

## Transferred to Darfur: The notorious judge in the case of the flogged woman

By Abdullahi Osman El-Tom

December 23, 2010 — In an unprecedented sinister gesture to the beleaguered people of Darfur, the Sudanese Justice Ministry transferred its notorious judge, as seen in the YouTube video film of the public flogging of a woman, to Darfur (N. Hamid, Sudaneseonline.com,12-15-2010). The film caused national and international outcry and was viewed worldwide by an estimated 10 million people. If the Khartoum authority wanted to emphasize its contempt for the people of Darfur, it could not have done any better. For the irony in the transfer, is that the Ministry of Justice in Sudan is currently held by none other than Minister Bishara Dosa, a son of Darfur, whose ethnic group, the Zaghawa, have been bombed back to the stone age.

Although flagellation has been a regular feature of the Sudanese legal system since the onset of the September Laws of 1983, which the Islamists call sharia Laws (Islamic Laws), the flogging shown in the film went to extreme barbarity, forcing even staunch supporters of the laws into a difficult position. For those who have been spared the agony of viewing the episode, the film shows a woman in a voluminous cloak being whipped by two uniformed policemen, taking turns whipping her. The policemen are clearly seen showing their joy and delight in administering their seemingly vengeful punishment, with intermittent smiles and laughter. The whipping spared no part of the wretched woman with the whip landing on every part of her body: back, head, legs and breasts. The petrified woman was seen screaming and begging for mercy, "Oh my Mother, oh enough!" but to no avail. The punishment was performed in public and under supervision of the judge, who ordered the victim to hurry up and get on with the act of subjugation so that he could rush off for another commitment.

The exact crime committed by the flogged woman remains unclear, although media refers to it as centring around the wearing of trousers. Her crime is certainly not adultery, for the law specifies a punishment of 100 lashes if the offender is single, and stoning if married. The victim in the YouTube film received 50 lashes in total. It is to be noted that in Islamic law, adultery is almost impossible to verify in the absence of pregnancy or confession. Otherwise, an accusation of adultery has to be verified by four reliable witnesses testifying that they have seen the sexual organs of the two offenders locked in the act, an impossibility by all means.

Last year, Lubna Hussein, a Sudanese female journalist was also sentenced to flogging for wearing trousers. The sentence was later commuted to a fine that the courageous woman refused to pay, which was later met by her trade union. Hussein went on to win the Mahfoutha El-Sindiyanat Award, a reputable award for championing women's rights in the Middle East. The Sudan has several Public Order laws whose caveats cover a collection of vague and badly defined offences that range from breach of public tranquillity, wearing indecent clothes, immoral behaviour, selling tea or washing cars in the wrong place, men wearing effeminate (colourful) clothes and makeup and a host of sexually related behaviour. Among others, these are the preserve of Articles 152, 154 and 155 of the Sudanese Penal Code and are punishable by flogging, fines and imprisonment. Surprisingly, more often than not, the police act as prosecutor and witness on the same occasion and many of the victims are not accorded time to seek a lawyer or guardian to help in their defence. Sadly, the majority of the public law offences are women accused of soliciting for prostitution, wearing indecent clothes, making alcohol and selling tea and coffee in the wrong venue.

The majority, though not all, of Public Order offences are dealt with in hastily convened courts. This is a continuation of what was referred to as Prompt Justice that came with the September Laws of 1983. These are McDonaldized courts, aptly referred to as "take away" courts by Middle EAST News Paper (16/12/2010). They have little time for deliberation and certainly none for absent defence witnesses. Their victims come mostly from marginalised people, poor, uneducated and unaware of their legal rights.

The savage whipping seen in the video galvanised people at home and abroad against the Khartoum government and was regarded by many as the epitome of oppression of women by the Khartoum regime. The government too panicked amid international Human Rights petitions and at least one demonstration of 35 courageous Sudanese women in Khartoum calling for repeal of the flogging laws. The demonstrators were brutally treated and detained by plain cloths police, although later released following intense national and international pressure.

In defence of the authority, the influential Presidential Advisor and Deputy Head of the ruling party in Khartoum says: "if the woman in question is respectable, she would not have been flogged". Khartoum governor Abdel Rahman Khidir dodged the issue and lambasted his opponents, stating that the timing of the release of the film reflects a grand conspiracy against Sudan. He indicated that the flogging took place in February but was shown on December 10th, to coincide with the International Day for Human Rights. But the ferocious condemnation of the flogging continued, even dragging Khartoum's imams into the fray. Thus, Imam Abdel, of Jabra Quarter, South Khartoum lashed out in his Friday sermon at the "enemies of Islam and remnants of communism who want to abolish Article 152", enquiring "who of you want to see a baby of adultery thrown in the street and eaten by dogs?". The imam endorsed the principle of flogging as Islamic, but criticised the way it was implemented. He further preached correct Islamic flogging, saying: "the flogging device must be neither too hard nor too soft; it must neither cut through the flesh or break a bone nor cause scarring of the body; the device must not fall on the face, front side of the body or testicles; and the person administering the punishment must not raise his hands as high as to render his armpits visible".

But dictator Al-Bashir of Sudan remains unapologetically defiant regarding the film. In a rather insulting speech, he reiterates: "... those who say they are ashamed of this punishment should wash up, pray twice and revert back to Islam.... [they] should review their understanding of religion because Sharia law has always stipulated that one must whip, cut or kill" (Sudantribune.com, 20-12-2010).

Defenders of the rights of women in Sudan have organized to promote the removal of these Articles, and particularly Article 152 whose targets are predominantly Sudanese women. According to the work, there has been an onslaught of women victims in recent years with the number of women falling foul to Public Order punishment rising from 43,000 in 2008 to 80,000 in the year 2010. Mariam Almahdi, prominent leader of the Umma Party computes that Sudanese women received 1,600,000 lashes in one year. Yes, there is no mistake in the quotation. The figure is a total of one million and six hundred thousand lashes. Ironically, Mariam's father, Ex-Prime Minister Almahdi, did not care to remove the same Article, which only went through slight tightening in 1991, i.e. two years after his premiership. That these Public law Articles are inhumane, skewed against women and should be removed is so clear-cut that it is difficult to deny. The public spectacle nature of administering the punishment creates a lasting stigma and penalises the entire community of the alleged culprit.

While the punishment shown in the video can be seen as within the spectrum of denigrating women, it has other functions that are no less important for the State. Terrorising the entire population and not only women, becomes necessary when other means of securing legitimacy are lacking. Such is the situation with the current government, as is the case with all dictatorial regimes that help themselves to power. Public display of government power and willingness to impart its authority with extreme brutality are a reminder to all activists who are tempted to display their opposition to the government.

Lastly, while I attach a link to the video film for those who have not seen it, I hasten to add that sane viewers may find the episode extremely traumatic.

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