards and no adequate provisions to ensure that perpetrators are held accountable.

In light of the commitments made under the Comprehensive Peace Agreement and the Bill of Rights in the National Interim Constitution, it is imperative that ongoing efforts to reform relevant legislation are invigorated. In October 2005,

the Minister of Justice established a Law Reform Committee to ensure compatibility with the Comprehensive Peace Agreement and the Interim National Constitution. The Law Reform Committee identified 61 laws for review though there has been little progress to date, due to insufficient capacity and a lack of political impetus. Civil society's calls for reforms have been piecemeal, and have not yet seized upon the opportunities of the transitional period to engage more directly in the law reform process.

The victims of violations and society at large should be the ultimate beneficiaries of law reform. It is therefore vitally important that civil society is consulted and can actively participate in the process of law reform. This should be an inclusive process that transcends the involvement of technical bodies in government and parliament and expert individuals. The initiative will therefore reinforce civil society's capacity to advocate for the legal recognition of rights and to contribute to law reform.

The aims of the Project

The aims of the Project are set out as follows:

1. To advance the legal recognition of the rights of all people in Sudan, in particular those belonging to the most vulnerable communities;
2. To ensure that criminal law is consistent with the interim constitution and human rights standards, including gender justice;
3. To remove the legal basis for criminal law violations, including discrimination, especially of women;
4. To remove the legal basis for impunity and to change relevant laws so as to enhance access to justice and to ensure accountability of all perpetrators of serious human rights violations;
5. To eliminate anomalies and repeal obsolete or unnecessary provisions, in particular in so far as they may have a detrimental impact on the exercise of human rights;
6. To raise public awareness of international and national human rights standards relevant to criminal laws ;
7. To enhance the capacity of a broad cross-section of civil society groups to engage in debate on criminal law reform;
8. To foster collaboration and inclusiveness amongst civil society groups throughout Sudan;
9. To make the law reform process more reflective of societal interests and more transparent owing to greater stakeholder involvement.

Legislation covered By the Project

The Project is expected to focus on the following key criminal justice laws. This list is not meant to be exhaustive:

1. The Criminal Act 1991
2. The Criminal Procedures Act 1991
3. The Evidence Act 1993
4. The Child Act 2004
5. The Juvenile Law 1983
6. The Police Law Act 1999
7. The Armed Forces Act 1986
8. The National Security Forces Act, 1999
9. Acts and regulations pertaining to the prison system
10. The Judiciary Act 1986
11. Attorney General Act 1983
12. Advocacy Act 1983

The Project's methods

The Project participants will seek to use a variety of methods in promoting the Project's objectives.

The Project will also foster a stakeholder network (e.g. civil society from throughout Sudan, experts, UN agencies), to collaborate with Members of Parliament and propel the work of the Law Reform Committee and to ensure that the process reflects the broadest possible range of societal groups. The initiative will also engage with the Ministry of Justice, the proposed Human Rights Commission once established and political actors to invigorate the momentum for reforms and facilitate ongoing initiatives.

The Project will undertake research and policy analysis, and prepare background documents, discussion papers, briefing papers, submissions and targeted interventions. There will be a series of meetings and workshops throughout the country. This is with a view to raising awareness of individual rights and standards in relation to criminal laws, enhancing capacity of civil society in the law reform process and ensuring that reforms reflect priority areas and relevant standards. The Project will engage with various institutions so as to increase the sensitisation and capacity of government officials and bodies working on issues related to the reform of criminal laws. It will also serve as provider of public information relating to the fields of criminal law, criminal justice policy, human rights, restorative justice and gender issues.

Contact Information for the Project

Project Coordinator: Ms. Ishraga Adam

Khartoum Center for Human Rights and Environmental Development

Amarat ,St 59 –Khartoum -Sudan

Email: ishragha_adam@yahoo.com

Mobile: + 249 9 122 341652

Additional Contacts:

Khartoum Centre Coordinator: Mr. Ali Agab

Khartoum Center for Human Rights and Environmental Development

Amarat ,St 59 –Khartoum -Sudan

Email: aliagab@yahoo.com

Mobile: + 249 9 122 341652

Sudanese Legal Expert: Mr. Abdelsalam Hassan

REDRESS

87 Vauxhall Walk, London SE11 5HJ, United Kingdom

Telephone: 0044 20 7793 1777

Email: abdelsalam@redress.org

International Legal Expert: Dr. Lutz Oette

REDRESS

87 Vauxhall Walk, London SE11 5HJ, United Kingdom

Telephone: 0044 20 7793 1777

Email: lutz@redress.org