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Single mother guilty of prostitution in Malaysia to be jailed, caned

The man, said to be the woman's client, was reportedly released without charge

UCA news (28.09.2018) - <https://bit.ly/2QRsVVE> - Another Muslim woman in Malaysia is set to be caned and jailed after being found guilty of immoral activities by a state Sharia court.

The 30-year-old single mother was sentenced to six months in jail and six strokes of the cane on Sept. 27 by an Islamic court judge in the state of Terengganu, a bastion of Islamic conservatism in the north east of Malaysia.

The woman, who has not been identified, confessed to offering sexual services in a hotel, reported the media.

The harsh sentence comes on the heels of another case in the same state that caused an outcry when two young women, found guilty of engaging in a lesbian relationship, were ordered to be publicly caned earlier this month.

In the latest case, Islamic court judge Rosdi Harun said the sentence was in accordance with state Islamic laws, which provides a maximum fine of RM5,000 (US \$1,208) or imprisonment for up to three years, and/or six strokes of the cane, upon conviction.

The woman, arrested on Sept. 17 by state Islamic officials while with a man in a room, was not represented by a lawyer.

Her failure to show remorse throughout the proceedings is believed to have angered the judge in the state which is governed by the hard-line Malaysian Islamic Party (PAS).

Sisters in Islam (SIS), a Malaysian civil society organisation fighting to promote the rights of women within the frameworks of Islam and universal human rights, slammed the ruling as cruel and contradictory to Islamic principles.

The group pointed to mitigating circumstances reported by local media, including her abandonment by her former husband and that she was trying to support a child.

SIS also noted that the woman had not received any financial support from her ex-husband, and was given the maximum punishment despite being a first-time offender.

"The zeal with which the punishment was meted out ignores these circumstances that previously would have mitigated sentencing. Where is the compassion that lies at the heart of Islamic teachings?" the group asked in a statement on Sept. 27.

State Islamic laws used in the proceedings explicitly targets women, making them disproportionately vulnerable to and affected by this law, SIS said.

The man who was said to be the woman's client had reportedly been released without any charge.

Civil groups, alarmed by the recent incidents of Islamic authorities promoting unusual and cruel punishments for offenses under Islamic law, have urged the government to call for a moratorium on corporal punishment.

"Today's case clearly demonstrates that the humiliation experienced by women before, during and after the whipping is not considered a relevant factor of their pain, when in fact humiliation is a key aspect of the punishment and causes lasting psychological trauma," SIS said.

"We strongly reiterate that whipping does little, if anything at all, to 'educate'. In fact, such a punishment, which is void of compassion and mercy, only tarnishes Islam and reinforces Islamophobic stereotypes that Islam discriminates against women."

Days after the uproar over the public caning of the two women, witnessed by more than 100 people earlier this month, Malaysian politicians including Prime Minister Mahathir Mohammad questioned the need for public canings.

Anwar Ibrahim, who is projected to be Malaysia's prime minister when Mahathir steps down and who once helmed the Muslim Youth Movement of Malaysia, told reporters in Manila, Philippines that he was against such punishments.

International coalition of rights groups across Muslim societies condemns whipping of two women in Malaysia

International coalition of civil society groups across Muslim societies—from Algeria, Indonesia, Kazakhstan, Kyrgyzstan, Malaysia, Mali, Pakistan, Palestine, Turkey and beyond—condemn the whipping of two women for "attempted sexual relations" which was carried out on 3rd September 2018 by the Sharia High Court in Terengganu, Malaysia.

CSBR (04.09.2018) - <http://www.csbronline.org/?p=2224> - The [Coalition for Sexual and Bodily Rights in Muslim Societies \(CSBR\)](#), and the undersigned organizations and individuals from across Muslim societies, condemn in no uncertain terms the public whipping of two women for "attempted sexual relations", which was carried out on 3 September 2018 by the Terengganu Shariah High Court in Malaysia.

The two women, aged 22 and 32, pleaded guilty on 12 August 2018 to attempted "musahaqah" (sexual relations between women) under Section 30 of the Shariah Criminal Offences (Takzir) (Terengganu) Enactment 2001. They were sentenced to RM3,300 in fines and given the maximum sentence of six strokes of caning.

By taking no action to condemn this violence or prevent the whipping, the Malaysian Federal government is complicit in the violation of its citizens rights as guaranteed under its own Federal Constitution, national laws, as well as its obligations under international human rights law.

From the beginning, the women were denied a fair trial, as they had no representation at the time of their sentencing. It is abhorrent that the whipping was carried out at all, and that it was done in direct violation of Section 289 of the Criminal Procedures Code that prohibits corporal punishment for female prisoners of any age.^[1] Further, the women were subject to this humiliating and degrading punishment in public, in front of a crowd of approximately 100 witnesses.^[2] These violations of dignity threaten the constitutional rights and human rights of all Malaysians. The public whipping is a clear tactic by the court adding fuel to the escalating intimidation, harassment and violence against LGBT people in Malaysia over the last month.^[3] If state shariah courts are permitted to target one community in this way, then other individuals and groups in Malaysia are also at risk of the same kind of inhuman treatment.

We believe that state-imposed violence against women cannot ever be condoned, and that there can never be any justification for such inhuman and degrading punishments. Whipping is a clear form of cruel, inhuman and degrading treatment or punishment, which is prohibited under international law in Article 7 of the ICCPR. Accordingly, *"It is the duty of the State Party to afford everyone protection through legislative and other measures as may be necessary against the acts prohibited by Article 7, whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity"*.^[4] Allowing the discriminatory treatment and punishment of these women by a sharia court is also a violation of Malaysia's obligations under CEDAW.

Further, there is no consensus at all on the punishment of whipping under Muslim jurisprudence, and many Muslim countries across the world forbid whipping as a fundamental violation of human dignity. We believe that all forms of penalisation and criminalisation of consensual same-sex relationships are in contradiction to Islamic principles of justice and equality.

We amplify the call made by the **Joint Action Group on Gender Equality (JAG) Malaysia** that the government *"conduct a comprehensive review of the Shariah Criminal Offences laws of this country, with a view to repeal such laws, thus enabling all Malaysians to be governed by a single Penal Code under federal administration"*, and that the *"Shariah Criminal Offences laws to be repealed on the grounds that they have no basis in Islamic legal theory and practice"*.^[5]

We amplify the call made by **Coalition of Malaysian NGOs in the UPR Process (COMANGO)**, endorsed by 52 Malaysian NGOs, that the government *"eliminate all forms of cruel, inhuman or degrading treatment or punishment in the criminal justice system including the practice of whipping and caning"*, and ratify and accede to the UN Convention Against Torture as part of this commitment.^[6]

We stand in unequivocal support of LGBT people in Malaysia, and their fundamental rights to live with dignity and free from persecution and violence.

We call on the Prime Minister Mahathir Mohamad and the Pakatan Harapan government to take immediate action to end the escalating persecution of LGBT communities in Malaysia, and to uphold their own manifesto *"to make [Malaysia's] human rights record respected by the world"* (Promise 26), as well as the PM's Independence Day speech that guaranteed *"justice for all the people, irrespective of race or religion"* and promised *"Malaysia will remain strong and progressive whatever the differences, contradictions and suspicions that may arise."* ^[7]

SIGNED

1. Coalition for Sexual and Bodily Rights in Muslim Societies (International)
2. Association Femmes Leadership et Développement Durable-AFELDD (Mali)

3. Association of Women Lawyers (Malaysia)
4. Bebaak Collective (India)
5. Beyond the Hijab (Singapore)
6. Bishkek Feminist Initiative (Kyrgyzstan)
7. Canadian Council of Muslim Women (Canada)
8. ESITIZ–Equality Watch Women’s Group (Turkey)
9. Fethiye Women’s Solidarity Association (Turkey)
10. Forum for Dignity Initiatives-FDI (Pakistan)
11. GAYa Nusantara Foundation (Indonesia)
12. Indian Muslims for Secular Democracy (India)
13. Indonesian Women’s Association for Justice-APIK (Indonesia)
14. International Women’s Rights Action Watch-Asia Pacific (International)
15. KAOS-GL (Turkey)
16. Kazakhstan Feminist Initiative-‘Feminita’ (Kazakhstan)
17. Kirmizi Biber Association (Turkey)
18. Malaysian Atheists and Secular Humanists (Malaysia)
19. Maruf Foundation (Netherlands)
20. Muntada—The Arab forum on Sexuality, Health and Education (Palestine)
21. Muslims for Progressive Values (International)
22. PELANGI Campaign (Malaysia)
23. Persatuan Kesedaran Komuniti Selangor-EMPOWER (Malaysia)
24. Projek Dialog (Malaysia)
25. Rural Women’s Association-Alga (Kyrgyzstan)
26. Sayoni (Singapore)
27. Transmen of Malaysia (Malaysia)
28. Women Against Violence (Palestine)
29. Women for Women’s Human Rights–New Ways (Turkey)
30. Women Living Under Muslim Laws (International)
31. Women’s Aid Organisation (Malaysia)
32. Women’s Initiative for Citizenship and Universal Rights (Algeria/France)
33. Women’s Party (Turkey)
34. Anissa Helie, Professor (Algeria/US)
35. Cynthia El Khoury, independent feminist (Lebanon)
36. Evelyne Accad, Professeur Emerite (Lebanon/US)
37. Khawar Mumtaz, Women’s Rights Advocate (Pakistan)
38. Marieme Helie Lucas, Secularism Is A Women’s Issue (Algeria/France)
39. Meerim Ilyas, Urgent Action Fund for Women’s Human Rights (Kyrgyzstan/US)
40. Pragna Patel, Director-Southall Black Sisters (UK)
41. Sabina Faiz Rashid, Dean-BRAC University School of Public Health (Bangladesh)
42. Sabra Zahid, Attorney at Law (Sri Lanka)
43. Samia Allalou, Mediterranean Women’s Fund (Algeria/France)
44. Sheena Baharuddin, Performance Artist (Malaysia)
45. Yasmin Rehman, Women’s Rights Activist (UK)
46. WUNRN - Women’s UN Report Network

Malaysian women caned for 'illicit sex' under Shariah

Two women were each caned six times in front of a Shariah court judge and in full view of about 100 onlookers

UCA news (03.09.2018) - <https://bit.ly/2pXrbit> - Two women found guilty of attempting sexual relations were caned in public by Islamic authorities in a Malaysian state on Sept. 3.

The caning took place at the Shariah Court building in Terengganu, a northern state in Malaysia recently taken over and ruled by the Malaysian Islamic Party (PAS).

Satiful Bahri Mamat — the state official in charge of the implementation of Shariah — said the public caning served as a warning to Muslims against committing zina, or illicit sex, reported Malaya Mail.

He labelled the offence as a "cancer that can spread in society."

The two women, who pleaded guilty to attempting to engage in sexual relations, were caned six times each in front of a Shariah court judge and in full view of about 100 onlookers including government agency representatives and NGO members, a Muslim Lawyers Association representatives told the media.

Aged 22 and 32, the women had been detained by state Islamic officials in April after they were found in a car allegedly engaged in a sexual act.

The court also fined them 3,300 ringgit (around US\$830) each. Homosexual sex is a criminal offense in Malaysia.

Abdul Rahim Sinwan, a lawyer with the Muslim Lawyers Association, which held a watching brief over the case, was quoted by the Malay Mail as saying that though the caning was open to the public, there was no intention to humiliate.

"Humiliation is out of the question. To hurt the person is out of the question," said Sinwan.

"They were brought through different doors, they were taken out through different doors, as the purpose is not to humiliate the person. The caning [under Shariah] is not meant to hurt the person. It is to educate the person. Therefore it's not painful, it's not harsh."

He insisted that Shariah caning is different from the caning punishment that is applied under Malaysian criminal law for serious offenses.

Meanwhile, in an immediate response, rights group Sisters in Islam declared the caning illegal. The NGO said the punishment contravened Malaysia's Criminal Procedure Code which prohibits corporal punishment against females.

They said that while Shariah allows women to be caned, the country's dual (civil and Islamic) justice systems create inconsistencies in the jurisdiction of the Prisons Department, directly affecting the rights of women in Malaysia protected by the federal constitution against gender discrimination.

Malaysia's civil laws stipulate that caning can only be carried out against prisoners. Sisters in Islam pointed out that the two caned women were not prisoners when the sentence was carried out.

The Malaysian Prison Act 1995 defined those who could be caned "as a person, whether convicted or not, under confinement in a prison and in relation to a convicted prisoner, includes a prisoner released on parole."

Sisters in Islam said the caning raises questions as to who authorized and carried it out and whether the federal government, which oversees the prisons department, had consented to it.

According to reports, officers from the prisons department carried out the caning. Civil groups in Malaysia say whipping as a form of punishment should end as it violates international human rights principles which regard whipping and other forms of corporal punishment as cruel, inhumane and degrading treatment.