

SUDAN

In Paragraphs 33-35 of its second periodic report to the Human Rights Committee the Government of Sudan states that “all citizens, men and women, enjoy the free and effective exercise of all rights, including civil and political rights... In the Sudan there is a *de jure* and a *de facto* equality of the sexes.” In fact there is neither *de jure* nor *de facto* equality for women in the Sudan. The codification of Islamic Shari’a law through federal legislation imposes many limitations on the fundamental human rights of women including the right to equality before the law and the right to freedom of movement as guaranteed under Articles 3, 12 (1) and 12 (2) of the Covenant. Equality Now is also concerned by the prevalent use of arbitrary detention to enforce the public order codes and the use of rape, the threat of rape, and other forms of violence by both the Government and groups supported by the Government (including the Lord’s Revolutionary Army/ Movement of Uganda) to restrict women’s activities in violation of Article 9 of the Covenant. Equality Now has consulted a number of Sudanese groups and individual activists in reviewing the Government’s report. Details on the following summary of concerns can be found in the attached submissions from the Sudan Human Rights Organization (SHRO) and Ma’an (Annex 1 and Annex 2, respectively).

Discrimination in Law

In Paragraph 45 of its report, the Sudanese Government maintains that it “has been keen to guarantee the equality of men and women in the field of human rights.” Although the Government lists many legislative measures to support this assertion, Equality Now has been informed by SHRO that in fact only the Seventh and Thirteenth Constitutional Decrees are currently in effect, all others on the list having been repealed or suspended by the Government. Both of these Constitutional decrees are concerned with the federal government and the formation of states, making no mention of human rights at all. With regard to women’s rights, not only does the current law of the Sudan fail to guarantee equality for women but in fact various legislative measures explicitly discriminate against women.

In Paragraph 55 of its report, the Government notes that “Muslims are governed in family matters, by laws different from the laws governing Christian family matters...” The Government makes reference in this context to the Non-Muslims Marriage Act, which is annexed to the Government report. However, the Government report excludes any reference to the Personal Status of Muslims Act, which governs Muslims (the majority of the population in Sudan) and which is based on Islamic Shari’a law. Under the Personal Status of Muslims Act 1991, women are considered to be legal minors regardless of their age. Although the Personal Status of Muslims Act defines marriage as a contract between a man and a woman, women’s legal capacity, as defined by the same Act, makes this provision for consensual marriage effectively void. Under this Act, a woman’s actions are subject to the approval of her guardian (who must according to the Act be a male). In fact marriage in the Sudan takes the form of a contract between a woman’s guardian and her future husband. In this regard, the Personal Status of Muslims Act violates the rights guaranteed to women under Articles 3 and 23 of the Covenant.

Under the Evidence Act, a woman's testimony is not admissible at all in the trial of certain crimes (*hadud* crimes, which include theft, fornication and adultery (*zina*), false accusations of *zina*, and consumption of alcohol). Moreover, in cases relating to adultery, a husband may prove that the crime of adultery has been committed by his wife simply by taking an oath whereas a wife's accusation that her husband has committed adultery can only be proved by the testimony of four male witnesses. The failure to admit testimony of women in these cases is a violation of the right to equality under the law, as well as the right to recognition everywhere as a person before the law, guaranteed by Articles 26 and 16 of the Covenant.

In Paragraph 56 of its report, the Government refers to the Sudanese Nationality Act with regard to "the impact of marriage on the nationality of women and children." Equality Now notes that the Nationality Act stipulates that the nationality of a child must follow that of the father. Only in cases where children are born out of wedlock can a Sudanese woman pass her nationality on to her children, and in such cases the mother is legally classified as "the father" under the law. Similarly, the Nationality Act referred to by the Government grants men the right to pass their nationality to their wives, but it does not allow women to pass their nationality to their husbands. This explicit discrimination violates the right to equality under the law accorded to women in Articles 3 and 26 of the Covenant.

Discrimination in Employment and Education

Equality Now notes that under the Personal Status of Muslims Act, a husband who can effectively provide for his wife can legally prohibit her from being employed. Furthermore, only men can claim spouses and children as dependents; women are denied the right to claim dependency allowances (Annex 1, pg.2). This inequality and the transformation of the right to work into a privilege controlled by a woman's husband or guardian deny women the right to equality in marriage provided for under Article 23(4) of the Covenant. Although the Public Service Act 1994 provides that equal pay should be given for equal work, there is clear evidence of continuing bias against women in the workplace. This bias was highlighted by an incident several years ago when four women police officers were asked to resign, reportedly because they would not be promoted beyond the rank of lieutenant, which they held at the time (Annex 2, pg.1). Equality Now notes the Government estimate that only 4% of all public sector employees are women. Moreover, although public sector employees are assigned residential plots of land, a woman cannot be allocated a plot if her husband owns a house. If he does not own a house, then the woman's right to this plot is transferred to her husband (Annex 1, pg.3).

While there are high percentages of women in university (ranging from 30%-50%), women are limited in the subjects they can study. The Higher Education Act does not discriminate

between the sexes, but there are several state educational programs, such as the Department of Survey at the Faculty of Engineering of University of Khartoum and the Faculty of Marine Sciences at the Red Sea University, that are reserved only for men. At the Islamic University of Omdurman, women are not permitted to study law. All these universities are state universities run by the Government. The exclusion of women from their educational programs is an act of discrimination which violates the right to equality provided for by Article 26 of the Covenant.

“Public Morality” Legislation

In 1992 an effort was made to legislate codes of dress and conduct for women, but the Public Order Code 1992 which was proposed by the Revolutionary Council failed to pass the state legislature. However, ministerial regulations were issued providing that female employees should be “properly” dressed. Moreover the Criminal Act 1991 includes a provision in Section 152 (1) that “whoever commits an indecent act or an act that breaches public morality or wears clothes that are indecent or would breach public morality which causes annoyance to public feelings is liable to forty lashes or fine or both punishments.” In October 1996 a Public Order Code was adopted for the state of Khartoum. Although this legislation is technically in force only in Khartoum, it has reportedly been applied as law throughout the country. Its provisions include the forced separation of men and women in public places and on public transportation, as well as in private gatherings. On public transportation only 25% of the seats are allocated to women. Equality Now is concerned, not only by the provisions of the Public Order Code, but also by the frequently arbitrary and violent manner in which these and related “public morality” legislative provisions are enforced. As explained by the SHRO, “No one is informed before getting arrested. Women can be arrested from the public roads, from the place of work or from any other public utility. They have no right to ask where they are being taken and they face the punishment without even knowing the reason for their arrest” (Annex 1, pg.8).

A striking illustration of the arbitrary and brutal nature of public morality law enforcement occurred very recently on 23 August 1997. That day at 2PM, minibuses transporting approximately thirty girl students from al-Ahfad university to their homes were diverted by a group of public order police at the university main gate and redirected to the public order police building in Rabi’ square in Omdurman. There the girls who were wearing skirts were released, and the twenty-four girls who were dressed in trousers, long shirts to their knees, and head coverings, were accused of wearing indecent clothing. A judge was brought to the building and after pronouncing their names and their fathers’ occupations, he “sentenced” them to fifteen lashes each. These “sentences” were immediately carried out. In a statement dated 26 August 1997, parents of the girls called the punishment of flogging “degrading and demeaning” and noted that one of the fathers had lodged a complaint with the Chief Justice against the judge who “tried” the girls. The father requested a full investigation of the incident. Only one journalist reported the incident, and he was arrested by the public order police (see Annex 3). Equality Now believes that this incident is representative of the manner in which the Sudanese Government disregards the rights of its citizens, particularly women, to be free from arbitrary

arrest, cruel and degrading treatment, and gender-based discrimination, all rights guaranteed to them by the Covenant.

Freedom of Movement

Under the Personal Status of Muslims Act 1991, a woman can only leave her house with the permission of her guardian. Women are regularly stopped and questioned in transit. If they are alone, they have to establish that they have permission of the guardian. If they are with a man, then they have to establish that he is her *mahram* (a male to whom the woman cannot be married, but who has authority over the woman, such as her brother, father, or uncle). There is apparently no law explicitly restricting the right of women to leave the country. However, in practice as noted in the report prepared by the SHRO, women face stringent restrictions when leaving the country (Annex 1, pg.5). To leave the country a woman must either be accompanied by her guardian or have the permission of her guardian. The affidavit signed by the guardian granting permission to travel must be attested to by the local neighborhood council known as the Popular Committee. A woman travelling alone must also clearly specify her reasons for travelling and provide supporting documentation of her purpose. Only certain purposes, such as medical treatment, schooling, academic conferences or business, are acceptable reasons for women to travel alone. Even when women do comply with all the restrictions imposed on them, they are often nevertheless harassed and prevented from travelling (see Cases 2 and 6, Annex 2, pp.3-5). Men are not subject to these travel restrictions. The discriminatory limitations on women's movement, both within the country and in leaving the country, violate both the right to freedom of movement guaranteed under Article 12 and the right to equality guaranteed under Article 3 of the Covenant.

Abduction, Rape and Slavery by Government and Government-Supported Forces

Equality Now is extremely concerned by the abduction, rape and enslavement of women by Sudanese government forces and government-supported forces. These abuses have been extensively documented by international human rights organizations, as well as by the United Nations itself. The UN Special Rapporteur on Human Rights in the Sudan reported to the Commission on Human Rights in 1996 that he "cannot but conclude that the abduction of persons, mainly women and children belonging to the racial, ethnic and religious minorities from southern Sudan, the Nuba Mountains and the Ingassena Hills area, their subjection to the slave trade, including traffic in and sale of children and women, slavery, servitude, forced labor and similar practices are taking place with the knowledge of the Government of the Sudan." In his 1997 report to the Commission on Human Rights, the Special Rapporteur notes that in April 1996, the Sudanese Popular Defence Forces (PDF) captured scores of villagers from different locations in the Aweil-Wedweil area. He further reports that "at the end of October 1996, raids and abductions were again reported while a government train guarded by the military and PDF proceeded northward from Wau. Six villages were reportedly destroyed on the eastern side of the railway line, between Ariath and Maker, with 5 people killed and 20 women and children abducted." The Special Rapporteur has confirmed and documented several reports of slavery and

other human rights abuses against villagers in the Southern Sudan committed by both the military and the PDF.

Women and particularly girls forcibly brought from Uganda into the southern war zones of the Sudan are similarly subjected to massive human rights violations. Equality Now notes that UNICEF as well as several international human rights organizations have recently and extensively documented the abduction of children as young as thirteen years old by the Ugandan Lord's Revolutionary Army/Movement (LRA), and their forced conscription into military service on behalf of the LRA. The LRA is based in Sudan, receives arms from the Government of Sudan, and engages in joint military operations with Sudanese forces. Equality Now believes that the Government of Sudan should be held accountable for human rights violations which occur in its territory, and the Government should take effective measures to stop such violations. Many of the children abducted by the LRA are apparently taken to Southern Sudan. Reports indicate that boys and girls alike are forced to kill. Girls are forced into so-called "marriages" with members of the LRA. These often polygamous "marriages" are used as an incentive mechanism to encourage and reward LRA troop performance. As one sixteen year old girl interviewed by UNICEF recalled, "I was forced to be a 'wife' to a big rebel man who I did not like. He was so harsh and unkind to me. During the day he would treat me as a prisoner but at night he would want to treat me as a wife and would force me to love him." It has been well documented through first-hand eyewitness accounts that Sudanese government forces are not only aware of and present during these abuses, but that in fact they are supporting the LRA. Despite its denials of involvement, the Sudanese Government has not taken any measures to stop, or even to investigate, these human rights violations.

In particular, Equality Now would like to draw the attention of the Human Rights Committee to the ongoing plight of the Aboke girls, which dramatically illustrates the nature of the abuses which are being perpetrated by the LRA and sanctioned by the Sudanese Government. In October 1996, the LRA attacked St. Mary's College in Aboke, a town in Northern Uganda. The rebels abducted about 140 girls; following pleas for their release by their teachers all but 30 of the most "beautiful" girls were released (Annex 4, pg.1). One year later, 21 of the Aboke girls are still being held by the LRA. It is widely believed that they are being held in the Sudan. The Sudanese Government claims that the Aboke girls are being held in northern Uganda, or alternatively, that even if they are in Sudan, they are in territory controlled by the Sudan People's Liberation Army (SPLA), and therefore out of the bounds of Government influence. The Government further claims that it has no control over the LRA, despite evidence of its ongoing support. Rescued abductees, former LRA rebels, and the Aboke Concerned Parents Association have confirmed that many of the Aboke girls are being held in Nasiti camp near Juba, an area of southern Sudan controlled by the Government (see Annex 5). To date, however, the Sudanese Government has not initiated or actively participated in any investigation to establish where the Aboke girls are or undertaken any efforts to secure their release.

Female Genital Mutilation (FGM)

Female genital mutilation, also known as female circumcision, is a widespread practice in parts of the Sudan. In certain regions, the incidence of FGM is as high as 98.7%. The Penal Code of 1991 does not penalize the practice of FGM. Although the Sudanese Government is reportedly planning to introduce a school curriculum focusing on the detrimental effects of FGM, the Government has expressed tacit approval of the procedure by other means. For example, a recent group circumcision held by the Islamic group *Da'awa* was attended by the Commissioner of Karari Province, who thereby gave public sanction to FGM. The failure of the Sudanese Government to take effective action, legislative or otherwise, to combat the harmful practice of FGM constitutes a violation of Article 7 of the Covenant, which provides that no one shall be subjected to cruel treatment. FGM is one of many practices used around the world to perpetuate the subordination of women. As such, Equality Now considers that the practice of FGM also constitutes a violation of the right to "equal and effective protection against discrimination" set forth in Article 26 of the Covenant.

The Criminalization of Abortion

Abortion is illegal in the Sudan except in cases of rape, incest, when the mother's life is in danger, or when the fetus has died in the womb. Equality Now notes that the criminalization of abortion leads to higher rates of maternal mortality. In 1993, the maternal mortality rate in areas of Khartoum was 850 per 100,000, the highest in Africa; the national figure was 556 per 100,000. In July 1997, the senior forensic doctor in Khartoum University noted that at least 3-5 illegal abortion cases are identified by post-mortems each month (Annex 2, pg.2). Equality Now is concerned that, due to the dangers of illegal abortion, the right to life of these women, protected under Article 6 of the Covenant, is threatened by the criminalization of abortion.

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