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PETALING JAYA: The announcement on Wednesday that three women were caned 10 days ago for committing illicit sex under syariah law took the nation by surprise.

More so when part-time model Rartika Sari Dewi Shukarno is still waiting to be similarly punished after she was sentenced by the syariah court in Kuantan last year but the caning was delayed as several issues were still unresolved.

Among the questions asked by several non-governmental organisations (NGOs) were the "secrecy" under which the women were caned, when they were arrested and when they were sentenced.

Sisters in Islam (SIS) executive director Dr Hamidah Marican said in a statement that the punishment meted out for illicit sex under syariah law violates human rights while discriminating against Muslim women

Outcry over caning

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NGOS QUESTION WHY MUSLIM WOMEN WERE WHIPPED UNDER 'SECRECY'

in Malaysia.

"Whipping of women under Syariah Criminal Offences legislation contradicts civil law where women are not punishable by caning under Section 289 of the Criminal Procedure Code," she said.

Home Minister Datuk Seri His-hammuddin Hussein had announced on Wednesday - nine days after the punishment was carried out - that three Muslim women were caned in the Kajang Prison on Feb 9.

He said seven syariah offenders - comprising four men and three

women - had been caned, with six of them receiving six strokes while the seventh, a woman, received four strokes.

The women were found guilty under Section 23 (2) of Federal Territory Syariah Criminal Offences Act 1997 (for sexual intercourse out of wedlock) by the Federal Territory Syariah High Court between December 2009 and January this year.

Hamidah questioned the government's motive in proceeding with the caning of the Muslim women as several issues on syariah and consti-

tutional grounds, as well as sentencing guidelines raised in Rartika's case, had yet to be resolved.

(The sentence against Rartika, who had been fined RM5,000 and ordered to be caned six times after she pleaded guilty to consuming alcohol in public last July, has been put on hold pending a meeting with the Regent of Pahang who will make the final decision on whether she is to face the punishment.)

"To do this surreptitiously implies that the government wanted to hide this degrading and unjust treatment from public scrutiny," Hamidah said.

Minister in the Prime Minister's Department Datuk Seri Jamil Khir Baharom said the three women

who were whipped now realise the difference between syariah caning and civil caning and were relieved to find out that what they heard about syariah whipping before this were untrue.

"They said that even 100 strokes of the syariah cane will not be equivalent to one stroke of civil caning. They also urged their friends not to commit similar offences," he said.

All Women's Action Society (AWAM) president Sofia Lim Sui Ching said an explanation is needed as to why the government allowed the punishment to be carried out without addressing the issues raised in Kartika's case.

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Abolish whipping, says Bar Council

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"The home minister needs to explain why the government allowed the punishment to be carried out in secret on an issue that is of public interest with potentially very far ranging and damaging consequences," she said.

Meanwhile, the Joint Action Group for Gender Equality (JAG) said the existence of a plural legal system in Malaysia has led to different standards of justice for the citizens.

"While civil laws have mostly been amended to recognise equality and non-discrimination for non-Muslims, Muslim women suffer discrimination under an increasingly conservative interpretation of Islamic law," said JAG spokeswoman Maria Chin Abdullah.

She said constitutional guarantees of equality and non-discrimination are not extended to Muslim women.

"It is, therefore, of utmost urgency that the authorities review the contradictory laws," she said.

She said JAG does not support or condone any form of whipping and corporal punishment meted out against any person.

National Human Rights Society (Hakam) president Malik Imtiaz Sarwar contended that the sentences were not in accordance with syariah law.

"The power to sentence is vested by a federal law," said Malik in an SMS message to *theSun* yesterday.

"(The) Syariah Courts (Criminal Jurisdiction) Act 1965 does not authorise caning in the way Islamic law contemplates.

"Rather, it prescribes whipping in the sense used in other federal laws that mandate such types of sentences, for example, for rape and drug offences."

Malik said syariah courts are not constitutionally empowered to mete out such

sentences as the Islamic criminal law understood to prescribe caning is not sufficient to vest jurisdiction and power.

Malik, who is also a constitutional lawyer, said Section 289 of the Criminal Procedure Code only allows whipping with a cane in respect of specified offences.

"Islamic offences are not included.

"As such, the syariah court's decision to impose an Islamic-compliant caning is one made without basis in law."

Malik added that state laws cannot be relied on as the Federal Constitution specifies that power to punish must be vested by federal law.

Malaysian Bar Council president Ragnunath Resavan, meanwhile, said the council was shocked and disappointed with the punishment, particularly as the government made the announcement only after the caning had been carried out.

"Our position echoes international human rights norms that condemn whipping and other forms of corporal punishment as cruel, inhuman or degrading treatment," he said in a statement.

He called on the government to immediately review and abolish all forms of punishment involving whipping.

The government, he said, should comply with international principles on punishment.

Former Perlis mufti Dr Mohd Asri Zainul Abidin, when contacted, questioned the way the punishment was carried out and asked how the offenders were caught.

Malaysian Syariah Lawyers Association president Mohd Isa Abdul Ralip, however, said the association supports the punishment.

"We feel that the action is proper based on the court order and syariah law.

"We feel the caning is not against human rights," he