

Tuesday 14 December 2010

Sudan: Flogging and Harassment of Women Continue

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Tomorrow, the heads of State and Government and other senior officials from countries that are members in the International Conference on the Great Lakes Region (ICGLR)—a regional body that includes Angola, Burundi, the Central African Republic, Congo, the Democratic Republic of Congo, Kenya, Rwanda, Sudan, Uganda, Tanzania and Zambia—will meet in Lusaka, the Capital of Zambia, to discuss measures to curb the illegal use of natural resources, which often fuel conflicts in the region, leading to immense human suffering, including sexual and other forms of gender-based violence against women and girls.

Today, in Khartoum, the government's security arrested forty-six women and six men who participated in a peaceful demonstration in Khartoum, to protest the flogging of women under various articles of Sudan's Criminal Act 1991, and Sudan's Public Order regime which discriminates against women. [A press release by Sudan's police](#) (in Arabic) indicated that the demonstrators were arrested in accordance with Articles 68 and 69 of Sudan's Criminal law. These articles cover 'public disturbance' offences such as illegal assembly and riots against the state. The arrests are unconstitutional, as Sudan's Interim National Constitution guarantees freedom of assembly.

The protest came as a direct response to [a very disturbing video that surfaced on YouTube](#) (please use your discretion) as activists across the world were preparing to conclude the annual 16 days of activism against violence against women campaign.

The video shows the flogging of a woman in the courtyard of a police station or court in Omdurman, Sudan. It includes no information on the identity of the woman, why or when she was being flogged, or the location of the flogging. All one could see (and hear) was a man (allegedly the judge), ordering the woman to sit down so they can 'get this over with'. The woman's body language shows it is not the first time she was about to undergo such an ordeal. Sobbing, and shaking her hands in dread of what would follow, the woman sits on the floor, begging the policeman to lash her gently, *barraha*.

The policeman starts to flog the woman mercilessly on the back, the hips, and the shoulders, as the woman shouts and calls her mother, and as she shifts on her knees to avoid the whip. Another man in police uniform comes to the aid of his colleague, cracking his whip over the woman's back. It seems the policemen were conscious that

someone was filming. In fact, one said 'let him videotape her. '*falyashhad 3zabahuma taifa min al Muminen*', citing a verse of the holy Quran on the corporal punishment of *Zina* (adultery).

The woman (name withheld), a resident of Omdurman, was arrested and lashed under Articles 154 and 155 of Sudan's Criminal Act (1991). These articles cover prostitution and running of a brothel, and carry a sentence of flogging of up to 100 lashes for 'adultery' or enticing prostitution. The Articles are part of the broader, infamous, public order regime, which includes other provisions in the Criminal Act that can carry a flogging sentence, such as Article 152, which levies a sentence of up to 40 lashes on a variety of vaguely defined 'immoral acts' which include 'indecent or immoral dress'.

The flogging of the woman is not an isolated incident. It has been a routine practice in Sudan since the early 1980s when the then military regime of Gaafar Numeiri introduced Islamist *Sharia* as the main source of legislation. The democratic regime that followed did not repeal the laws. The current ruling party, which assumed power through a military-backed Islamist coup in 1989 re-introduced a very strict version of *Sharia*, including the Criminal Act and so called 'Public Order Laws' under which thousands of women (and men) were flogged for various reasons. Accurate statistics are not available but the spokesperson of the police has reportedly stated that in 2008, a total of 43,000 allegations related to public order were made against women in Khartoum state alone.

Within a matter of hours of emerging on widely-read Sudanese Internet forum sudaneseonline.com, the video generated wide interest, outrage and commentary among activists, journalists, politicians, and ordinary Sudanese whose sentiment were injured by what they watched on YouTube. The video quickly found its way to various global media outlets, including [CNN's iReport](#); and to several Arabic language channels and the international press.

The video is yet another blow to the ruling National Congress Party's attempts to improve its image and construct itself as a moderate regime. Last year, in July 2009, Sudan similarly commanded the world news when Lubna Ahmed Hussein, a Northern Sudanese journalist who then worked as the public information officer at the United Nations Mission in Sudan waged a campaign against the infamous public order laws following her arrest, along with twelve other women, for wearing trousers at a restaurant in Khartoum. Ten of the women arrested pleaded guilty and consequently received ten lashes and paid fines of 250 Sudanese pounds (about US \$100) each. The women were tried under Article 152 of Sudan's criminal law, which criminalizes so called 'indecent and immoral acts and behavior' in public. Four of those were non-Muslim from Southern Sudan (and thus exempt from imposition of Sharia law as per the Comprehensive Peace Agreement which ended twenty years of war in 2005) but were

nonetheless flogged. Lubna asked for a lawyer and as such her trial was postponed. She issued invitations to the media, diplomatic missions in Khartoum, and others, to attend her trial and flogging, if sentenced to flogging.

Lubna Hussein, who is currently in exile in France, [quickly commented \(in Arabic\)](#) on the YouTube video, exclaiming,

Have you seen on YouTube what I saw on the ground? How about if you saw a girl, strained from the chest, waist, and other parts [of her body] by seven men in police uniform?...what if you saw a 16 years old child urinating on herself out of fear, in court? It is a painful seen.

In light of on-going, very complex political processes in Sudan, such as a referendum where the people of Southern Sudan will vote on unity of Sudan or independence for South Sudan in less than a month; recent arrests of Darfuri activists in Khartoum, and planned popular consultations in two regions of Sudan to determine, among other things, whether the CPA and its implementation has met the aspirations of the people of these two regions, some may question the outrage that burst around the flogging of the woman. Some voices sympathetic with the regime see it as yet another 'Western conspiracy' against Islam that aims to divert attention from other, 'more fundamental issues' in Sudan.

In fact, in the case of Lubna Ahmed Hussein, the ruling National Congress Party has used one of the on-going political processes to criticize the Western media's focus on Lubna's case. The Sudanese embassy in London, for example, issued a statement in response to media reports and articles about Lubna Hussein, pointing to "the floodgate of expert and non-expert comments on Sudan [that] opened suddenly on 29 July in the wake of an indecency and antisocial behavior [sic] involving journalist Lubna A Hussein" on one hand, and lack of coverage of a landmark arbitration ruling on the region of Abyei, contested by the north and the south on the other. The statement said "The real question, which is relevant to the deep-rooted Islamophobic and anti-Arab prejudice, is the selective spotlight on Ms Lubna Ahmed Hussein and determined neglect of Abyei dispute's result for eight long days."

While it is important to pay due attention to the key on-going and upcoming political processes in Sudan, the logic in the statement above is flawed. It is true that the Public Order Law affects all women in Northern Sudan, and it is true that, at times, the issue has been sensationalized in the media. Nonetheless, it is often women from marginalized areas, such as Abyei, who live in the North, who are most affected by these laws. As far back as 1992, independent research has documented the racialized and selective use of the law in states like Khartoum, and the way this specifically affected economically disadvantaged women, especially those from historically

marginalized regions displaced by war. For example, a study by a women's legal aid organization in 1992 showed that out of a total number of 825 in Omdurman women's prison, the majority were from the South and the Nuba Mountains. Those comprised 35.7 percent and 32.3 percent of the imprisoned women respectively. According to the same study, over 60 percent of these women were illiterate, and 58 percent had been arrested for selling liquor. Activists in another Khartoum-based women's organization told me in 1995 that most of the imprisoned women were unaware of their legal rights, did not speak Arabic well, and often had to bribe police officers.

Moreover, in his [report to the former United Nations Commission on Human Rights in January 1995](#), former United Nations Special Rapporteur on Sudan Mr. Gaspar Biro cited independent sources showing that prisoners from western and Southern regions of Sudan in Khartoum constituted 95.17 percent of the total number of women prisoners (about 6,000 annually). According to Biro, 88.3 percent were sentenced under section 79 of Sudan's criminal Act (brewery), and 2 percent for prostitution (Articles 154 and 155 of the Act).

In recent years, numerous reports, including by Refugees International and Doctors without Borders have shown how Sudan's criminal Act has deterred women victims and survivors of rape in the Darfur conflict from seeking justice. Article 149 of the criminal act conflates rape with the offence of *Zina* (intercourse between a woman and a man who are not married to one another) that is performed without consent. If a woman is unable to prove lack of consent on her part to intercourse she can face charges of *zina* as she has confessed to sexual intercourse outside marriage. In such cases, a woman can receive a sentence of up to 100 lashes if unmarried, or to death by stoning if married.

More recently, a [report by Amnesty International published earlier this year](#) documented the experience of a 16 years old young Southern Sudanese woman who was flogged in Khartoum for 'indecent dressing'. Moreover, [a submission to the African Commission on Human and People's Rights in November 2009 and 2010](#) by the regional network 'the Strategic Initiative on Women in the Horn of Africa' (SIHA) similarly underlined the specific effects of the Public Order Regime as a whole on women and girls from marginalized areas of Sudan. Lubna herself, in her commentary on the YouTube video, wrote,

It is even more painful when Randa, Reem and Riham [names that often denote affluent, Northern Sudanese background] escape the flogging because they bribed the police, whereas Bakhita, Hawa and Kaltum [names that often denote belonging to historically marginalized groups and regions of Sudan] because they were not wearing golden rings or necklaces they could use as a bribe.

According to the state's news agency (SUNA), Sudan's National Judicial Service Commission has launched an investigation in relation to the video of the flogging, to establish whether the punishment was implemented improperly. As several commentators have argued, however, the question is not whether the punishment was implemented properly. The question is whether sharia is relevant as a source of legislation in Sudan.

The flogging incident —or rather the video on YouTube— brings to the forefront debates around secularism and the application of Sharia law in Sudan. This question was among the key points of contention during the negotiations of the 2005 Comprehensive Peace Agreement (the CPA) between the Sudan People's Liberation Movement and the Government of Sudan. At the end, the CPA (and Sudan's Interim National Constitution) identified Sharia as the source of legislation in Northern Sudan. It is widely held in Sudan at present that one of the reasons that the two systems-one state arrangement under which Sharia prevailed in the North has contributed to an almost-certain vote for secession in the upcoming South Sudan referendum. Similarly, the question of Sharia is relevant to the process of popular consultations, where the people of Southern Kordufan and the Blue Nile, through their elected legislature will eventually decide whether the CPA and its implementation (including in the area of the relationship between religion and the state) reflects the aspirations of the people of these two states.

Despite harassment by the National Congress Party's security and police, now more than ever, women's groups and other civil society organizations and movements in Sudan need to be vigilant and on a stand-by gear, including around the question of Sharia; but also around other on-going and upcoming political processes. Other protests should immediately follow the action to protest the abhorring flogging incident: Protests for the release of recently arrested and detained Darfuri activists; protests to support the rights of Southern Sudanese women (and men) to a free and fair ballot; protests to ensure that Southerners, especially in Northern cities, are not the victims of violence or of violation of their citizenship rights, regardless of the outcome of the referendum; protests to ensure gender and women's concerns are taken into account in post-referendum arrangements, protests to show solidarity with the women and men in the Western Equatoria state of South Sudan—currently regular victims to attacks by the Lord Resistance Army— to live in peace; protests to ensure women's meaningful participation in a free and fair ballot in Abyei, and protests to ensure popular consultations in the states of Southern Kordofan and Blue Nile states take place, with meaningful participation for women.

Within the African continent, women's groups need to exert continuous pressure on the continent's heads of state and government— including those participating in the International Conference on the Great Lakes Region (ICGLR) meeting in Lusaka— to ensure ratification and proper implementation of the African Women's Rights protocol,

which prohibits inhuman and degrading punishment, such as flogging. The African Women's Rights Protocol, which Sudan has signed in June 2008 but did not ratify, states in Article 4(1) that "Every woman shall be entitled to respect for her life and the integrity and security of her person. All forms of exploitation, cruel, inhuman or degrading punishment and treatment shall be prohibited." In Article 8, the protocol further mandates states parties to "take all appropriate measures to ensure that law enforcement organs at all levels are equipped to effectively interpret and enforce gender equality rights"; and to ensure the "reform of existing discriminatory laws and practices in order to promote and protect the rights of women."

By continuing to harass women and flogging them through the Public Order regime, and by restricting women's the freedom of assembly, Sudan not only violates the African Women's Rights Protocol, but it also violates the International Conference on the Great Lakes Region's Protocol on the Prevention and Suppression of Sexual Violence against Women and Children, which Sudan ratified in 2008. The Protocol defines sexual violence in a way that includes "gender-based violence that is directed against a woman because she is a woman or that affects women disproportionately." Heads of State and Government gathered in Lusaka to discuss measures to eradicate the illegal exploitation of natural resources which feed and fuel conflicts in the region, should ensure that member states in the ICGLR, such as Sudan refrain from inflicting harm and abuse on the continent's most important resources: human beings, and especially women.

The Struggle Continues

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