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ERT urges Sudanese Parliament to repeal indecency law

ERT (18.09.2009) – HRWF (18.09.2009) / Website: www.hrwf.net – Email: info@hrwf.net - The Equal Rights Trust (ERT) has called on the Parliament of Sudan to repeal Article 152 of the 1991 Criminal Act because it breaches the country's human rights obligations.

In a letter sent on 17 September 2009, ERT expressed concern about the discriminatory application of Article 152, which has been used to target women and non-Muslims, and has disproportionately affected both categories of persons. The letter also echoes concerns that whipping, the prescribed punishment for breaching Article 152, constitutes cruel, degrading and inhuman treatment.

ERT urged the authorities to repeal Article 152 of the 1991 Criminal Act. It further urged authorities to review the country's criminal justice and other legislation in order to ensure it complies with the principle of non-discrimination, which is central to international treaties to which Sudan is a party.

ERT's letter follows the imprisonment and subsequent release of Sudanese journalist Lubna Hussein for breaching Article 152 by wearing trousers. On Monday 8th September, Ms Hussein was sentenced to a month in prison after refusing to pay a fine for breaking the law. Ms Hussein was released on Tuesday 9th September after the Sudan Journalists Union paid the fine on her behalf. Ms Hussein was said to be dismayed, as she had intended to use her imprisonment to challenge the legitimacy of the law.

Article 152 of the Sudanese penal code states:

(1) Whoever commits, in a public place, an act, or conducts himself in an indecent manner, or a manner contrary to public morality, or wears an indecent or immoral dress, which causes annoyance to public feelings, shall be punished, with whipping not exceeding forty lashes, or a fine or both.

(2) The act shall be deemed contrary to public morality, if it is so considered in the religion of the doer, or the custom of the country where the act occurs.

Ms Hussein's case highlights the need to repeal a law which raises a number of serious human rights concerns, particularly with regard to the right to non-discrimination. Whilst it is gender neutral on its face, Article 152 of the Criminal Act has reportedly been applied in a manner that discriminates against women. According to reports by national and international human rights organizations, Article 152 has often been used to prosecute women for conduct – such as the wearing of trousers – deemed inappropriate by individual law enforcement officers and judges. Women have been routinely arrested, detained, tried, and then, on conviction, flogged simply because a police officer disapproves of their attire. Furthermore, it appears that many women sentenced by the Public Order Courts are non-Muslims who have been displaced to the North by the conflict in the South of Sudan.

Sudanese woman uses trousers trial to fight decency laws

Lubna Hussein

RFE/ RL (30.07.2009) / HRWF Int. (31.07.2009) - Website: <http://www.hrwf.net> - Email: info@hrwf.net - A Sudanese woman who faces 40 lashes for wearing trousers in public is using the case to challenge the country's tough decency laws.

Battles over dress codes are common in many countries where contemporary global fashions collide with Islamic interpretations of decency. But in Sudan, which has the one of the strictest interpretations of Shari'a law in the world, few have dared to challenge those rules.

Most women in Sudan's mostly Arab and Muslim north wear a traditional long dress and a shawl over the head and shoulders. If they dress differently, it is only in private.

That's why Lubna Hussein is now causing a sensation -- both in the Sudanese capital and the international media -- by fighting to overturn Sudan's strict rules on what constitutes "decent" clothing.

Hussein, a former journalist who works in the media department of the UN Mission in Khartoum, was arrested earlier this month for wearing trousers at a party in a local restaurant popular with journalists and foreigners.

She was not alone. Twelve other Sudanese women with her were also detained over their choice of non-traditional clothing.

But if 10 of the arrested women accepted what seemed like inevitable punishment, Hussein and two others did not. While their colleagues submitted to 40 lashes each at the police station and paid fines of \$120, the three remaining women took their case to court.

As Hussein appeared for her hearing on July 30, the packed courtroom erupted into pandemonium. The reason: Hussein appeared in exactly the same green trousers she was wearing at the restaurant when she was arrested.

Some of her female friends also appeared in the courtroom wearing trousers as a show of support.

The trousers were a signal that Hussein is ready to fight her case to the end. She has told the media that she hopes not just to avoid the usual flogging for "indecent" but also to remove clothing regulations from Sudan's legal code. The regulations currently appear as part of prohibitions against "indecent acts."

"This is not a case about me wearing pants," she told the Associated Press. "This is a case about annulling the article that addresses women's dress code.... This article is against the constitution and even against Islamic law itself."

Test Case

Hussein's battle is attracting international attention in part because she is a UN employee and in part because she invited many foreign media colleagues to attend her trial today. Human rights workers also came.

As a UN employee, Hussein would ordinarily be immune from prosecution. As in most countries, an agreement between the Sudanese government and the UN obliges authorities to ask the world body for permission before starting legal proceedings against a member of its staff.

But Hussein has insisted upon resigning from the UN so that her case can go to trial. On July 30, the judge adjourned her trial until August 4 to give her time to quit her job.

Hussein's case has become a cause célèbre at the UN. At a press conference in New York on June 29, UN Secretary General Ban Ki-moon said he is "deeply concerned" about the case.

"The United Nations will take every effort to ensure that the rights its staff members are protected," Ban said.

Ban also condemned the Sudanese judiciary's use of flogging as a form of punishment. "The flogging is against international human rights standards," he said. "I call on all parties to live up to their obligations under all relevant international instruments."

The question now is whether the strong international interest in the case of Hussein and her two other co-defendants will be enough to sway Sudan's judges from their usual strict interpretation of decency laws.

Normally, it is not a question the judges even have to face. Women in Sudan – unlike in many Arab countries – have a prominent place in public life as teachers and administrators. But they rarely dare to challenge the periodic police raids on restaurants that characterize Khartoum's night-life.

Can a few women's resolve change the system? The question has engaged large numbers of people in Sudan and elsewhere who will be watching closely when Hussein reappears in court next month.

In Sudan, converts from Islam struggle to survive

Christian woman run out of home – and beaten – while another is prohibited from leaving

By Simba Tian

Compass Direct News (13.04.2009) / HRWF Int. (14.04.2009) - Website: <http://www.hrwf.net> - Email: info@hrwf.net - When Halima Bubkier of Sinar town converted from Islam to Christianity last year, initially her husband accepted it without qualms.

"After watching the 'Jesus Film,' I felt I needed a change in my hopeless and meaningless life," the 35-year-old mother of three told Compass. "I lived a life of alcoholism and lacked self control, hence tried Christianity and it worked well for me. I shared this experience with my husband, and he was quite positive about it and allowed me to attend church services."

News of her conversion spread quickly, she said, and last Sept. 14 she came face to face with Islamic hardliners who felt her conversion to Christianity was an act of betrayal. A few weeks later, during the daily fasts and nightly feasts of Ramadan in Sinar, near Khartoum, the Islamists blocked her husband from the communal meals because of her change in faith.

"My husband was totally rejected by his colleagues," she said. "They even refused to eat the food that I had cooked for him, saying that Muslims could not eat food cooked by infidels."

Bubkier said she never expected her change in faith would lead to the ordeal that followed.

"He was so angry that he threw an armchair at me and injured my back," she said. "As if this was not enough, he took out all his belongings from the house then set the house on fire. After I lost all my belongings, he then chased me away."

She decided to run for refuge to her older brother, Nur Bubkier – who, having been informed of her conversion, responded by thoroughly beating her and trying to knife her.

Two Christians from the Sudanese Church of Christ, Maria Mohamud and a church deacon, managed to rescue her from the violence, but Halima Bubkier was jailed for three days at a police station, she said, on the false charge of "disrespecting Islam." During that time Mohamud took care of her 2-year-old baby.

After three days in jail, she was waiting to appear before a judge.

"Before my case was heard, a Coptic priest [identified only as Sheed] knew of my case and talked with a police officer, privately telling him that according to the law, no one is supposed to be jailed because of religion," Bubkier told Compass. "I was then freed."

Bubkier left her two children, ages 6 and 8, behind with her husband, who is said to have married another woman. She said that although her main concern is the safety of her children, at least she is in hiding and her husband does not know her whereabouts.

"I expected my husband to appreciate my positive change, but instead he responded negatively," Bubkier said. "Indeed there is something wrong with Islam where good is rewarded with evil. But I feel normal. Now I have a better life to live for. I was lost and in darkness. Let God forgive all those who have wronged me. I know I cannot go back."

Home prison

In Sahafa, five kilometers (three miles) south of Khartoum, another woman who left Islam is under a kind of house arrest by her family members for converting to Christianity.

Senah Abdulfatah Altyab was formerly a student of laboratory science at Sudan University of Technology, but today she is out of touch with the outside world. Her education came to an end after a film about Christ led to her conversion.

A close friend of Altyab, Ebtehaj Alsanosi Altejani Mostafh, said Altyab's family closely monitors her.

"She cannot receive calls," Mostafh said. "Her brother forbids her from moving outside the homestead or even attending [St. Peter and Paul Catholic] church" in Amarat, Khartoum.

Last Christmas, Mostafh said, she met Altyab near a public market during an Islamic celebration day, prayed with her and advised her that she should present her case to a commission dedicated to guarding the rights of non-Muslims. The Commission for the Rights of Non-Muslims in the National Capital, created by the Comprehensive Peace

Agreement of 2005 following Sudan's long civil war, was designed to advise courts on how to fairly apply sharia (Islamic law) to non-Muslims.

Made up of representatives from Muslim, Christian and traditional religious groups, the commission "made little headway in changing official government policy towards non-Muslims in Khartoum," according to the U.S. Department of State's 2008 International Religious Freedom Report, though it did obtain release or leniency for some non-Muslims accused of violating sharia.

Altyab said she feels the commission would do little for her case because most of its members are radical Muslims. Moreover, she said her uncle, Yusuf Alkoda, is a radical Muslim and will make her life more difficult.

"I find life very difficult," Altyab said. "I feel lonely and isolated. How long will I have to live in this state? Life without education is miserable."

Sudan's 2005 Interim National Constitution provides for freedom of religion throughout the entire country, but Altyab said that stipulation is brazenly flouted. The constitution enshrines sharia as a key source of legislation in northern Sudan.

The 29-year-old Mostafh, for her part, said she converted from Islam to Christianity in 2005 and as a result was immediately fired from her job. She later obtained another job. A member of All Saints Cathedral Church in Khartoum, she told Compass that since her conversion, she has suffered total isolation from her Muslim friends. During communal celebrations, she said, she is looked down upon and seen as a lady lost and destined for hell.

"Life is very difficult for me for the last four years, since joining Christianity," she said. "I have been living all alone in the rental house here at the Evangelical Presbyterian Church-Borri, which is something unusual for a Muslim lady who is unmarried. My former friends are saying that there must be something wrong with me."

Her immediate family lives in Saudi Arabia. Her only chance of seeing them, she said, is to go on the Islamic pilgrimage or hajj, and that option is now closed.

"My big challenge is how I can be accepted by my family members," she said. "For me to go to Saudi Arabia, pilgrimage is the only opportunity, but this is not relevant for me as a Christian."

The many instances of Christians suffering in northern Sudan go largely unreported. The president of the Sudanese Church of Christ, Barnabas Maitias, told Compass of one church member, a convert from Islam identified only as Ahmed, who received Christ in April 2007 – and quickly had his wife and children taken away.

Hard-line Muslims also planned to kill the convert, Maitias said.

"The church had to take him to another location in the Nuba Mountains, Korarak area, where he is employed as driver," Maitias noted. "Most of the churches in Khartoum are housing Muslim converts who have no place to stay or get their daily basic needs."
