

Sudan: WLUML and AI submit report on case of Lubna Hussein to CSW

Public Order Laws restricting dress and behaviour – the case of Sudan

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2/09/2009: The following is the text of a report submitted to the Commission on the Status of Women on the trial of Sudanese journalist Lubna Hussein who was charged under Article 152 (Indecent and Immoral Acts) of the 1991 Sudanese Penal Code for wearing trousers. (WLUML Networkers)

The Commission on the Status of Women (CSW) is not a treaty-monitoring body like the CEDAW committee, or have an investigative role like the UN Special Rapporteurs. However CSW does monitor political and social trends. Jointly with Amnesty International, WLUML decided to alert them to the issue of imposed dress codes in Sudan and the specific case of Lubna Hussein and the other women arrested in July 2009.

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Public Order Laws restricting dress and behaviour – the case of Sudan

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Introduction

Amnesty International and the Women Living Under Muslim Laws (WLUML) international solidarity network are deeply concerned about the arbitrary policing, monitoring and cruel, inhuman and degrading treatment of women in Sudan, under public order laws. Many countries have similar laws which impose restrictive dress codes and rules of conduct, leading to numerous human rights violations. These laws severely impair women's ability to participate in public life on an equal basis with men. We seek to bring a specific case – the arrests of thirteen women in Sudan for wearing trousers – to the attention of the Commission on the Status of Women. This case, which has sparked outrage across Sudan and in many parts of the world, has led to a campaign calling for the reform or repeal of repressive public order legislation.

This submission is being made jointly by two organizations. Amnesty International is a worldwide movement of over 2 million people who campaign for internationally recognized human rights to be respected and protected. Since 2004, Amnesty International has campaigned globally to Stop Violence Against Women. WLUML is a transnational, feminist network that links individuals and organizations and seeks to provide information, support and a collective space for women whose lives are shaped, conditioned or governed by laws and customs said to derive from Islam. The WLUML network aims to strengthen women's individual and collective struggles for equality, justice and human rights, across various Muslim and non-Muslim contexts. Both organizations are members of the Women Human Rights Defenders International Coalition and note that many women human rights defenders have raised the issue of coercive dress codes in countries and communities across the world.

Key Facts of the Case

Lubna Ahmad Hussein and 12 other women were arrested at the Um Kulthoum restaurant in the Riyadh area east of Khartoum on July 3, 2009, when police forces stormed the restaurant and arrested them for wearing trousers. The women, four of whom come from Southern Sudan, and three of whom were under the age of 18, were charged under Article 152 (Indecent and Immoral Acts) of the 1991 Penal Code. Ten of the women pleaded guilty and have already received punishments of 10 lashes each (two of them under the age of 16) and a fine of around \$100 each. Charges of 'inappropriate dress and conduct' were brought against three others, including Hussein, who insisted on having legal representation in court.

Ms. Hussein was working as a press officer for the United Nations Mission in Sudan (UNMIS) at the time that she was arrested but has resigned from this post and sought to waive her immunity from prosecution in order to face trial as a Sudanese citizen and draw attention to the plight of large numbers of women in Sudan who have been harassed, humiliated and ill-treated as a result of the law. She distributed 500 invitations to journalists and friends to court proceedings on Wednesday 29 July 2009, having explained in an interview with Al-Arabiyya TV, that she had given out the invitations because otherwise no one would believe that she was to be flogged for wearing ordinary clothes: "I wanted the punishment to be executed in the presence of observers, so that they see for themselves why I was being flogged."

Her trial has already been postponed twice and a further hearing is scheduled for 7 September 2009. Background to the problem of imposed dress codes

The policing of women by means of controls of what they wear, sometimes known as 'dress codes', has come to the attention of both Amnesty International and Women Living Under Muslim Laws in a number of different contexts.

Women Living Under Muslim Laws has long challenged the pervasive perception, in Muslim and non-Muslim contexts alike, that Islam prescribes one acceptable way for women to dress. A photographic and historical exhibition of clothes worn by women in different Muslim contexts through various historical times shows that in reality there has always been a rich diversity in clothing worn by women from Muslim communities, many of which include forms of trousers. The Dress Codes and Modes exhibit demonstrates that these forms of dress worn by Muslim women are shaped by many factors including: class, regional and ethnic identities, occupation, urban/rural location, age and marital status, local and state politics, fashion, and climate. In many periods of history, including in contemporary times, religious identity may not always be distinctively marked by dress.

As a statement put out by Sudanese women's activists stated: "The degradation of women is affecting our society and self esteem and diminishes the respect that we have in our diverse cultures towards women and girls – an aspect of our culture that we do need to promote and enhance."

The case of Sudan

Violations related to imposed dress codes – in this instance, the wearing of trousers in public by women – are a widespread, but sorely under-reported, problem. As the statement of Sudanese organizations points out, these public order laws contravene national commitments made by Sudan in the Comprehensive Peace Agreement and the National Interim Constitution. They also contravene international standards relating to freedom from torture, cruel, inhuman and degrading treatment, and freedom of expression as guaranteed by the International Covenant on Civil and Political Rights, and the African Charter of Human and Peoples Rights.

In a case before the African Commission, Sudan was found to have violated Article 5 of the African Charter on Human and Peoples Rights. The government was requested to amend the law, end cruel punishments and to provide compensation to the victims.

The Commission held that 'The Article 5 of the Charter prohibits not only cruel but also inhuman and degrading treatment. This includes not only actions which cause serious physical or psychological suffering, but which humiliate or force the individual against his will or conscience.'

The government of Sudan has not complied with the judgment of the African Commission but instead has renewed its public order laws. The Public Order laws of 1991 Penal Code have been updated to the Society Safety Code of 2009.

We do not believe that these laws make society safe. While affecting all social classes, they bear particularly heavily on women traders and other working women who need freedom of movement and an absence of restriction in order to pursue their livelihoods. As this case demonstrates, these laws subject women to harsh and arbitrary policing, summary justice which violates their fair trial rights and right to be free from torture, and impose cruel and degrading punishments. They constitute a form of gender-based violence and discrimination against women.

The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, signed by Sudan on 30 June 2008, pledged to reform existing discriminatory laws and practices in order to promote and protect the rights of women. Furthermore, the UN Convention on the Rights of the Child, ratified by Sudan in 1979, clearly states that: 'States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.'

Many women in Sudan are regularly subjected to degrading treatment and the threat of arrest, prison and flogging. The adultery (zina) laws in Sudan still equate rape with adultery, meaning in effect that a survivor of rape could herself be charged, arrested and/or flogged. This is exacerbated by the situations of conflict, such as the Sudanese second Civil War and the ongoing conflict in Darfur. In the capital city, Khartoum, the systematic violation of the rights of women and the girl-child by 'public order police' have come to light due to the high-profile trial of Sudanese journalist and women's human rights defender, Lubna Ahmad Hussein.

In Defense of Human Rights in Sudan

Amnesty International and Women Living Under Muslim Laws consider that Lubna Ahmad Hussein is a woman human rights defender because of her courageous stand in this case. Through her public stance and her words, she has highlighted the fact that women are regularly arrested under these laws, but that most suffer without protest because of the fear of the consequences, and the terrible stigma attached to a punishment such as lashing. Many other women who signed petitions related to this case or demonstrated outside the court and now face harassment and arrest are also women human rights defenders. As such, women who place themselves at risk in the name of protecting the rights of others should be protected under the United Nations Declaration on the protection of human rights defenders.

Imposed dress-codes upon women, whether enforced by legal frameworks or non-state actors, are not only about clothing. Dress-codes speak to an underlying desire to control women's sexuality and bodily autonomy, examples of which can be seen across regions and cultures. We urge your immediate attention to this extreme manifestation of controlling women's bodies, autonomy and participation in public life, through their clothing

Conclusion

Amnesty International and WLUML applaud Lubna Ahmad Hussein's courageous stance in defense of women's human rights - and the multitude of other women who suffer the same injustice. In support of women human rights defenders in Sudan, we ask for Article 152 to be repealed as it leads to violations of international law, as well as of The Bill of Rights in the Sudanese Interim Constitution 2005 and the Comprehensive Peace Agreement. We ask the government of Sudan to end flogging as a punishment and to provide redress to victims of flogging.

These measures will bring Sudan into compliance with the judgment of the African Commission in the case of Curtis Francis Doebbler v. Sudan, African Commission on Human and Peoples' Rights, Comm. No. 236/2000 (2003):see <http://www1.umn.edu/humanrts/africa...>