



EQUALITY NOW

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Human Rights Committee
c/o Kate Fox Principi, Secretary of the Human Rights Committee
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CH 1211 Geneva 10
Switzerland
Via e-mail: kfox@ohchr.org; sthodiyil@ohchr.org

Re: Sudan - 111th session of the Committee (7 – 25 July 2014)

13 June 2014

Distinguished Committee members:

We respectfully submit this letter in advance of the Human Rights Committee's (the Committee) 111th session prior to its review of Sudan's compliance with the International Covenant on Civil and Political Rights (ICCPR) at its 111th session. Equality Now is writing to express our concern about the discrimination and inequality faced by women in the Sudan. This letter will focus on continued violations against women and survivors of gender-based sexual violence in the Sudan in violation of Articles 2(1) (non-discrimination), 2(3) (right to an effective remedy), 3 (equality between men and women) and 26 (equal protection under the law) of the ICCPR.

Equality Now is an international human rights organization with ECOSOC status working to protect and promote the rights of women and girls worldwide since 1992, including through our membership network comprised of individuals and organizations in over 190 countries.

In August 2013, as highlighted in our March 2014 Action – *Sudan: Change the law – allow victims of sexual violence to access justice* (please see attached), a 19-year-old pregnant and divorced Ethiopian woman was lured to an empty property in Sudan and brutally gang-raped by a group of seven men, aged 19 to 22. Immediately following the attack, a police officer found the distraught victim, but did not file a formal complaint of rape because it was a public holiday and the police station was closed. Disturbingly, the rapists filmed the attack, which later surfaced via social media in January 2014. After learning of the film, the authorities ultimately arrested everyone involved, *including the victim*. Sudan's Attorney General has—without legal basis—consistently blocked her from filing a rape complaint on the basis that she was under investigation for the criminal offense of offending public morality. At one point, she even faced a sentence of death by stoning for adulteryⁱ, as the prosecutor debated her marital status before affirming that she was divorced.

This case highlights the overwhelming challenges women face in obtaining justice in Sudan for rape and sexual violence. After being arrested, and despite being close to giving birth, the young woman was held in police cells and, until recently, been consistently denied placement in a medical facility. Upon their confession, three of the perpetrators were convicted of adultery, two of indecent acts, and one of distributing indecent material; their sentences consisted of lashes and fines. The seventh was freed due to insufficient evidence. The victim, however, was found guilty of committing gross indecency under section 151 of the Criminal Act, described as “whoever commits any act contrary to another person's modesty, or does any sexual act with another person not amounting to adultery, or sodomy.” She was sentenced to one month in prison and levied a hefty fine of 5000 Sudanese Pounds (approximately \$900 USD). Her sentence was suspended due to her pregnancy, and she was placed on probation for six months.

Further troubling, the prosecutor has also filed criminal charges under section 146 referring to adultery, which criminalizes pregnant unmarried women. An appeal has been filed on the victim's behalf against the new criminal charges, and the court hearing is scheduled for the end of June.

There is an urgent need for legal reform, especially of Article 149 of the criminal code (the Criminal Act of 1991) referring to rape. When a woman or girl reports she has been raped, she exposes herself to possible prosecution. Effectively, a victim has to prove her own innocence by demonstrating that the encounter was non-consensual. If she fails to do so, she is liable to be prosecuted for adultery, also known as *zina*. The punishment for *zina* is 100 lashes if the woman is not married and execution by stoning if she is married. The law lacks clear guidelines on its interpretation and implementation, which allows judges wide discretion that is often unjust to victims seeking redress through the criminal justice system. In this case, even with filmed evidence of the rape, the victim was still found guilty of immoral acts. All these factors, combined with the traumatic stigma and fear of community reprisals, often deter women and girls from reporting crimes of sexual violence and make it very difficult for them to achieve justice even if they do.

Sudan is obligated in its interim Constitution of 2005, as well as under the ICCPR and the African Charter on Human and Peoples' Rights to ensure that men and women are treated equally under the law and to prevent victims from being criminalized. In that regard, we note the Committee's questions to Sudan in advance of the session about reform of the criminal code and the government's reply that that a committee was established at the Ministry of Social Welfare, Women Center for Human Rights to revise it and the discriminatory Personal Status Code. (CCPR/C/SDN/Q/4/Add.1, ¶11, and CCPR/C/SDN/Q/4/Add.1, ¶¶9, 11). In addition, the Committee recommended to Sudan in 2007 that it should, “Undertake to review its legislation, in particular articles 145 and 149 of the 1991 Criminal Code, so that women are not deterred from reporting rapes by fears that their claims will be associated with the crime of adultery.” (CCPR/C/SDN/CO/3, ¶14(b)). To date, however, there has not been any indication of change or actual reform of the Penal Code or its implementation.

Suggested Questions to the State Party

We would respectfully urge the Committee to raise with the government of Sudan during its review the following questions:

- What are the government's plans for dropping the criminal charges of adultery against this young mother who was raped, particularly as the rapists have already been found guilty?

- Apart from shelter provided by the Ethiopian community in Sudan, what medical and psychological support can the government provide to this victim and others like her?
- What are the immediate plans of the committee established at the Ministry of Social Welfare, Women Center for Human Rights to revise the Criminal Act and the discriminatory Personal Status Code?

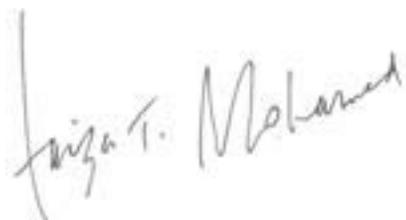
Proposed Recommendations

We also urge the Committee to consider the following recommendations to the government of Sudan:

- The prosecution drop all criminal charges against the young woman, and cease any legal action to deport her to Ethiopia.
- The young woman is promptly provided with adequate medical and psychological support as a victim and survivor of sexual violence.
- Immediate steps are taken to amend the Sudan Criminal Act of 1991 and the Sudan Evidence Act of 1994 to prevent the criminalization of sexual violence victims, and to ensure that women and girls who have been raped receive equal protection under the law in accordance with Sudan's international obligations.

Thank you very much for your kind attention, and please do not hesitate to contact us if we can provide further information.

Sincerely,



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ⁱ <http://www.sihanet.org/news/sudan-ethiopian-woman-gang-raped-seven-sudanese-men-convicted-%E2%80%9Cindecent-acts%E2%80%9D>



Sudan: Change the law – allow victims of sexual violence to access justice



UN Photo/Albert González Farran

[faced a sentence of death](#) by stoning for adultery, as the prosecutor debated her marital status before affirming that she was divorced.

In August 2013, while house hunting in Omdurman, Sudan, a 19-year-old pregnant and divorced Ethiopian woman was lured to an empty property and brutally gang-raped by a group of seven men, aged 19 to 22. Immediately following the attack, a police officer found the distraught victim, but didn't file a formal complaint of rape because it was a public holiday and the police station was closed. Disturbingly, the rapists filmed the attack, which later surfaced via social media in January 2014. After learning of the film, the authorities ultimately arrested everyone involved, *including the victim*. Sudan's Attorney General has—without legal basis—consistently blocked her from filing a rape complaint on the basis that she was under investigation for the criminal offense of offending public morality. At one point, she even

This case highlights the overwhelming challenges women face in obtaining justice in Sudan for rape and sexual violence. Since being arrested, and despite being close to giving birth, the young woman has been held in police cells and, until recently, been consistently denied placement in a medical facility. As of 20 February, upon their confession, three of the perpetrators have been convicted of adultery, two of indecent acts, and one of distributing indecent material; their sentences consisted of lashes and fines. The seventh was freed due to insufficient evidence. The victim, however, was found guilty of committing indecent acts under section 151 of the Criminal Act, described as “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 uniform which causes annoyance to public feelings.” She has been sentenced to one month in prison and has been levied a hefty fine of 5000 Sudanese Pounds (approximately \$900 USD). Her sentence has been suspended due to her pregnancy, and she has been placed under probation for six months.

Tragically, however, the victim's troubles don't end there. She is now being threatened by the court with immigration offenses, which carries a two-year prison term and subsequent deportation. Further troubling, the prosecutor has also filed criminal charges under section 146 referring to adultery, which criminalizes pregnant unmarried women. An appeal has been filed on the victim's behalf against the new criminal charges, and the court hearing on her immigration charges has been postponed until April 2, 2014.

There is an urgent need for legal reform, especially to article 149 of the criminal code referring to rape. Under current laws, when a woman or girl reports she has been raped, she also exposes herself to possible prosecution. Effectively, a victim has to prove her own innocence by demonstrating that the encounter was non-consensual. If she fails to do so, she is liable to be prosecuted for adultery, also known as *zina*. The punishment for *zina* is 100 lashes if the woman is not married and execution by stoning if she is married. The law lacks clear guidelines on its interpretation and implementation, which allows judges wide discretion that is often unjust to victims seeking redress through the criminal justice system. In this case, even with filmed evidence of the rape, the victim was still found guilty of immoral acts. All these factors, combined with the traumatic stigma and fear of community reprisals, often deter women and girls from reporting crimes of sexual violence and make it very difficult for them to achieve justice even if they do.

Sudan is obligated in its interim Constitution of 2005 and under several international conventions to ensure that men and women are treated equally under the law and to prevent victims from being criminalized. Both the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights (ICCPR), to which Sudan is a party, echo these rights.

WHAT YOU CAN DO:

Join Equality Now in calling for justice for all survivors and victims of sexual violence in Sudan. Please take urgent action today by writing to the officials below to demand that:

- The prosecution drop all criminal charges against the young woman, and cease any legal action to deport her to Ethiopia.
- The young woman is promptly provided with adequate medical and psychological support as a victim and survivor of sexual violence.
- Immediate steps are taken to amend the Sudan Criminal Act of 1991 and the Sudan Evidence Act of 1994 to prevent the criminalization of sexual violence victims, and to ensure that women and girls who have been raped receive equal protection under the law in accordance with Sudan's international obligations.

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