

## Risk to LGBT communities and HIV sufferers in Sudan

### Legal and political restrictions

Sodomy is illegal under Article 148 of Sudan's 1991 Criminal Act. By law, first and second offences are punishable by lashing and with imprisonment for up to five years. A third offence can lead to capital punishment.<sup>1</sup> The United Nations Human Rights Committee has expressed its concern at “The imposition in the State party of the death penalty for offences which cannot be characterized as the most serious, including [...] a third homosexual act and illicit sex”.<sup>2</sup> A later report also criticised Sudan as being one of five countries where “the death penalty may be applied to those found guilty of offences relating to consensual, adult homosexual contact.”<sup>3</sup>

Homosexual acts not amounting to sodomy are also illegal in Sudan, and fall under Part XV of the Criminal Act: ‘Offences of Honour, Reputation and Public Morality’, as they constitute ‘indecent and immoral acts’ or ‘gross indecency’. The punishments range from lashing to imprisonment.<sup>4</sup>

The laws on homosexuality are enforced – notably there have been two recent high-profile cases. In August 2010, 19 men were lashed 30 times and fined 1,000 Sudanese pounds for cross-dressing and “womanly behaviour” at a private party.<sup>5</sup> In 2013 police raided a house in Khartoum; nine men were arrested and beaten for ‘indecent acts’.<sup>6</sup> There are many further incidents.<sup>7</sup>

The Sudanese government has taken a hard stance on LGBT issues in international fora. It has repeatedly voted against or otherwise stymied the International Gay and Lesbian Association’s application for Economic and Social Council status in the UN, and Sudan was one of the countries that co-sponsored an opposing statement in response to the UN declaration on sexual orientation and gender identity in 2008.<sup>8</sup> Then in 2010 the government voted not to include language pertaining to sexual orientation in a UN document calling on governments to prevent extrajudicial, summary or arbitrary executions.<sup>9</sup>

In recognition of the dangers facing gay men in Sudan, Grindr – a mobile app used primarily by homosexual men – disabled its distance option in September 2014 after receiving reports that authorities were using the app to ‘hunt’ gay men.<sup>10</sup>

Due to the repressive environment for the LGBT community, most support networks are found online. The two most prominent organisations are Freedom Sudan, which was founded in 2006<sup>11</sup>, and Rainbow Sudan, founded in 2012.<sup>12</sup>

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<sup>1</sup> International Committee of the Red Cross, Sudan Criminal Act 1991 [[https://www.icrc.org/applic/ihl/ihl-nat.nsf/0/4d8b568d3792381cc12571100038b7d0/\\$FILE/Criminal%20Act%20-%20Sudan%20-%20EN.pdf](https://www.icrc.org/applic/ihl/ihl-nat.nsf/0/4d8b568d3792381cc12571100038b7d0/$FILE/Criminal%20Act%20-%20Sudan%20-%20EN.pdf)]

<sup>2</sup> UN CCPR, Concluding Observations: Sudan, paras. 19, 20, 25, 26, U.N. Doc. CCPR/C/SDN/CO/3/CRP.1, 26 July 2007 [<http://www2.ohchr.org/english/bodies/hrc/docs/AdvanceDocs/CCPR.C.SDN.CO.3.CRP.1.pdf>]

<sup>3</sup> UN Human Rights Committee, ‘Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity’, 17 November 2011 [[http://www2.ohchr.org/english/bodies/hrcouncil/docs/19session/A.HRC.19.41\\_English.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/19session/A.HRC.19.41_English.pdf)]

<sup>4</sup> ICRC, Sudan Criminal Act 1991

<sup>5</sup> The Niles, ‘Quietly, Sudan’s underground gay movement grows online’, 21 September 2011 [<http://www.theniles.org/helper/articleprint.php?id=1038>]

<sup>6</sup> Gay Star News, ‘Police in Sudan arrest and beat nine gay men’, 25 February 2013 [<http://www.gaystarnews.com/article/police-sudan-arrest-and-beat-nine-gay-men250213>]

<sup>7</sup> Kuchu Times, ‘SUDAN: Struggles of a young movement’, 21 December 2014 [<http://www.kuchutimes.com/2014/12/sudan-test-archive-post/>]

<sup>8</sup> *Ibid.*

<sup>9</sup> UN, ‘General Assembly Adopts 52 Resolutions, 6 Decisions Recommended by Third Committee on Broad Range of Human Rights, Social, Cultural Issues’, 21 December 2010 [<http://www.un.org/press/en/2010/ga11041.doc.htm>]

<sup>10</sup> Gay Star News, ‘Grindr disables distance option in anti-gay countries’, 8 September 2014 [<http://www.gaystarnews.com/article/grindr-disables-distance-option-anti-gay-countries080914>]

<sup>11</sup> The Niles, ‘Quietly, Sudan’s underground gay movement grows online’, 21 September 2011

## HIV/AIDS

In 2013, there were an estimated 59,731 to 80,698 people in Sudan living with HIV.<sup>13</sup>

Many in the country closely associate the disease with homosexuality and, in some cases, paedophilia. In 2012 a debate raged between the government and opposition groups after a doctor blamed a rise in HIV rates on older homosexual students passing it to younger ones.<sup>14</sup>

This incident also shows how HIV prevalence is politicised within a wider climate in which questions about the ruling party's legitimacy are responded to by public commitments to harsher interpretations of Islam. In an article about the debate surrounding HIV prevalence in schools, an activist from LGBT group Rainbow Sudan explains how it followed an attack on a weapons factory that sparked discussions about the government's legitimacy, and was accompanied by other restrictions on civil liberties in Khartoum.<sup>15</sup> This highlights that the environment for minority groups becomes more repressive when the government feels challenged. With elections due in April, widely expected to be boycotted by opposition and civil society groups, we expect to see harsher restrictions on LGBT communities and HIV sufferers.

It is clear that the Sudanese government also blames foreign nationals for HIV prevalence. Sudan is one of the few countries in the world with a ban on entry for foreigners with HIV.<sup>16</sup> We hear from volunteers that they are required to undertake a mandatory blood test in order to get a visa. This supports the assumption shared by many in Sudan that 'there are no gay people' in the country, a view we have heard repeated by Sudanese diaspora communities in the UK and by our in-country contacts. As there quite obviously are LGBT people in Sudan, this attitude suggests that they are not able to express their sexuality openly.

### Social and religious persecution

Sudan is predominantly Sunni Muslim, so homosexual activities are understood in the context of the Qur'an. Homosexuality is furthermore seen as an abnormal psychological condition, including by members of the LGBT community itself.<sup>17</sup> Homosexual men are ostracised socially. Mohammad, the founder of online magazine Rainbow Sudan, told a reporter from Gay Star News: "to understand the gay community in Sudan you have to understand the religious factor here... it is a big taboo and regarded one of the biggest sins possible."<sup>18</sup> This article also lists some of the possible repercussions of 'coming out', including "a loss of jobs prospects, ostracisation from family and community, even murder by so called 'honour killings'." Homosexuals may also be denied educational opportunities.<sup>19</sup>

Similarly, the societal stigma around those with HIV is extremely high in Sudan. According to a Sudan National AIDS Programme survey from 2009, 53.2% of respondents would not buy food from someone with HIV/AIDS, 44% said they would not eat with an AIDS patient, and around 30% would prohibit an HIV-positive teacher from working at their school, or would remove their child from that school.<sup>20</sup>

Breaking down the stigma around HIV is an aim of the Sudan National AIDS and STI Control Programme, but it is not clear whether this has had any impact in practice. Certainly, the paragraph devoted to the topic in their latest annual report gives no reference to any concrete activities or initiatives.<sup>21</sup>

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<sup>12</sup> Gay Star News, 'New magazine and hope for gays in Sudan', 30 March 2012 [<http://www.gaystarnews.com/article/new-magazine-and-hope-gays-sudan300312-0>]

<sup>13</sup> p. 11, 'Sudan National AIDS and STI Control Programme – Annual Report 2012/3', March 2014 [[http://www.unaids.org/sites/default/files/country/documents//SDN\\_narrative\\_report\\_2014.pdf](http://www.unaids.org/sites/default/files/country/documents//SDN_narrative_report_2014.pdf)]

<sup>14</sup> Gay Star News, 'Sudan says gay teen sex to blame for AIDS', 14 November 2012 [<http://www.gaystarnews.com/article/sudan-says-gay-teen-sex-blame-aids141112>]

<sup>15</sup> *Ibid.*

<sup>16</sup> UNAIDS presentation, 'AIDS in Sudan', 2 December 2013 [<https://www.youtube.com/watch?v=zMKXoRLcJyg>]

<sup>17</sup> Gay Star News, 'New magazine and hope for gays in Sudan', 30 March 2012

<sup>18</sup> *Ibid.*

<sup>19</sup> Canvas, 'LGBT rights in Sudan', 21 February 2013 [<http://canvas.union.shef.ac.uk/wordpress/?p=1752>]

<sup>20</sup> IRIN News, 'SUDAN: Stigma continues to hold back Darfur's HIV fight', 13 October 2010 [<http://www.irinnews.org/fr/report/90758/sudan-stigma-continues-to-hold-back-darfur-s-hiv-fight>]

<sup>21</sup> p. 17, 'Sudan National AIDS and STI Control Programme – Annual Report 2012/3', March 2014

## Access to antiretroviral treatment

As of 2013, there were 34 centres providing antiretroviral treatment in Sudan. This treatment coverage remains one of the lowest in the world today according to UNAIDS.<sup>22</sup> In total, 3,058 adults were undergoing treatment in 2013, only 9% of the number estimated to be in need of this care.<sup>23</sup>

Furthermore, the social stigma around HIV makes accessing treatment more difficult. People are prepared to travel to other towns and cities to get tested and undergo treatment, though obviously this may be a prohibitive cost for some. IRIN documents the story of a female tea-seller from Nyala whose best friend travelled to El-Fasher to get antiretroviral treatment for HIV, due to fears she could be recognised at the treatment centre in her home town.<sup>24</sup>

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<sup>22</sup> UNAIDS presentation, 'AIDS in Sudan', 2 December 2013

<sup>23</sup> p. 18, 'Sudan National AIDS and STI Control Programme – Annual Report 2012/3', March 2014

<sup>24</sup> IRIN News, 'SUDAN: Stigma continues to hold back Darfur's HIV fight', 13 October 2010