

**NATIONS UNIES**  
**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Working Group on the issue of discrimination against women in law and in practice; the Independent Expert on the situation of human rights in the Sudan; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on violence against women, its causes and consequences.**

REFERENCE: UA Sudan G/SO 214 (53-24) G/SO 214 (89-15)  
SDN 8/2013

6 November 2013

Excellency,

We have the honour to address you in our capacity as Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice; Independent Expert on the situation of human rights in the Sudan; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 23/7, 24/28, 16/23, and 23/25.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding **Ms. Amira Osman Hamed**, a 35-years-old civil engineer and women's rights activist who has been charged with 'indecent or immoral dress' and if found guilty may face corporal punishment of up to 40 lashes.

According to information received:

On 27 August, 2013, Ms. Osman Hamed was arrested by the Public Order Police while working in the outskirts of Khartoum. It is reported that 10 policemen approached her and threatened to take her to the police station for refusing to wear a headscarf. She was allegedly then charged under article 152 of Sudan's 1991 Criminal Code with 'indecent or immoral dress' and faces the possibility of receiving up to 40 lashes if convicted. Article 152 states: "(1) Whoever commits, in a public space, 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 with a fine, or with both (2) The act shall be contrary to public

morals if it is regarded as such according to the standard of the person's religion or the custom of the country where the act takes place.”

It is reported that Ms. Osman Hamed’s court case, originally scheduled for 19 September 2013, was postponed until November, in order to give the Attorney General enough time to consider a request made by her defense to drop all charges. The prosecution is reportedly still evaluating how to proceed, following the hearing that took place on Monday 4 November, 2013.

It is reported that current public order laws in Sudan do not specify what is covered by immoral or indecent dress, giving the Public Order Police broad discretion to judge whether a person has acted in “an indecent manner, or a manner contrary to public morality” or “wears an indecent, or immoral dress, which causes annoyance to public feelings.”

Serious concern is expressed regarding the physical and psychological integrity of Ms. Amira Osman Hamed and information indicating that she could be sentenced to up to 40 lashes if found guilty. Concern is also expressed at information received, including video footage, indicating that this is not an isolated event, and that the public flogging of women is a continuing practice in the country.

Furthermore, we express our concern regarding the existence of legislation that permits the corporal punishment of women, and the devastating consequences that such violence has on women’s physical and psychological integrity and well-being.

Without in any way implying any determination on the facts of the case, we would like to recall that, as a State Party to the International Covenant on Civil and Political Rights, your Excellency’s Government has undertaken to ensure equality between men and women in the enjoyment of all civil and political rights, including the right not to be subjected to torture or to cruel, inhuman or degrading punishment. We furthermore wish to make reference to paragraph 7 (a) of resolution 8/8 of the Human Rights Council which reminded Governments that corporal punishment can amount to cruel, inhuman or degrading punishment or even to torture. Both the Human Rights Committee and the Committee against Torture have called for the abolition of judicial corporal punishment. In paragraph 5 of General Comment No. 20 (1992), the Human Rights Committee stated that the prohibition of torture and ill-treatment must extend to corporal punishment, including excessive chastisement ordered as punishment for a crime.

We also make reference to the decision of the African Commission on Human and People's Rights in *Frances Doebbler v Sudan*, regarding the application of Article 152 of the Sudanese Criminal Law of 1991. The Commission found that the lashing applied by the Sudan under Article 152 for alleged "indecent and immoral dress" was in violation of Article 5 of the African Charter on Human and Peoples' Rights which, similar to Article 7 of the ICCPR, prohibits, inter alia, torture, cruel, inhuman and degrading punishment and treatment.

We would like to bring to your Excellency's attention article 1 of the United Nations Declaration on the Elimination of Violence against Women which provides that the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

We also recall article 4 (b) of the United Nations Declaration on the Elimination of Violence against Women, which stipulates that States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should refrain from engaging in violence against women. Article 4 (c & d) of the Declaration also notes the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. To this end, States should develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence. Women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered. States should, moreover, also inform women of their rights in seeking redress through such mechanisms.

Finally, we wish to make reference to the Report of the Special Rapporteur on violence against women, its causes and consequences, to the 20th session of the Human Rights Council (A/HRC/20/16). In the report, the Special Rapporteur reflects on the corporal punishment of women and girls and its links to the control and limit their freedom of movement, freedom of association, as well as their personal and sexual choices. She notes that punishment usually has a collective dimension, and is public in character, as the visibility of the issue also serves the social objective of influencing the conduct of other women. In this sense, the Special Rapporteur recalls the due diligence obligations of states to modify the social and cultural patterns of conduct of men and women and eliminate prejudices, customary practices and other practices based on the idea of the inferiority or superiority of either of the sexes, and on stereotyped roles for men and women.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Ms. Amira Osman Hamed in compliance with the above international instruments.

Moreover, as it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?

2. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.

3. Please provide information on the measures taken to ensure the safety of Ms. Amira Osman Hamed.

We undertake to ensure that your Excellency's Government's response is accurately reflected in the report we will submit to the Human Rights Council for its consideration. We wish to inform your Excellency's Government that in light of the recent hearing regarding this case, and that flogging is a serious human rights violation, these concerns will be expressed through a public statement, attached herewith, to be issued later today.

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Ms. Amira Osman Hamed and to ensure that all charges against her are immediately and unconditionally dropped.

On the long-term, we would also encourage your Excellency's Government to engage in a comprehensive review of the provisions of Sudan's 1991 Criminal Code with a view to removing all provisions that discriminate against, or have a discriminatory impact on women, including article 152 in conformity with Your Excellency's Government obligations under international human rights law. We further reiterate our previous encouragements for your Excellency's Government to consider becoming a State party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Please accept, Excellency, the assurances of our highest consideration.

Frances Raday  
Chairperson-Rapporteur of the Working Group on the issue of discrimination  
against women in law and in practice

Mashood Baderin  
Independent Expert on the situation of human rights in the Sudan

Juan E. Méndez  
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Rashida Manjoo

Special Rapporteur on violence against women, its causes and consequences