

Sudan

The Interim National Constitution of the Republic of Sudan, adopted in 2005 following the signature of the Comprehensive Peace Agreement with current day South Sudan. The Interim National Constitution guarantees the rights of women, and ensure non-discrimination and equal treatment of women in all spheres of life. Article 31 reads that “all persons are equal before the law and are entitled without discrimination, as to race, colour, sex, language, religious creed, political opinion, or ethnic origin, to the equal protection of the law” (Interim National Constitution, 2005). Article 15 of the Interim National Constitution states that “the State shall emancipate women from injustice, promote gender equality and encourage the role of women in family and public life”. Despite promoting gender equality, in the areas of personal law, religious codes and customary laws apply (FAO, 2008). Since the Comprehensive Peace Agreement’s six-year interim period ended in 2011, resulting in independence for South Sudan, and with dialogues ongoing, Sudan has not adopted a final comprehensive constitution (Human Rights Watch, 2016; OHCHR, 2016: 13). Since 2006, Sudan has identified over 26 laws containing provisions discriminatory to women and is reviewing these laws (OHCHR, 2016: 13).

Sudan has not ratified the Convention on the Elimination of Discrimination against Women (CEDAW), denying women the broader human rights protection provided under international law (OHCHR, 2013: para 43). International NGOs have criticised Sudan’s government for failing to protect women’s rights and enabling an environment in which violence against women can be perpetrated with impunity. (The International Campaign to Stop Rape and Gender Violence in Conflict, 2013: 17). The Special Rapporteur on violence against women, its causes and consequences argues that women and children are among the most vulnerable groups in the Sudan, especially in regions affected by conflict (OHCHR, 2016: 17). Adding that single women, divorced women, women in polygynous marriages and displaced women who live on their own to reports are more vulnerable to violence, due to the perception that they are violating traditional and religious norms, (OHCHR, 2016: 17).

The Special Rapporteur on Violence Against Women argues that “decades of armed conflict, have aggravated pre-existing patterns of oppression and subordination, different manifestations of violence against women and girls, and multiple forms of discrimination” (OHCHR, 2016: 5). Prolonged conflict, including the protracted conflict in Darfur, have contributed to instability, insecurity, violence, rule of law challenges, and poverty and underdevelopment, especially for women and girls (OHCHR, 2016: 15).

1. Discrimination in the family

a) Overarching legal framework for marriage

The Interim National Constitution (2005) dealing with family and marriage, states that “the family is the natural and fundamental unit of the society and is entitled to the protection of the law; the right

of man and woman to marry and to found a family shall be recognized, according to their respective family laws, and no marriage shall be entered into without the free and full consent of its parties” (Article 15.1). The Comprehensive Peace Agreement (2005) confirms that “all personal and family matters including marriage, divorce, inheritance, succession and affiliation may be governed by the personal laws (including *Shar’ia* or other religious laws, customs and traditions) of those concerned” (Article 6.4). Therefore women’s relationship within the family or the private sphere is regulated by religious and customary laws governing her personal status (Tønnessen and Roald, 2007: 20). In contradiction with the equality rights guaranteed by the National Interim Constitution, Sudan recognises multiple forms of family law, connected to a person’s religious community, enforcing differences between Sudanese women across religious and ethnic affiliations (Tønnessen, 2008; Tønnessen and Roald, 2007: vi).

For non-Muslim women, women’s rights on personal and family matters are left to the discretion of the community they belong to. A 1926 law regulates marriage, whereas other areas of family law are not codified (Tønnessen and Roald, 2007: 30). There are three main Christian denominations, namely the Coptic, Catholic and Protestant Churches. Out of these three communities, only the Coptic Church has a written Christian family law with articles on inheritance, divorce, separation between spouses, and custody of the children in cases of divorce or separation. The booklet is “based on the Bible (Tønnessen and Roald, 2007: 30).

In contrast, the rights of Muslim women are regulated by the codified Islamic family law through the Muslim Personal Law Act of 1991. There is no full access to the Act in English, only to translated excerpts. According to the Special Rapporteur on Violence Against Women, the Muslim Personal Law Act reportedly includes articles which permit “the marriage of girls over the age of 10, the imposition of a dowry as part of a marriage requirement, restrictions to women’s inheritance rights, and about the discrimination inherent in the ability of women to testify and the value of their testimony in legal proceedings” (OHCHR, 2016: 16). Section 25(c) of the Act state that “the validity of a marriage contract is conditioned on the existence of a guardian who would conclude the contract”. Article 33 sets conditions for who the guarding can be, arguing that one should “be male, sane, mature and Muslim”. Article 34.2 of the Act further states that a virgin pubescent woman’s express or implied affirmation is necessary if her guardian concluded her marriage contract and informed her later”.

Traditional law provides fewer civil rights for women than Islamic family law (Tønnessen and Roald, 2007: 17).

Family matters are regulated by three types of religious court: the *Shar’ia* courts, the Christian/civil courts and the traditional courts. The judges in these courts are registered and paid by the state. Many of the traditional courts are unofficial (Tønnessen and Roald, 2007: 21). Legislation in the civil court is mainly based on a law from 1926 setting out regulations for marriages for non-Muslims. Judges in the civil courts are Muslim and often refer back to the community regulations when cases are presented before them (Tønnessen and Roald, 2007: 30).

Under the Muslim Personal Law Act (1991) a man is also allowed to marry up to four wives, provided that he treats all his wives justly (Article 51.d). All Christian churches prohibit polygyny.

Compared to the codified Islamic family law, Christian women do not have to accept their husband taking an additional wife (Tønnessen and Roald, 2007: 30).

b) Child marriage

Child marriage is not prohibited under the Muslim Personal Law Act of Sudan (1991). The Personal Status Law of Muslims, 1991, allows the marriage of a girl once she has hit puberty, however there is no clear provision as to at what age a woman attains puberty. Section 34.1 argues that “her word regarding her attainment of pubescence shall be conclusive unless it contradicts the obvious” (Personal Status Law of Muslims, 1991; Equality Now, 2017). Article 40.3 argues that “the guardian of a minor girl cannot conclude her marriage contract unless there is permission from the judge. The guardian has to prove that the marriage will benefit the minor girl, that the husband is suitable and the husband pays the dowry usually paid to women of her status” (Article 40.3).

The Marriage of Non-Muslims Act of 1926 sets the age of marriage at 13 for non-Muslim girls, and 15 for non-Muslim boys (Girls Not Brides, 2016). The Child Act 2010 does not include protection against early or forced marriage.

The Special Rapporteur on Violence Against Women reported that potential law reform with national applicability is taking place at the federal level regarding the minimum age of marriage (OHCHR, 2016: 14). Three states currently have legal provisions regarding the minimum age of marriage (OHCHR, 2016: 14). There is however no access to these legal provisions and further information as to which three states

Child marriage is a widespread practice in Sudan (UNICEF, 2016). Poverty and traditional and customary practice allow for parents to perceive girl children as a source of wealth and income (Girls Not Brides, 2016). Early marriage is reportedly more common in rural than in urban areas and widely differs across the states being more widespread in the Darfur and Kordofan states (UNICEF, 2016).

c) Household responsibilities

The Interim National Constitution of the Republic of the Sudan argues that: “the State shall protect motherhood and women from injustice, promote gender equality and the role of women in family, and empower them in public life” (Article 51.2). This is in contrast with the Muslim Personal Law Act of Sudan (1991) which sets out the wife’s rights in relation to her husband as such: “(a) to be provided with living expenses; (b) to be allowed to visit her parents and those relatives whom she is prohibited by *Shari’a* law from marrying and to receive the aforesaid in her home; (c) the husband must not (i) interfere with her private property, and (ii) harm her financially or emotionally; and (d) to be treated equally and justly with her co-wife or co-wives” (Section 51). Section 52 sets out the husband’s rights in relation to his wife: “(a) to be taken care of and amicably obeyed; and (b) to have the wife preserve herself and his property”. Section 91 of the Muslim Personal Law Act argues that in except in situations involving a violation of *Shari’a* law, a wife shall always obey her husband if he: (a) has paid her dowry in full, (b) could be entrusted with her, and (c) provides her with a home that complies with the *Shari’a* requirement among good neighbours”. Section 92 adds that if “the wife refuses to obey her husband, her right to be provided with a living ceases to be valid during such

refusal” (Tønnessen and Roald, 2007: 30). All non-Muslim women are covered by their local customs.

Religious, traditional and customary practices play an important role in Sudanese society and the roles assigned to women and girls within the family and community reportedly have a negative impact on numerous rights (OHCHR, 2016: 17). Men are privileged as holders of authority within the family, contributing to violence against women and children (OHCHR, 2016: 17). Violence in the home is considered a private matter (OHCHR, 2016: 17).

d) Divorce

Women’s divorce rights differ from men according to their religion. Under the Muslim Personal Law Act (1991), the husband has the unilateral right to a divorce (*talaq*) by saying “I divorce you” while the wife has to obtain a divorce in court (*tatliq*) (FAO, 2008). Women have the right to file for divorce in certain circumstances, including: “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” (FAO, 2008; Tønnessen and Roald, 2007: 22-23). If a wife leaves the marriage, she is no longer legally required to return under the principle of “house of obedience” which before the 1991’s codification of the Muslim Personal Law Act she could be compelled to or even forced to by the policy (Tønnessen and Roald 2007, p.22-23).

For Christian women, the Coptic Church does not accept divorce except in cases of adultery (Tønnessen and Roald, 2007: 30). In the Sudanese Catholic Church, regular abuse and mistreatment are considered legitimate grounds for divorce. In the Protestant and Coptic churches infidelity is the only acceptable justification for divorce (Tønnessen and Roald, 2007: 30).

In the case of divorce, under the Muslim Personal Law Act (1991) the mother has the custody, or *hadana*, for a girl until she is nine years old and for a boy until he is seven years old (FAO, 2008). After this, the principle “the best interests of the child” (*maslaha al-tifl*) applies. If women remarry, fathers of the children will automatically get custody (Tønnessen and Roald, 2007: 23). In the Coptic Church daughters also stay with the mother until the age of nine and the sons until to the age of seven, after which the father gets custody of the children (Tønnessen and Roald, 2007: 30).

e) Inheritance

According to codified Islamic law, neither sons and daughters nor surviving female and male spouses have equal inheritance rights (Muslim Personal Law Act, 1991: Articles 356, 357, 359, and 373). A woman inherits half of the property of her brother(s). The reasoning behind the inheritance law is the belief that a man’s inheritance will be used to fulfil his financial obligations within the family, while a women’s inheritance is solely her property (Tønnessen and Roald, 2007: 23). Christian women and men have equal rights in regard to inheritance (Tønnessen and Roald, 2007: 22-23). Under customary law, widows are commonly required to marry another man in the husband’s family.

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The Criminal Law (1991) penalises adultery (for a men, sexual intercourse with a woman without there being a lawful bond between them, for a women, permitting a man to have sexual intercourse with her without there being lawful bond between them) with execution by stoning where the offender is married or 100 lashes where the offender is not married (Article 145-146). The standard of evidence in these cases is extremely strict as four witnesses are required to see the actual penetration in order for the court to convict. The death penalty for adultery has never been executed in Sudan (Tønnessen and Kjøstvedt, 2010: 8).

The Criminal Law (1991) penalises apostasy (a Muslim who propagates for the renunciation of the creed Islam or publicly declares his renouncement thereof by an express statement or conclusive act), unless repenting during a period determined by the court, with death (Article 125). In May 2014, a Sudanese court sentenced Meriam Ibrahim to hang for apostasy after she married a Christian man from South Sudan. The pregnant woman and mother of one, was also sentenced to 100 lashes for adultery because her marriage to a Christian man was not considered valid under Islamic law (Amnesty International, 2014). Meriam was born to a Muslim father, but was raised a Christian from early childhood by her Ethiopian Orthodox mother.

2. Restricted Physical integrity

a) Violence against women

Sudan has a weak normative framework regarding violence against women and girls with no comprehensive law prohibiting all forms of violence against women and girls (OHCHR, 2016: para. 81). There are units for combating violence against women at the federal and state levels with their own substructures and departments. There are Women's directorates within all 17 states, gender focal points within each ministry, and the National Committee for the Advancement of Women have been established. According to the Special Rapporteur, the various overlapping federal and state level institutional mechanisms do not allow for efficient and comprehensive remedies for violence against women and more clarity is needed to define their roles and competencies (OHCHR, 2016: 17). There is a lack of systematic data collection relating to violence against women (OHCHR, 2016: 17).

At the national level, there are a number of policies and strategies on violence against women, including the 2011-2016 national plan for eradicating violence against women, along with its successor for 2015 to 2031. There is no access to the 2015-2031 national plan. In 2005 Sudan launched their first National Action Plan on Combating Violence against Women and in December 2005 the Ministry of Justice created a special Unit to Combat Violence Against Women and Children to oversee the National Action Plan and coordinate activities (HRW, 2008). The Ministry of the Interior has set up 20 child and family protection units throughout the country since 2007. The police established a gender desk in the same year. The gender desk operates as an independent unit, focusing on issues relating to the family and children (OHCHR, 2016: 15). The Government has also established a nationwide institutional mechanism to respond to violence against women, the Unit

for Combating Violence against Women. The Unit established other units in nine states. In other states where there is no unit, there are interim committees and gender advisers to the State Governor (OHCHR, 2016: 14). In 2006, the government reported that the unit was preparing a guide for clinical treatment of rape cases, however there is no recent information on whether this has been finalised or not (Global Database on Violence against Women, 2010). There is also no further information on the current state of training of physicians and other medical staff. The Director-General of the police issued a decree to ensure that medical services are free for women and children who are victims of violence, however it is unclear if this remains the case to date (Global Database on Violence against Women, 2010). The Special Rapporteur for Violence Against Women reported in 2016 that health and counselling services for women victims of violence are almost non-existent. She also argues that the few facilities that do exist “are in poor condition, lack needed medical supplies and suitable health professionals, including staff trained in addressing violence against women” (OHCHR, 2016: 18).

The Special Rapporteur on Violence Against Women reported that officials at the highest levels, including from units specifically set up to combat violence against women, deny the existence of any manifestations of violence against women in the Sudan, except for Darfur (OHCHR, 2016: 17). In recent years of major, the government expelled numerous humanitarian organizations from Sudan, leaving survivors of sexual violence cut off from medical and psychosocial care they made available (The International Campaign to Stop Rape and Gender Violence in Conflict, 2013: 13).

Violence against women in Sudan should be understood in the context of serious attacks committed by Government forces against civilians, including widespread killings, rape, and destruction of property, in the conflicts in Darfur, South Kordofan, Blue Nile state and Nuba Mountains (Human Rights Watch, 2016). In fact, ongoing conflict and the humanitarian crisis, the particular vulnerability faced by persons displaced by conflict and drought, have further exposed women to violence (OHCHR, 2016: 9). Rape and sexual violence are used as a weapon of war against civilian women and girls by all sides in the conflict (OHCHR, 2016: 9).

b) Domestic violence

Domestic violence is not a criminal offense or addressed in the legal framework. There is no separate prohibition of marital rape in the 2015 Amended Criminal Act of 2015. However, the removal of reference to adultery in the definition of the crime also means that it should now be possible to prosecute marital rape under Article 149.1 (African Centre for Justice and Peace Studies, 2016). There is however no information if this has since happened and will in the future be interpreted in such a way. In addition, violence against women is largely viewed as a private matter which should be resolved within the family (OHCHR, 2010: 6), making it unlikely for women to seek legal redress. In 2016, the Special Rapporteur on Violence Against Women reported that domestic violence is “widespread, pervasive and remains largely invisible, due to the absence of reporting mechanisms and statistics as well as a lack of adequate policies and programmes” (OHCHR, 2010: 6).

There appears to be lack of access to assistance on all levels of society; whether from family, friends, neighbours or State authorities. Women have limited ability to seek redress from the police and the courts, including seeking a divorce, legal assistance or State-sponsored legal aid (OHCHR, 2010: 6).

High levels of inequality, underdevelopment and poverty may exacerbate both women's and girls' vulnerability and also their access to effective remedies. Reports suggest that a culture of impunity exist throughout the country and that victims are silenced (OHCHR, 2016: 6).

c) Rape

The 2015 amendments to Article 149 on rape of the 1991 Criminal Act provides a more expansive definition of rape as sexual contact by way of penetrating any part of the body or any object into the vagina or anus of the victim, including penetration by an object. However, the definition may remain too narrow to address some forms of rape, such as oral rape.

The new legislation elaborates and expands on the circumstances where a lack of consent may be demonstrated, including use of physical force and psychological coercion and incapacity to consent. However, human rights activists fear that this list may not cover all rape cases (African Centre for Justice and Peace Studies, 2016: 2). Activists also argue that there is a lack of clarity about the age of consent as the definition of an adult under the 1991 Criminal Act, which refers to puberty, is different from the 2010 Child Act definition, which sets out that a child is any person who is not above the age of eighteen years (African Centre for Justice and Peace Studies, 2016). The penalty for rape makes no provision for aggravating or mitigating factors to be taken into consideration such as abuse of office or torture (African Centre for Justice and Peace Studies, 2016: 2).

The new provision set out in the new Article 149 (1) no longer defines rape as a form of adultery (*zina*) or sodomy, nor does the definition refer to adultery or sodomy, removing the risk that rape complainants are prosecuted for those crimes if they fail to prove a lack of consent. However, the African Centre for Justice and Peace Studies, warn that up to date no legal guidance has been issued and there remains a risk that rape complainants could be prosecuted for adultery or sodomy if they fail to prove a rape case (2016: 1).

The new definition of rape might also result in less restrictive evidentiary rules being applied and other types of evidence may be admitted, subject to the discretion of a judge (African Centre for Justice and Peace Studies, 2016: 1). However, no Amendments have been made to the 1994 Evidence Act, whereby in instances of rape, four male witnesses are required to testify (Article 62), and pregnancy is often considered evidence for having committed *Zina*. Consequently the amendments are insufficient to dissociate the crimes in terms of punishment and victims are still at risk of being sentenced to corporal punishment (SIHA and ACPJ, 2015).

However, in contrast, Sections 52(a) and 91-95 of the Muslim Personal Law Act (1991) state that a wife has to obey her husband, including sexual demands, irrespective of consent. An official record of the legislative amendments has not been published on the Sudanese Ministry of Justice website (African Centre for Justice and Peace Studies, 2016: 1).

Sexual violence and rape in the Sudan is more prevalent in conflict areas (OHCHR, 2010: 6, 7). Victims of rape face challenges in reporting cases to the police. Participate in prosecutions could lead not only to shame and stigmatization but also to suspicion of adultery by the family and community. This is reinforced by the previous article 149 of the Criminal Act, under which women could be criminalized for adultery and risked being sentenced to death (OHCHR, 2010: 6, 7). The

Special Rapporteur on Violence Against Women reports that the “inaccessibility of police stations in remote areas, the lack of responsiveness by the police and the lack of access to health care and psychological support” further contributes to a distrust of the system and very few women reporting cases of sexual violence (OHCHR, 2010: 6, 7).

d) Sexual harassment

An amendment to Article 151 on gross indecency introduced a new offence of sexual harassment by virtue of a new Article 151.3 (OHCHR, 2016: 16). The African Centre for Peace and Justice criticised the provision for being “unclear in its scope and meaning and failing to clearly prohibit acts, behaviour or speech that constitute sexual harassment, such as inappropriate touching. Instead, the new provision refers to an act, speech or behaviour that causes seduction or temptation for another person to engage in illegal sex, or to commit indecent or inappropriate behaviour of a sexual nature” (2016). This puts the focus of the prohibition onto the action or behaviour of the victim, outlining temptation and invitation to sexual harassment as an element of the crime, punishable by lashing (SIHA and ACJPS, 2015).

There are allegations about targeted harassment of women from minority ethnic groups, including Darfuri and Nuba women (OHCHR 2016, p.9).

e) Female genital mutilation

The Interim National Constitution (2005) argues that the State shall combat harmful customs and traditions which undermine the dignity and the status of women (Article 32.3), however does not specify FGM/C as a harmful practice. The 2003 Penal Code argues that: “Whoever makes or causes female circumcision to be done commits an offence and shall on conviction, be punished with imprisonment for a term not exceeding ten years or with fine, or with both” (Section 284.a). The existing national laws criminalise the performance of all types of FGM/C except type 1 (*Sunna*) (The Girl Generation, 2016). In 2008, the practice was included in Criminal Law, including National Public Health Law of 2007, but the sections banning FGM/C were deleted by Parliament before it passed both pieces of legislation (The Girl Generation, 2016). In 2010 an article banning the practice dropped from the Child Act (2010) (The Girl Generation, 2016). However, reportedly, at the moment preparation of a federal law by the Ministry of Health, in cooperation with the United Nations Children’s Fund (UNICEF) is under way to prohibit the practice throughout the country (OHCHR, 2016: 14). In 2009, Gedaref passed a law banning FGM/C (OHCHR, 2016: 14; The Girl Generation, 2016). In November 2008 the government of Southern Kordofan passed the first state-level legislation banning the practice of FGM/C and making its promotion illegal (OHCHR, 2016: 14; The Girl Generation, 2016).

FGM/C abandonment has been included in a number of national policies and including the Government’s Population Policy (2002) and The Medical Council Resolution No. 366 (2003) prohibiting doctors from practising any form of FGM/C (The Girl Generation, 2016). In 2008, the National Strategy on the Abandonment of FGM/C was extended for 2008-2018 (UNICEF, 2016, p.1). In 2013, the Sudan Free of FGM/C programme was launched and the National Council on Child

Welfare started coordinating a national task force and initiative, *Saleema*, aimed at changing the social norms associated with uncut girls (UNICEF, 2016: 1).

Despite these interventions, Sudan is one of the countries where the practice of FGM/C is most widespread (UNICEF, 2016: 1). Women who are not circumcised are reported to be pressured to undergo the practice before marriage (OHCHR, 2016).

f) Abortion

The 2003 Penal Code refers to abortion as miscarriage (Article 262-267). The text indicates that “Whoever voluntarily causes a woman with child to miscarry, shall, if such causing miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment for a term not exceeding three years” (Article 262). The 2015 Criminal Act makes reference to the right to an abortion if pregnancy results as a consequence of rape (Article 135; OHCHR, 2010: 16). The Health Policy (2007) does not mention abortion or miscarriage.

The Penal Code (2003) reads that a women deciding on an abortion can be imprisoned for up to seven years and may also be liable to fine (Article 262). However, if an abortion is performed by an unmarried pregnant woman in order to avoid shame, she shall be punished with imprisonment up to three years or with fine or with both (Article 262). Whoever with intent to cause the miscarriage of a woman with child does any act which caused the death of such woman can be imprisoned for up to ten years and when the abortion is performed without the consent of the woman, the imprisonment may be for life (Article 264).

Pregnancy before marriage carries high social stigma for women and her family in Sudan. As a result of the strict legal framework around abortion, women turn to traditional herbal healers or illiterate traditional midwives, resulting in significant morbidity and mortality. Post-abortion care is not easily accessible. (Kinaro et al., 2009). The Government of the Sudan provides direct access to modern methods of family planning since 1965. The Sudan Family Planning Association and the Sudan Fertility Control Association provide family planning services throughout the country. Family planning services are provided free of charge, and there are no legal restrictions on the importation of contraceptives. Mid-level providers are not allowed to provide post-abortion care or prescribe contraception (Kinaro et al., 2009). However, the level of contraceptive use is low (UNICEF, 2006).

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The Human Trafficking Act, enacted in January 2014 and adopted in March 2015, adopts the definition of trafficking as outlined in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (OHCHR, 2016: 14). Sudan is a transit and destination country for human trafficking. Since 2011, there has been a significant increase in the number of asylum seekers and refugees who have been trafficked into slavery and slavery-like situations after crossing the border to seek asylum or secondary migration to the Middle East and Europe. A national committee to combat trafficking in persons has been set up in Kassala State and a special prosecutor investigates crimes of human trafficking in Eastern Sudan. The Government is involved in the

implementation of the Joint UNHCR-IOM Strategy to Address Trafficking, Smuggling and Kidnapping of Persons in Sudan, particularly in the areas of investigation and criminal prosecution of such cases (OHCHR, 2016: 15).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

Land legislation has not been introduced and existing legislation has not been amended or unified to implement the rights granted to women in the Interim National Constitution of 2005 (FAO, 2008; The World Bank and Trust Law Connect, 2013: 2). Customary, communal types of tenure and law, rooted in patriarchy, are practiced throughout the Sudan (FAO 2008), especially in rural areas land issues. Regardless of who lives on or contributes to working the land, it is generally owned and controlled by the male head of household (The World Bank and Trust Law Connect 2013, p.4). Sudan has not ratified the ILO Convention 169, the Indigenous and Tribal Peoples Convention of 1989 (International Labour Organization, 2017). In dealing family matters, the State has transferred the legal role to its Islamic, Christian, and traditional communities.

Muslim women acquire indirect access to land through their husbands or male family members, with the derived rights being weaker than primary male rights (FAO, 2008). In case of divorce, women lose everything, including land and other properties. When the husband dies, the widow is inherited by her husband's family/clan members and retains the user's rights. If she decides to leave her deceased husband's clan, she is no longer allowed access to the land. Family members, such as brothers or children, can sell family land and property without the woman's consent or informing her of the action (FAO, 2008).

Article 43.1 of the Interim National Constitution states that "every citizen shall have the right to acquire or own property as regulated by law". The Article does not mention women's equal right to own property is not explicitly.

b) Secure access to formal financial resources

According to the Interim National Constitution of the Republic of Sudan (2005) "the equal rights of men and women to the enjoyment of all civil and political rights and all social, cultural and economic rights, including the right of equal pay for equal work, shall be ensured"(Article 32). The Interim National Constitution therefore assures women the same rights as men to open a bank account and access to credit (International Bank for Reconstruction and Development and The World Bank 2016). The Government's Women's Empowerment Policy (2007), however states that women may face challenges in obtaining assets and credit.

c) Workplace rights

Sudan has not ratified ILO Conventions 156, 183 and 189 on Workers with Family Responsibilities, Revision of Maternity Protection and Domestic Workers (International Labour Organization, 2017).

The right to equal pay is enshrined in the Interim National Constitution (2005: Article 32.1). However, the law does not mandate non-discrimination on the basis of sex in employment. Under the Labour Code (1997) women are prohibited to work “in occupations which are hazardous, arduous or harmful to their health, such as carrying weights or assigning women to perform jobs under ground or under water or jobs which may expose them to poisonous material or to temperatures exceeding the normal limits borne by” (Article 19). Women also face further restrictions in the hours they can work as they are not allowed to work between 10pm and 6am with the exception of women in administrative, professional, technical work or health services (Article 20). Under the Muslim Personal Law Act (1991) married Muslim women can be denied the right to work outside the home by their husbands (Article 75.d).

The Interim National Constitution (2005) stipulates that “The State shall provide maternity and child care and medical care for pregnant women (Article 32.4)”. Women have further legal rights to paid maternity leave under the Labour Code (Article 46). The entitlement is 8 weeks to be paid at full salary (Article 46.1). The Labour Code also protects women’s employment rights and security when on maternity leave (Article 46.2), but does not prohibit the employer to ask about a woman’s pregnancy or her intention to have children during the recruitment or promotion process. The Labour Code does not allow for paid paternity leave or parental leave.

4. Restricted Civil liberties

a) Citizenship rights

The Interim National Constitution (2005) states that “citizenship shall be the basis for equal rights and duties for all Sudanese” (Article 7.1) and “every person born to a Sudanese mother or father shall have a non-alienable right to enjoy Sudanese nationality and citizenship” (Article 7.2). However, the 1994 Nationality Act, amended in 2011 has not been modified to reflect this and still guarantees only children born to a Sudanese father the right to nationality by birth (Article 4.1.B). As a result, Sudanese mothers, unlike fathers, have to go through the process of expressly applying for citizenship for their children (Equality Now, 2016). Under article 15 of the Nationality Act, if a father’s nationality changes, his children may cease to be citizens without consideration of the mother’s nationality if the minor is or was the national of any other country (Equality Now, 2016). In addition, under the Nationality Act married women cannot pass their nationality to foreign spouses on an equal basis with married men (Article 8).

The Interim Constitution of Sudan (2005) grants every citizen the right to freedom of movement and the liberty to choose his/her residence (Article 42.1). Every citizen has the right to leave the country as shall be regulated by law and shall have the right of return (42.2). The Passport and Immigration Act (1994) stipulated that women needed the written approval of their male guardian (husband, father, brother) in order to travel (Tønnessen and Kjøstvedt, 2010: 6), however, the 2003 amendment to the Act removed this discriminatory article.

The Child Act (2010) argues that “a Child born outside the framework of marriage shall have the right to registration in the Birth Registers, affiliated to whoever of his parents admits his affiliation or any other name in case of their denial (Article 5.2.g). The Child Act also provides for free birth registration. In reality, reportedly, the cost of birth registration services is beyond the means of many families (Committee on the Rights of the Child, 2010: 16). The Committee also reports inadequate birth registration facilities and a general lack of awareness among the public of the importance of birth registration (2010: 17). As a consequence many children are not registered at birth, leaving children vulnerable to abuse and exploitation and at risk of being denied access to important social services such as health care and educational opportunities (UNICEF, 2009). In addition, this may make it specifically difficult for Children who have become separated from their families in conflict to be reunited with their parents (UNICEF, 2009). A Universal Birth Registration Task Force which was established by a Ministerial decree from the Ministry of Interior and the Sudan Police Force. The Task Force is looking at ways to access hard-to-reach communities and ways to integrate birth registration systems with other services such as healthcare and education to increase the reach and effectiveness of registration processes (UNICEF, 2009).

b) Voting

The Interim National Constitution (2005), guarantees women and men equal entitlement to all civil, political, economic, social, and cultural rights (Article 32). Article 41.1 and 41.2. grant women the same rights as men to vote (Interim National Constitution, 2005). There is no information about discriminations against women’s rights to vote.

c) Political voice

Women and men have the same rights to stand for election and hold political office (Interim National Constitution, 2005). The Interim National Constitution (2005) and the Elections Act (2008) mandated 25% representation of women in parliament, which with the adoption of the Electoral Law in 2014 was raised to 30 per cent (International Bank for Reconstruction and Development and The World Bank, 2016: 11). The 2014 Electoral Law has not yet been uploaded to the Republic of Sudan, National Election Commission website. There are no quotas at the sub-national level (International Bank for Reconstruction and Development and The World Bank, 2016: 11). Due to lack of information, it is unclear if actual representation exceeds the 30 per cent quota (OHCHR, 2016: 13). Women’s groups which are not affiliated with the ruling Islamist party are still at a disadvantage with respect to those with power and control (Tønnessen and Kjølsvædt, 2010).

The Interim National Constitution (2005) reads that “the State shall promote woman rights through affirmative Action” (Article 31.2). The Sudanese Women Parliamentarians Caucus was established in April 2007 and is open to all female parliamentarians in the legislature. All female members of parliament participate in the Caucus but not all parties are represented. The objectives of the Caucus are to strengthen cooperation between female parliamentarians and increase their capacity to work in parliament. The Caucus is to a certain extent employed to handle political issues, reviewing the budget to ensure sensitivity to gender issues and travelling in Sudan to encourage women to vote and put themselves forward as candidates (Tønnessen and Kjølsvædt, 2010: 15).

The Special Rapporteur on Violence Against Women reported that people belonging to political opposition groups, civil society organizations and students and who demanded democratic reforms have resulted in violent and authoritarian action, including arrests and detention by the security forces (OHCHR, 2016: 16).

d) Access to justice

The Interim Constitution Sudan (2005) guarantees that women and men are equal before the law and “are entitled without discrimination, as to race, colour, sex, language, religious creed, political opinion, or ethnic origin, to the equal protection of the law” (Article 31).” Article 34 further guarantees men and women similar rights in civil and criminal proceedings. In addition, the application of traditional customs and a law based on religion that forms part of the legal system and is applied in formal courts, results in sentences that are sometimes not in conformity with international human rights standards (OHCHR, 2016: 18).

Although women in theory enjoy the right to lay charges, social stigma and cultural norms surrounding violence against women have led to significant underreporting of incidents, particularly cases of domestic violence (OHCHR, 2016: 5). Legislation provides impunity for State authorities for criminal acts (OHCHR, 2016: 18). There is no information about assistance and other support for victims, such as shelters and counselling, further making it difficult for women to access justice (OHCHR, 2016: 18). There is a lack of knowledge about relevant laws, resulting in the ineffective implementation of such laws (OHCHR, 2016: 5). Legal aid is minimally available through a restricted number of civil society (OHCHR, 2016: 18).

Cases are rare and difficult to bring before a court, due to factors relating to the justice system, (OHCHR, 2016: 6). Prolonged conflict has left the country with a non-functioning and ineffective formal justice system, in particular in regions that continue to be affected by instability (OHCHR, 2016: 5). The Special Rapporteur on Violence Against Women reported that outside large cities for many access to the formal justice system is a challenge not only because of geographical distance, but also due to security concerns (OHCHR, 2016: 5).

Sources

African Centre for Justice and Peace Studies (2016), Sudan's new law on rape and sexual harassment One step forward, two steps back?, www.acjps.org/wp-content/uploads/2016/03/Sudan%E2%80%99s-new-law-on-rape-and-sexual-harassment-One-step-forward-two-steps-back_-.pdf

Amnesty International (2014), Sudan: Meriam Ibrahim's release welcomed, <https://www.amnesty.org.uk/press-releases/sudan-meriam-ibrahims-release-welcomed>

Committee of the Rights of the Child (2010), Consideration of reports submitted by States parties under article 44 of the Convention, <http://www.refworld.org/pdfid/4cdcfde12.pdf>

Equality Now (2017), The Muslim Personal Law Act, 1991, <https://www.equalitynow.org/content/muslim-personal-law-act-sudan-1991>

(2016), The State We're In: Ending Sexism in Nationality Laws, https://www.equalitynow.org/sites/default/files/NationalityReport_EN.pdf,

(2015), Sudan Country Profile, www.equalitynow.org/member_news_april_2015

Girl Generation (2016), Sudan Country Profile, www.thegirlgeneration.org/regions/sudan

Girls Not Brides (2016), Sudan Country Profile, www.girlsnotbrides.org/child-marriage/sudan/

Global Database on Violence against Women (2010), Sudan Country Profile, <http://evaw-global-database.unwomen.org/en/countries#S>

FAO (2008) www.fao.org/gender-landrights-database/country-profiles/countries-list/customary-law/en/?country_iso3=SDN

Human Rights Watch (2016), Sudan Events of 2015, www.hrw.org/world-report/2016/country-chapters/sudan

Human Rights Watch (2008), Five Years On No Justice for Sexual Violence in Darfur, www.hrw.org/report/2008/04/06/five-years/no-justice-sexual-violence-darfur

International Bank for Reconstruction and Development / The World Bank (2016), Women, Business and the Law 2016, http://wbl.worldbank.org/~/_media/WBG/WBL/Documents/Reports/2016/Women-Business-and-the-Law-2016.pdf

International Labour Organization (2017) Up-to-date Conventions and Protocols not ratified by Sudan, http://www.ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210:P11210_COUNTRY_ID:103176

International Labour Organization (2017), Ratifications for Sudan, http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103176

Kinaraa, Alib, Schlangenc, an Mackd (2009), Unsafe abortion and abortion care in Khartoum, Sudan, Reproductive Health Matters, Volume 17: 34, Pages 71-77
www.sciencedirect.com/science/article/pii/S0968808009344766 (accessed 06 December 2017)

Nobel Women's Initiative and the International Campaign to Stop Rape and Gender Violence in Conflict (2013), Survivors Speak Out: Sexual Violence in Sudan , http://d3n8a8pro7vhmx.cloudfront.net/stoprapeinconflict/pages/292/attachments/original/1386282207/Survivors-Speak-Out-Sudan_web.pdf?1386282207

OHCHR (2016), Report of the Special Rapporteur on violence against women, its causes and consequences on her mission to the Sudan, <http://reliefweb.int/sites/reliefweb.int/files/resources/G1607916.pdf> (accessed 06 December 2017)

The Republic of Sudan (2011), The Sudanese Nationality Act 1994 and Sudanese Nationality Act (Amendment) 2011, <http://www.refworld.org/pdfid/502cc1b92.pdf>

The Republic of Sudan (2010) The Child Act, http://www.africanchildforum.org/clr/Legislation%20Per%20Country/Sudan/sudan_children_2010_en.pdf

The Republic of Sudan (2008), The National Election Act, <http://nec.org.sd/en/electoral-law/legislation/>

The Republic of Sudan (2005), Comprehensive Peace Agreement, <http://www.icnl.org/research/library/files/Sudan/SummaryCPA.pdf>

The Republic of Sudan (2005), Interim National Constitution of the Republic of the Sudan, Government of Sudan, www.refworld.org/pdfid/4ba749762.pdf

The Republic of Sudan (2003), Passport and Immigration Act, https://www.justice.gov/sites/default/files/eoir/legacy/2013/11/08/passport_immigration.pdf

The Republic of Sudan (2003), Penal Code, <http://www.refworld.org/docid/469e1f0a2.html> (accessed 06 December 2017)

The Republic of Sudan (1997), Labour Code, <http://www.ilo.org/dyn/natlex/docs/webtext/49122/65103/e97sdn01.htm>

The Republic of Sudan (1994), Evidence Act, <http://www.pclrs.com/downloads/bills/Miscellaneous/Evidence%20Act%20Arabic.pdf>

The Republic of Sudan (1991) Criminal Act,

<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/80450/118284/F-1325877900/SDN80450%20Eng.pdf>

The Republic of Sudan (1991) Muslim Personal Law Act, <http://www.pclrs.com/1405muslim-personal-status-law-1991.pdf>

Salah (2015), Amendments to Sudanese criminal law, www.opendemocracy.net/north-africa-west-asia/walaa-salah/new-amendments-to-sudanese-criminal-law

Strategic Initiative for Women in the Horn of Africa (SIHA) (2009), Beyond Trousers: The Public Order Regime and the Human Rights of Women and Girls in Sudan, www.sihanet.org/wp-content/uploads/2017/07/Beyond-Trousers-English-and-French-compressed.pdf (06 December 2017).

SIHA and ACJP (2015), The Strategic Initiative for Women in the Horn of Africa (SIHA) and ACJPS present statement to the 57th session of the African Commission on Human and Peoples' Rights, <http://www.acjps.org/the-strategic-initiative-for-women-in-the-horn-of-africa-siha-and-acjps-present-statement-to-the-57th-session-of-the-african-commission-on-human-and-peoples-rights/>

Tønnessen (2008), Gendered Citizenship in Sudan: Competing Debates on Family Laws among Northern and Southern Elites in Khartoum, *Journal of North African Studies*, Vol. 13: 4, pp. 455-469 www.cmi.no/publications/3161-gendered-citizenship-in-sudan

Tønnessen and Kjølsvedt (2010), The Politics Of Women's Representation In Sudan, www.eldis.org/vfile/upload/1/document/1112/3643-the-politics-of-womens-representation-in-sudan.pdf

Tønnessen and Roald (2007), Discrimination in the Name of Religious Freedom: The Rights of Women and Non-Muslims after the Comprehensive Peace Agreement in Sudan, www.cmi.no/publications/file/2704-discrimination-in-the-name-of-religious-freedom.pdf

UN (n.d.), Sudan Abortion Policy, www.un.org/esa/population/publications/abortion/doc/sudan.doc (06 December 2017).

UNICEF (2016), Female Genital Mutilation/Cutting (Fgm/C) And Child Marriage In Sudan – Are There Any Changes Taking Place? An In-Depth Analysis Using Multiple Indicators Cluster Surveys (Mics) Sudan Household Health Sureveys (SHHS) www.unicef.org/sudan/MICS_Secondary_Analysis_FGMC_CM_English_Version_FINAL_FINAL.pdf

UN Women (2016), Sudan Country Profile, <http://africa.unwomen.org/en/where-we-are/eastern-and-southern-africa/sudan>

World Bank and Trust Law Connect (2013), Women And Land Rights: Legal Barriers Impede Women's Access To Resources, www.trust.org/contentAsset/raw-data/1440891e-13ac-434a-bc73-9264e9aabbbf/file, accessed 06 December 2017).

Women on Waves (n.d.), Abortion law Sudan, www.womenonwaves.org/en/page/5025/abortion-law-sudan

Women Living Under Muslim Laws (2015), Sudan's Revised Penal Code: A Mixed Picture for Women, http://www.wluml.org/sites/wluml.org/files/Sudans_Revised_Penal_Code_Mixed_Picture_WLUML_2015_0.pdf