

SUDAN

Under article 32 of Sudan's Interim Constitution, which was approved in 2005, women and men have equal entitlement to all civil, political, economic, social, and cultural rights.¹ The Constitution also iterates that 'the State shall emancipate women from injustice, promote gender equality and encourage the role of women in family and public life', at article 15. However, in October 2011, Sudanese President Omar Hassan al-Bashir announced that following the secession of South Sudan, a new constitution would be introduced based on Sharia law.² Sudan is not a party to the Convention on the Elimination of all forms of Discrimination against Women. The country has signed but not ratified the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa.³

The situation and role of women in Sudan has also been heavily influenced by the history of conflict and political changes. Women in Sudan have been subject to extremely high levels of violence from state and non-state actors.⁴ Women also continue to shoulder the burden of the displacement and poverty associated with conflict, and in rural areas, less than a third of women have had access to any form of education.⁵

1. Discriminatory family code

In Sudan, marriage is governed by codified Islamic family law, under the 1991 Personal Status Law for Muslims. The **minimum age for marriage** is defined as both parties having reached puberty.⁶ According to the law, both parties have to consent to marriage; however, the woman needs permission from a male guardian to validate the marriage. Article 51 of the Personal Status Law for Muslims indicates that men are the family breadwinners, while Article 52 states that women must obey their husbands.⁷ The husband is obliged to give the bride a dowry and the law stipulates that the dowry is the property of the wife and her family.⁸

Forced **early marriage** is reported to be a significant problem in Sudan, although information as regards to prevalence is not available.⁹ The national child protection legislation for Sudan, introduced in 2010, does not include protection against early or forced marriage.¹⁰

A large household survey that included data covering the whole of present-day Sudan and South Sudan, conducted by the Government of South Sudan in 2006, found that 36% of women in Sudan

¹ Article 32 (1) Interim National Constitution of the Republic of the Sudan, Government of Sudan (2005)

² Reuters (2011)

³ African Union (2010)

⁴ US Department of State (2010)

⁵ Rural Poverty Portal (n.d.)

⁶ Tønnessen, L. and Roald, A. (2007), p.22

⁷ Tønnessen and Roald (2007), p.22

⁸ Articles 27-28, Personal Status Law for Muslims; Tønnessen and Roald (2007), p.22

⁹ Committee on the Rights of the Child (2010), p.10-11

¹⁰ Law on the Child, 2010; CRC (2010), paragraph 56

were married before the age of 18 and 12% were married before the age of 15.¹¹ UNICEF data indicates that early marriage is more prevalent in rural areas.¹²

By law, **parental authority** is granted solely to fathers and, as indicated above, men have the legal status of head of the family.¹³ In the event of **divorce**, under Islamic and Coptic family law, young children usually remain with their mothers, but custody automatically reverts to fathers when sons reach the age of 7 years and daughters reach 9 years.¹⁴ Once these ages have been reached, the courts can order custody arrangements to be altered ‘in the best interests of the child’; however, if a woman remarries, custody automatically reverts to the father.¹⁵ Available literature on customary law suggests that women have no custody rights of their children following divorce, while Christian women have the same rights as Muslim women.¹⁶

Under Islamic family law women have **inheritance** rights.¹⁷ However, under the rule of ta’seeb, or inheritance by filiation, the share for women and daughters is generally half of that to which men are entitled.¹⁸

Women do not have any rights to inheritance under customary law.¹⁹ In addition, under customary legal practices, on their husband’s death, widows are commonly required to marry another man in the husband’s family.²⁰ Christian women and men have equal rights in regard to inheritance.²¹

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The rights of women to **initiate divorce** vary according to the different types of law in Sudan. Under Islamic family law women have the right to file for divorce in certain circumstances.²² These circumstances include: if the husband fails to fulfil his financial obligation to support her; if her husband has more than one wife and she can prove that her husband does not treat all his wives equally; if the husband has a defect she did not know about before marriage; if the husband suffers from an incurable mental illness; if the husband is impotent; if he behaves cruelly; if he is abroad for more than one year; and if the husband is sentenced to prison for more than two years. A husband has the right to divorce his wife unilaterally, without turning to the court, by saying “I divorce you”.²³ However, recent reports indicate two improvements for Muslim women in the realm of divorce since the codification of Islamic family law in 1991, when compared to previous sharia rulings. These include: 1) the ability of the wife to obtain a divorce if the husband has a defect that she did not know about before marriage, and 2) if a wife leaves the marriage, she is no longer legally required to return under the principle of “house of obedience” (before 1991’s codification, she could be compelled – sometimes by force by the policy – if her husband used this principle).²⁴

¹¹ Ministry of Health, Government of Southern Sudan (2006), p.187

¹² UNICEF (2009)

¹³ Tønnessen and Roald (2007) p.22

¹⁴ Tønnessen and Roald (2007), p. 23, 30

¹⁵ Tønnessen and Roald (2007) 23

¹⁶ Tønnessen,(2007), p.7; Tønnessen and Roald (2007), p.30

¹⁷ FAO (n.d)

¹⁸ Abdelsalam, A. (n.d), p. 3

¹⁹ FAO (n.d.)

²⁰ Tønnessen and Roald (2007), p.31

²¹ Tønnessen and Roald (2007), p.30

²² Tønnessen and Roald (2007), p.22

²³ Tønnessen and Roald (2007), p.22-23

²⁴ Tønnessen and Roald (2007), p. 23

Reports suggest that it is more difficult to get a divorce under customary law than Islamic family law due to the dowry rules. As the dowry is the property of the wife's family, a divorce will have economic consequences for the entire family (who will lose the dowry in the event of divorce), thus preventing women from seeking divorce.²⁵ Since civil rights for Christian women are not codified, divorce regulations vary according to denomination (there are three main denominations in Sudan: Coptic, Catholic, and Protestant) as well as by region and tribe. For example, Coptic Christian women and men are only able to obtain a divorce in cases of adultery or extreme domestic abuse.²⁶

2. Restricted physical integrity

Acts of violence against women are primarily dealt with under Sudan's Criminal Law of 1991²⁷ which was amended in 2009 to include sexual violence.²⁸ There is no law criminalising **domestic violence**; nor does there appear to be any legislation protecting women from **sexual harassment**.²⁹ In general, there is much more information about sexual violence in the form of rape in Sudan, and very little regarding domestic violence and sexual harassment. Spousal rape is also not addressed in the law, and recent reports indicate a "consensus among government and civil society actors that there is a need to differentiate between rape and adultery in current law."³⁰ Further, the use of corporal punishment – such as flogging – of women for sex-related offences and "moral crimes", including wearing trousers in public, has been reported.³¹

The Criminal Law defines **rape** as the offence of "zina" – which is intercourse between a man and a woman who are not married to one another and performed without consent.³² Where a woman is unable to prove that she did not consent, she becomes at risk for being charged with the crime of "zina" because she has confessed to sexual activity outside of marriage. In prosecutions for rape, judges may require the sexual act to have been witnessed by multiple men. Further, in the criminal justice process, male testimonies are accepted over female testimonies.³³ In 2011, an organisation of Sudanese women called "the section 149 alliance" – named for the section of the Criminal Law addressing this issue – came together to advocate for reform of this provision.³⁴

Under customary law, rapists are able to escape punishment by marrying their victim, provided the victim's family agrees.³⁵

Reliable data for prevalence rates of specific forms of gender-based violence against women were not available, although the US Department of State 2013 Human Rights Report states that domestic violence and sexual harassment are thought to be common, and widely accepted.³⁶ The reports

²⁵ Tønnessen, L (2007), p.7

²⁶ Tønnessen and Roald (2007), p.30

²⁷ Tønnessen, L. (2012)

²⁸ United Nations (n.d.)

²⁹ US Department of State (2013), p. 35

³⁰ Tønnessen (2012), p. 1

³¹ Sudan Tribune (2013)

³² Tønnessen (2012), p. 5 - 6

³³ Refugees International (2007)

³⁴ Tønnessen (2012), p. 5; Teff, M. (2011)

³⁵ Tønnessen and Roald (2007), p.31, 33

³⁶ US Department of State (2013)

note that police are usually reluctant to intervene in cases of domestic violence³⁷ and that reports of sexual harassment of women by police are common especially in the Darfur region.³⁸

The government established a National Strategy for Combating Violence against Women, developed by the Unit for the Suppression of Violence against Women and Children of the Ministry of Justice, for the period 2010 to 2012.³⁹ According to a recent report from the Norwegian Peacebuilding Resource Centre, the strategy used several means to combat violence against women, including the formation of family and child protection units throughout the country, training police on international law, and training health personnel on comprehensive treatment for victims of violence.⁴⁰ Regarding the former, however, the majority of the family and child protection units set up by 2012 operated solely as child protection units, taking care of child victims of rape and sexual violence, but not adult victims.⁴¹ Further, the training for police does not address the current state of impunity for police who are perpetrators of sexual violence⁴² (see below). According to the Human Rights Council's September 2013 report, the Unit developed another strategic plan to combat violence against women and children for the 2012 – 2016 period (it is unclear whether the above-cited shortcoming will be addressed in this new plan).⁴³

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Women's physical integrity in Sudan is also compromised by limitations on their reproductive rights. **Abortion** is only permitted to save the life of the mother. It is not permitted in the case of rape or incest.⁴⁴

The long-term **conflict** in Sudan has significantly increased women's vulnerability to violence. Although there are no prevalence studies, women have been subject to extremely high levels of sexual violence during armed conflict, perpetrated by state and non-state actors.⁴⁵ Refugees International reports that rape has been an integral part of the pattern of violence that the government of Sudan inflicted upon the targeted ethnic groups in Darfur.⁴⁶ Moreover, there is a culture of impunity for perpetrators, particularly when they are state actors.⁴⁷ Impunity is reinforced by laws granting conditional immunity to police and members of security and armed forces for acts committed in the line of duty.⁴⁸ According to recent reports, the culture of impunity has intensified since the indictment of President Omar al-Bashir for war crimes by the International Criminal Court (ICC) in 2009.⁴⁹ Among other actions, the government responded to the indictment by expelling 13 international NGOs from the country, many which provided life-saving support to

³⁷ US Department of State (2013); ECOSOC (2003)

³⁸ US Department of State (2013), p. 36

³⁹ United Nations (n.d.)

⁴⁰ Tønnessen (2012), p. 7-8

⁴¹ Tønnessen (2012), p. 8

⁴² Tønnessen (2012), p. 8

⁴³ Human Rights Council (2013)

⁴⁴ United Nations Population Division (2007)

⁴⁵ US Department of State (2013)

⁴⁶ Refugees International (2007), p.2

⁴⁷ Refugees International (2007); Tønnessen (2012)

⁴⁸ National Security Forces Act of 1999, article 33(b); the Police Act of 2008, article 45(2); and the Armed Forces Act of 2007, article 34(1); Tønnessen (2012), p. 6

⁴⁹ Tønnessen (2012), p. 2-3

female survivors of violence in Sudan.⁵⁰ On-going intimidation of organisations and individuals remaining in the country who provide gender-based violence services has been reported.⁵¹

3. Son bias

The male/female **sex ratio** for the working age population (15-64) in 2013 is 1 while the ratio at birth is 1.05.⁵²

There is evidence to suggest that Sudan is not a country of concern in relation to **missing women**.

4. Restricted resources and assets

According to the Food and Agricultural Organization (FAO) land rights database, there is “no unified legal framework of land tenure in Sudan.”⁵³ Land ownership is governed by a mix of civil law and customary law. Due to discriminatory inheritance practices, women in Sudan have very restricted **access to land**. Women acquire indirect access to land through their husbands or male family members, with the derived rights being weaker than primary male rights. Often, there are restrictions as to the type of land use, modes of land transfers, access to the land and exclusion from development schemes.⁵⁴

Women’s **access to property other than land** is equally restricted; although women can own assets, it is virtually impossible for them to manage such assets freely. According to codified Islamic law, neither sons and daughters nor surviving female and male spouses have equal inheritance rights.⁵⁵ When a woman becomes a widow, according to the FAO database of land rights, family members, such as brothers or children, commonly sell the family land and property without the woman’s consent or even without informing her of the action.⁵⁶

Although no legal restrictions to women’s **access to credit** in Sudan are apparent,⁵⁷ according to the latest data (2011) from the World Bank, the percentage of women with bank accounts at formal financial institutions – 4% -- was less than half of the percentage of men – 9.4%.⁵⁸ Approximately equal percentages of women (1.8%) and men (1.7%) had received a loan from a formal financial institution in 2011.⁵⁹

5. Restricted civil liberties

Women’s freedom of **access to public space** is limited for several reasons in Sudan. First, married women cannot travel without the permission of their husbands.⁶⁰ No legal restrictions on unmarried women could be located,⁶¹ however, women’s rights activists participating in a consultation exercise on rights to housing in 2004 reported that, in some parts of Sudan, women face day-to-day

⁵⁰ Tønnessen (2012), p. 2-3

⁵¹ Tønnessen (2012), p. 2-3

⁵² Central Intelligence Agency (2013)

⁵³ FAO (n.d)

⁵⁴ FAO (n.d)

⁵⁵ Personal Status Law for Muslims, 1991, Articles 356, 357, 359, and 373; World Bank (2013a) Women, Business, and the Law [database] <http://wbl.worldbank.org/> (accessed 22 November 2013)

⁵⁶ FAO (n.d.)

⁵⁷ World Bank (2013a)

⁵⁸ World Bank (2013b)

⁵⁹ World Bank (2013b)

⁶⁰ Personal Status Law for Muslims, 1991, Article 75(b); World Bank (2013a)

⁶¹ World Bank (2013a)

restrictions on freedom of movement, with male relatives denying them the right to leave the house unaccompanied.⁶² Second, the threat of sexual violence associated with conflict poses a significant obstacle to women's freedom of movement, particularly for internally displaced persons, 1.7 million of whom are living in Darfur alone.⁶³ Recent reports have also indicated an increase in the government's targeting of women activists and, although exact numbers are unclear, a growth in women political detainees.⁶⁴ And, finally, according to the US Department of State, an anti-gay sentiment is prevalent in society, which has forced lesbian, gay, bisexual, and transgender (LGBT) rights organizations, and individuals from those communities, underground, for fear of violence and discrimination.⁶⁵

According to a recent report on the situation of women's **political voice** in Sudan, there is an ongoing debate amongst women political advocates on the codification of Islamic family law and women's civil rights.⁶⁶ The issues being debated include: the age of consent for marriage (puberty under the current law),⁶⁷ polygamy,⁶⁸ and female genital mutilation (FGM).⁶⁹

Women and men enjoy the same right to vote and to stand for election in Sudan. With regard to **quotas**, under the National Election Act of 2008, 25% of seats in the lower house of parliament are reserved for women.⁷⁰ Women occupy 24.6% of the seats in the parliament and there are no quotas at the sub-national level.⁷¹

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Women in Sudan have a legal right to paid **maternity leave** under the Labour Code (Section 46).⁷² The entitlement is 8 weeks to be paid at full salary, by the employer.⁷³

Regarding **workplace rights**, the right to equal pay is also enshrined in Constitution.⁷⁴ There are, however, restrictions on women's right to work. Women are not allowed to work between 10pm and 6am with the exception of women in administrative, professional, technical work or health services.⁷⁵ In addition, married Muslim women can be denied the right to work outside the home by their husbands.⁷⁶

⁶² Housing and Land Rights Network / HABITAT INTERNATIONAL COALITION, UNITED NATIONS Office of the High Commissioner for Human Rights (2004), p.45

⁶³ US Department of State (2013), p. 12-13, 24-25

⁶⁴ Abbas, R. (2013)

⁶⁵ US Department of State (2013), p. 35

⁶⁶ Tønnessen and Kjøstvedt (2010)

⁶⁷ Tønnessen and Kjøstvedt (2010), p. 18

⁶⁸ Tønnessen and Kjøstvedt (2010), p. 19

⁶⁹ Tønnessen and Kjøstvedt (2010), p. 22-25

⁷⁰ The Quota Project (2013)

⁷¹ OECD (2014), *Gender, Institutions and Development Database*, <http://stats.oecd.org>

⁷² ILO (2011)

⁷³ Labour Code, 1997, Section 201; International Labour Organisation (2011)

⁷⁴ Article 32 (1) Interim National Constitution of the Republic of the Sudan, Government of Sudan (2005)

⁷⁵ International Labour Organisation (2011)

⁷⁶ Personal Status Law for Muslims, 1991, Article 75(d); World Bank (2013a)

Sources

- Abbas, R. (2013) Sudan Hits Hard at Female Activists. Inter Press Service. <http://www.ipsnews.net/2013/07/sudan-hits-hard-at-female-activists/> (accessed 22 November 2013).
- Abdelsalam, A. (n.d) Sudanese Personal Status Law of 1991, a new legislation to ongoing human rights violations. http://www.sudan-forall.org/sections/ihitiram/pages/ihitiram-special-issue-abdelsalam/pdf_files/Abdelsalam-Hassan-Personal-Status-Law-of-1991-English.pdf (accessed 16 December 2013).
- Committee on the Rights of the Child (2010) 'Consideration of reports submitted by states parties under article 44 of the convention, Concluding Observations: Sudan', CRC/C/SDN/CO/3-4, Geneva: Committee on the Rights of the Child. <http://www2.ohchr.org/english/bodies/crc/crcs55.htm> (accessed 20 November 2013).
- Food and Agriculture Organisation of the United Nations (FAO) (n.d.) Gender and Land Rights Database Full Country Report – Sudan [database] <http://www.fao.org/gender/landrights/> (accessed 20 November 2013).
- Government of Sudan (2005) 'Interim National Constitution of the Republic of the Sudan', downloaded from www.sudantribune.com (accessed 10 March 2012).
- Housing and Land Rights Network / HABITAT INTERNATIONAL COALITION, UNITED NATIONS Office of the High Commissioner for Human Rights (2004) 'Women's right to adequate housing and land. Middle East/North Africa', Proceedings of the Alexandria consultation, Cairo, the Alexandria consultations. <http://www2.ohchr.org/english/issues/housing/docs/alexandriaconsultations.pdf> (accessed 20 November 2013).
- Human Rights Council (2013) Report of the Independent Expert on the Situation of Human Rights in Sudan, Mashood A. Baderin. United Nations Human Rights Council, Twenty-fourth Session. A/HRC/24/31.
- International Labour Organisation (ILO) (2011) Database of Conditions of Work and Employment Laws [database] <http://www.ilo.org/dyn/travail/travmain.home> (accessed 22 November 2013).
- Ministry of Health, Government of Southern Sudan (2006) 'Southern Sudan Household Health Survey', available at <http://www.bsf-south-sudan.org/sites/default/files/SHHS.pdf> (accessed 20 November 2013) .
- Osman, Talal and Meo, Nick (2009) 'Whip me if you dare' says Lubna Hussein, Sudan's defiant trouser woman', *Daily Telegraph*, 1 August 2009, <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/sudan/5956721/Whip-me-if-you-dare-says-Lubna-Hussein-Sudans-defiant-trouser-woman.html> (accessed 11 March 2012).
- Refugees International (2007) 'Laws without Justice: an Assessment of Sudanese Laws Affecting Survivors of Rape', <http://www.refugeesinternational.org/sites/default/files/Lawswoutjustice.pdf> (accessed 20 November 2013) .
- Sudan Tribune (2013) Calls for Sudan to End Flogging of Women http://www.peacewomen.org/news_article.php?id=6138&type=news (accessed 16 December 2013).

Teff, M. (2011) Sudan: Women's Groups Advocate for Rape Law Reform. Refugees International <http://www.refintl.org/blog/sudan-women%E2%80%99s-groups-advocate-rape-law-reform> (accessed 22 November 2013).

The Quota Project (2013) Global Database of Quotas for Women: 'Sudan', <http://www.quotaproject.org/uid/countryview.cfm?ul=en&country=196> (accessed 22 November 2013).

Tønnessen and Kjøstvedt (2010) The Politics of Women's Representation in Sudan: Debating Women's Rights in Islam from the Elites to the Grassroots. Chr Michelsen Institute (CMI).

Tønnessen, L (2007) 'CMI Working Paper: Gendered Citizenship in Sudan: Competing Perceptions of Women's Civil Rights within the Family Laws among Northern and Southern Elites in Khartoum' <http://bora.cmi.no/dspace/bitstream/10202/27/1/Working%20paper%20WP%202007-4.pdf> (accessed 20 November 2013).

Tønnessen, L. (2012) From Impunity to Prosecution? Sexual Violence in Sudan beyond Darfur. Norwegian Peacebuilding Resource Centre (NOREF) Report.

Tønnessen, L. and Roald, A. (2007) 'CMI Report: Discrimination in the Name of Religious Freedom: The Rights of Women and Non-Muslims after the Comprehensive Peace Agreement in Sudan', <http://www.cmi.no/publications/file/2704-discrimination-in-the-name-of-religious-freedom.pdf> (accessed 20 November 2013).

UNICEF (2009) *State of the World's Children – online data*, available at <http://www.unicef.org/sowc09/statistics/statistics.php> (accessed 22 November 2013).

United Nations (n.d.) UN Secretary General's Database on Violence Against Women <http://sgdatabse.unwomen.org/countryInd.action?countryId=1228> (accessed 20 November 2013).

United Nations Economic and Social Council (ECOSOC) (2003) 'Integration of the Human Rights of Women and the Gender Perspective, Violence Against Women, Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy', submitted in accordance with Commission on Human Rights resolution 2002/52, Addendum 1, E/CN.4/2003/75/Add.1, Geneva.

United Nations Human Rights Committee (2007) 'Consideration of Reports Submitted by States Parties under Article 40 of the Covenant, Concluding observations of the Human Rights Committee: Sudan', CCPR/C/SDN/CO/3/CRP.1, Geneva.

United Nations Population Division (2007) *World Abortion Policies 2007*, Available at http://www.un.org/esa/population/publications/2007_Abortion_Policies_Chart/2007_WallChart.pdf (accessed 22 November 2013).

US Department of State (2013) *2012 Country Reports on Human Rights Practices: Sudan*, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper> (accessed 22 November 2013).

World Bank (2013a) Women, Business, and the Law [database] <http://wbl.worldbank.org/> (accessed 22 November 2013).

World Bank (2013b) Global Financial Inclusion Database [database] <http://databank.worldbank.org/Data/Views/reports/tableview.aspx> (accessed 22 November 2013).