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8 December 2020

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Sudan: Situation and treatment of single women in Sudan, including their ability to live on their own and access housing, income, and support services (2017–August 2020)

Research Directorate, Immigration and Refugee Board of Canada

1. Situation and Treatment of Single Women in Sudan

Information on the situation and treatment of single women in Sudan, including their ability to live on their own, was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

A UN report on household sizes and composition indicates that in Sudan, according to 2008 data, the average household size was 5.6 persons; 5 percent of households were comprised of one person, 27 percent of households were headed by women and 61 percent of female heads of household were "lone parent[s] with children under age 15" (UN 2017, 14). The UNDP cites the UN's Statistics Division as reporting that between 2003 and 2018, 34 percent of Sudanese women between the ages of 20 and 24 "were first married or in union before age 18" (UN [2019]a). Citing the UN, Reuters reports that "[o]ne in four women are married before 18, while nine out of 10 have undergone female genital mutilation (FGM)," adding that there are "few laws to protect women and girls" (Reuters 19 Sept. 2019).

Sources state that unmarried women are stigmatized as "*agir*" (infertile) or "*bayra*" ("not demanded for marriage") (CNN 21 June 2018; CMI Sept. 2017, 8). Sources also report that violence against women is prevalent in Sudan (US 11 Mar. 2020, 35; Freedom House 4 Mar. 2020). Based on her visit to Sudan from 13 to 24 May 2015, the UN Special Rapporteur on violence against women states that "single women, divorced women, women in polygynous marriages and displaced women who live on their own, are more vulnerable to violence, due to the perception that they are violating traditional and religious norms" (UN 18 Apr. 2016, para. 1, 91).

1.1 Legislation

1.1.1 The Khartoum Public Order Act of 1998 (Public Order Law)

Media sources state that in November 2019, Sudanese transitional authorities [1] repealed a public order law that had been used to regulate women's behaviour (Reuters 28 Nov. 2019; BBC 29 Nov. 2019; Freedom House 4 Mar. 2020). However, in December 2019, Agence France-Presse (AFP) reported that while the transitional cabinet, led by Prime Minister Abdalla Hamdok, "scrapped the law ... the ruling sovereign council has yet to ratify the move" (AFP 26 Dec. 2019).

Sources explain that the public order law has been used to restrict dress, personal association, income options for women (Reuters 28 Nov. 2019; BBC 29 Nov. 2019), and movement (Reuters 28 Nov. 2019). Those found breaking the law faced punishments including flogging (Reuters 28 Nov. 2019; SIHA and REDRESS Nov. 2017, 9; VOA 27 Nov. 2019), fines and imprisonment (SIHA and REDRESS Nov. 2017, 9; VOA 27 Nov. 2019). The Associated Press (AP), citing an associate Africa director of Human Rights Watch (HRW), reports that "[p]ublic order laws imposed an Islamic dress code on women and restricted their ability to move freely" and, for unmarried women, their ability to associate with male colleagues (AP 19 Sept. 2019). A report on laws targeting women in Sudan by the Strategic Initiative for Women in the Horn of Africa (SIHA) [2] and the Redress Trust (REDRESS) [3] states that "[t]he often exorbitant fines [of the public order law] levied on vulnerable women add a burden to their already precarious situations. In addition, their ability to generate income is curtailed as soon as they are arrested. This especially affects single women and their children" (SIHA and REDRESS Nov. 2017, 43).

1.1.2 Criminal Law

An article by Ayin Network, a Sudan-based online news publication (Ayin Network n.d.), indicates that some Sudanese women activists believe other laws still in force are "worse" than the repealed public order law and quotes Winnie Omer [Wini Nawal Omer] [4] as stating that "[t]he real problem is [that under] the Sudanese criminal law, women were arrested under articles like 152 (indecent dress), [and] 154 (practising prostitution)" (Ayin

Network [Dec. 2019]). Freedom House similarly states that while the public order laws were repealed in November 2019, "related criminal code statutes remained in force" (Freedom House 4 Mar. 2020). Articles 152 and 154 of the Criminal Law Act 1991, translated by REDRESS, provide the following:

Article 152 Indecent and immoral acts

1. Whoever commits, in a public place, an act, or conducts himself in an indecent manner, or a manner contrary to public morality, or wears an indecent, or immoral dress, which causes annoyance to public feelings, shall be punished, with flogging, not exceeding forty lashes, or with fine, or with both.
2. The act shall be deemed contrary to public morality, if it is so considered in the religion of the doer, or the custom of the country where the act occurs.

...

Article 154 Prostitution

1. There shall be deemed to commit the offence of practising prostitution, whoever is found in a place of prostitution so that it is likely that he may exercise sexual acts, or earn therefrom, and shall be punished, with flogging, not exceeding hundred lashes, or with imprisonment, for a term, not exceeding three years.
2. Place of prostitution means any place designated for the meeting of men, or women, or men and women between whom there are no marital relationship, or kinship, in circumstances in which the exercise of sexual acts is probable to occur. (REDRESS July 2020, 7–9)

Sources report that in July 2020, Sudan approved amendments to its criminal law (Al Jazeera 12 July 2020; DW 14 July 2020) or penal code (US 23 July 2020) or a number of pieces of legislation, including the Criminal Law of 1991, the Criminal Procedure Law of 1991 and the Passports and Immigration Law of 2015 (Civil Society Statement 14 Aug. 2020). HRW quotes Nasredeem Abdulbari, Sudan's Justice Minister, as indicating that the amendments "aim to bring Sudan's law in line with the constitutional declaration that established the country's transitional government a year ago, and which guarantees basic rights and freedoms" (HRW 16 July 2020). A complete English translation of the July 2020 amendments could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Sources state that one of the amendments removes a requirement for women travelling [alone (Ayin Network [Aug. 2020])] with their children to get permission from a male guardian (HRW 16 July 2020; Al Jazeera 12 July 2020; Ayin Network [Aug. 2020]). In contrast, an August 2020 joint statement by 29 civil society organizations, including SIHA, is critical of the July 2020 amendments and states that the information

circulating on news media and social media platforms about allowing mothers to travel with their children without the need for permission from the father/the guardian are false. The amendment that was approved is the abolition of Article 12 of the 2015 Passports and Immigration Law, including section 3.E, which stipulates that an exit visa shall not be

granted to a child who has not attained the age of 18 without the consent of the guardian. This means that if a mother wishes to travel with her child or children, she must obtain the permission of the male guardian. ... Articles 119-1 [and] 120-2 of the 1991 Personal Status Law ... [still stipulate] that the custodian and child-guardian are not allowed a passport without the permission of their "male guardian." (Civil Society Statement 14 Aug. 2020)

Deutsche Welle (DW), a Germany-based international media outlet (DW n.d.), reports that the amendment requires both the mother and father to authorize travel if only one of them is travelling with their children; previously, the mother required authorization from the father, but the reverse was not true, which "made life particularly difficult for divorced women" (DW 14 July 2020).

A translation of the July 2020 amendments and summary of the changes by REDRESS indicates the following:

Article 152 [was] repealed and replaced with:

Obscene acts:

"Anyone who commits an act of a sexual nature in a public place or issues signals with sexual meanings that cause harassment of the public's feeling or public modesty, shall be punished with imprisonment for a period not exceeding six months, or with a fine or with both penalties."

...

Article 154 ... [was] [d]eleted and replaced with:

1. "A perpetrator of the crime of prostitution is a person who is in a place of prostitution, with the intention of providing a service of a sexual nature to another with or without compensation, with no legal relationship between them, and he shall be punished by imprisonment for a period not exceeding three years.
2. The place of prostitution means any place intended to engage in prostitution or the one whose convictions have been previously convicted or whose complaints have been repeated to the competent authorities".
(REDRESS July 2020, 7, 9)

Al Jazeera quotes Minister Abdulbari as stating that "[a]ll these changes are aiming at achieving equality in front of the laws. We have dropped all the articles that had led to any kind of discrimination" (Al Jazeera 12 July 2020). The joint statement by 29 civil society organizations explains that

although [the amended Article 152] removed the phrase (disguised in an indecent dress), [it] still allows policemen to assess the nature of the disobedient act or statement, which allows for the continued interference in personal freedoms by policemen who have the right to assess the matter according to what they deem to be a breach of modesty, without the protections of an objective standard.

...

In Article 154 ... to include sexual relations undertaken 'free of charge' within the definition of prostitution unduly and recklessly broadens the concept paving the way for criminalization of women's engagement in consensual sex acts, and possibly also criminalizing women who are survivors of rape. As for the description of the place of prostitution, the article states that it is any place 'prepared for prostitution,' without specification of how a place might be prepared for prostitution, thereby infinitely expanding the circle of criminalization, subjecting women and men to criminalization in all locations. This adds to the police's already unchecked discretionary authority, which opens the way for malicious reports and the violation of the privacy of Sudanese homes and the humiliation of Sudanese [men and] women, especially through the humiliating method of arrest. (Civil Society Statement 14 Aug. 2020)

2. Access to Income

Article 48(2) of the draft Constitutional Charter for the Transitional Period of 2019, as translated by International Institute for Democracy and Electoral Assistance (International IDEA), an intergovernmental organization supporting democracy worldwide (International IDEA n.d.), provides that [translation] "[t]he state shall guarantee to both men and women the equal right to enjoy all civil, political, social, cultural, and economic rights, including the right to equal pay for equal work, and other professional benefits" (Sudan 2019).

The UN cites International Labour Organization (ILO) statistics as indicating that in Sudan in 2018, women made up 16.8 percent of the share of "employment in the nonagricultural sector, which comprises industry and services activities" (UN [2019]b). A December 2017 report on child marriage in Alqadaref State in eastern Sudan by the Chr. Michelsen Institute (CMI), a Norway-based development research institute (CMI n.d.a), states that in Sudan, "women's economic participation is still very low (21%) compared to men (54%)" (CMI Dec. 2017, 13). A December 2018 UNDP et al. report on laws affecting gender equality in Sudan indicates that women's economic participation is higher in urban areas than in rural areas (UN Dec. 2018, 18).

A December 2014 report by Sudan's Ministry of Environment, Forestry and Urban Development and the UN Human Settlements Program (UN-Habitat), submitted for the UN's 2016 Conference on Housing and Sustainable Urban Development, states that [i]n large cities, like Greater Khartoum, special segments in the central and local markets are reserved for women traders. They are also given access to stalls in malls, parks, at major intersections or in new schools, universities or hospitals to sell tea, refreshments and food. (Sudan and UN Dec. 2014, 14–15)

Article 20 of the 1997 Labour Code, translated by the ILO Labour Law Information Branch, provides the following:

Hours of women's employment

20.

1. It shall be forbidden to employ women between 10 p.m. and 6 a.m. except in administrative and technical jobs or in any other jobs related to health and social services.
2. In spite of the provisions of sub-section (1), the competent authority may, subject to conditions to be specified by it and after consultation with the Committee [Federal Manpower Committee], authorize the employment of women at night for purposes related to the public interest.

... (Sudan 1997, bold in original)

A journal article on working married Sudanese women by Liv Tønnessen, a research director at CMI with a specialization in Sudanese politics who has conducted "extensive" fieldwork in Sudan (CMI n.d.b), indicates, citing other sources, including SIHA, that the legal restrictions on working hours have negatively impacted women working in the informal sector selling food, since this "often" occurs at night, but that they do not "[i]n reality" restrict "urban professional women who work mainly in the public sector" (Tønnessen Summer 2019, 231).

Sources state that women primarily work in the informal sector as, for example, street food vendors (UN Dec. 2018, 18; 28 Too Many Nov. 2019, 42). A report on informal employment by the Arab NGO Network for Development (ANND), a Beirut-based organization that works in 12 Arab countries with 9 national networks and 23 NGO members, cites a 2013 Arabic-language survey by the Sudanese government as indicating that there were 14,000 female tea vendors in Khartoum and "almost half" were unmarried (ANND 26 Apr. 2017, 4, 40). A November 2019 article by the *National*, a United Arab Emirates-based English-language news publication focusing on the Middle East (*The National* n.d.), reports that there are an estimated 30,000 "tea ladies" (women selling tea, coffee and snacks on the streets) in Khartoum, "[m]any" of whom are widows or single mothers whose husbands are dead or missing (*The National* 14 Nov. 2019). Sources indicate that "tea ladies" are "often" (*The Globe and Mail* 8 July 2019) or "constantly" (*The National* 14 Nov. 2019) harassed by police [under the al-Bashir administration (*The National* 14 Nov. 2019)]. A December 2018 article by Radio Dabanga, an independent news source that reports on "outbreaks of disease, gender-based violence, and human rights abuses," among other issues, in Sudan (Radio Dabanga n.d.), indicates that 13 tea vendors in Khartoum were detained then fined, despite having permits (Radio Dabanga 13 Dec. 2018). Without providing further details, the *National* quotes the Sudanese Information Minister as indicating that the transitional government will provide "assistance" to tea ladies as part of state policy to support "society's 'vulnerable classes'" (*The National* 14 Nov. 2019).

3. Access to Education

Information on access to education for single women was scarce among the sources consulted by the Research Directorate within the time constraints of this Response. A September 2017 CMI report on child marriage in Red Sea State, one of Sudan's "most gender conservative areas," based on 10 focus groups, 69 interviews and 300 completed surveys from Port Sudan [5] and Haya [6], indicates that over 80 percent of respondents reported that "unmarried, educated girls and women live in both Haya and Port Sudan. These girls and women have exercised their agency to succeed in education. Almost always they have been able to do this because of support[t] from their families" (CMI Sept. 2017, 7, 10–11, 49). The same report further states that unmarried women pursuing education "do this at the social cost of being stigmatized" (CMI Sept. 2017, 8). Male respondents in both urban and rural areas also shared the view that unmarried girls are stigmatized; the report notes that these research findings "suggest that communities impose a stigma on individuals and families that do not comply with prevailing norms" (CMI Sept. 2017, 31–32).

The December 2017 CMI report indicates that "unmarried women attending schools and universities in Algadaref [7] do not seem to face social sanctions or stigma concerning *bayra* ... and *agir* ... to the same extent as in the Red Sea State" (CMI Dec. 2017, 34, italics in original). Of 191 survey respondents from four villages in Central Algadaref who were asked about the consequences of delaying marriage for their daughter, the same report indicates that 56.6 percent of the women and 50.0 percent of the men responded that "[t]here is no stigma, as their daughters are educated and can work to support the family" (CMI Dec. 2017, 9, 31). A 55-year-old man in Umsinaibra village in Central Algadaref interviewed for the December 2017 CMI report stated that

"[i]n our villages, there are women who are university graduates and some with PhDs. They have different jobs in nearby towns. Some are married, and those who are not married are not stereotyped, as they succeeded in promoting the social and economic status of their families." (CMI Dec. 2017, 31)

4. Access to Housing

AP cites the HRW Associate Africa Director as indicating that family and inheritance laws "'clearly discriminate against women, limiting their ability to inherit property equally'" (AP 19 Sept. 2019). The December 2018 UNDP et al. report states that according to the Personal Status Law, "inheritance is subject to the provisions of Islamic law (*Sharia*), in which women have a right to an inheritance, but receive half the share that an equivalent male heir receives" (UN Dec. 2018, 17, italics in original).

Sources report that both formal and customary law, [including Islamic law (Bertelsmann Stiftung 2020, 18)], regulate property rights (Bertelsmann Stiftung 2020, 18; UN n.d.). *Bertelsmann Stiftung's Transformation Index (BTI) 2020*, which "assesses the transformation toward democracy and a market economy as well as the quality of

governance in 137 countries," indicates that formal law and informal regulations are applied in urban areas and customary law in rural areas (Bertelsmann Stiftung 2020, 2, 18). In its Gender and Land Rights Database, the UN's Food and Agriculture Organization (FAO) notes that the formal legal system has also traditionally served "larger rural entrepreneurs, ... foreign investors and elite groups," while "a large majority of land users" have depended on "the indigenous system of tenure based on customary rights" (UN n.d.). Sources indicate that women "[o]ften" (*Sudan Vision Daily* n.d.) only have an indirect right to land through their male relatives, according to customary law (UN n.d.; *Sudan Vision Daily* n.d.). Sources state that land [or property (UN n.d.)] can be transferred [or sold (Bertelsmann Stiftung 2020, 18)] without a women's consent (UN n.d.; Bertelsmann Stiftung 2020, 18), by her male relatives (Bertelsmann Stiftung 2020, 18).

Sources explain that the government owns "all unregistered land," [which represents 90 percent of all Sudanese land (US [2013], 4)], and [in urban areas (US [2013], 4)] makes land available through leases (UN and GLTN Aug. 2020, 22, 36; US [2013], 4). The same sources report that the government does not recognize customary land ownership (UN and GLTN Aug. 2020, 23; US [2013], 4).

Sources indicate that the Sudanese government launched the National Fund for Housing and Reconstruction (NFHR) in 2008 to build [and sell (Sudan and UN Dec. 2014, 43)] affordable housing, but construction was hampered by inadequate funding (CAHF 5 Feb. 2020, 250; Sudan and UN Dec. 2014, 43). The December 2014 report by Sudan and UN-Habitat indicates that as of 2014, the NFHR had built 7,178 units and another 2,528 units were under construction (Sudan and UN Dec. 2014, 43). The Centre for Affordable Housing Finance in Africa (CAHF), a South Africa-based independent think tank (CAHF n.d.), states that the NFHR aimed to build 150,000 affordable housing units in 15 states over five years and cites a 2018 article from a Sudanese Arabic-language news source as indicating that, according to the NFHR, 80 percent of the planned units had been built (CAHF Oct. 2018, 251). Without providing further details, the Sudan and UN-Habitat report indicates that single women, widows or female heads of households are given "special consideration" which allows these women more chances to gain access to units built by the NFHR (Sudan and UN Dec. 2014, 14). A report on land administration in Darfur by UN-Habitat and the Global Land Tool Network (GLTN), a "multisectoral alliance of international partners committed to increasing access to land and tenure security for all" (GLTN n.d.), adds the following:

Family rights are very strongly protected by the land registration and court systems, and women and children's access to land is protected through these mechanisms. There are exceptions for individuals to acquire a registered lease, such as divorced or widowed women. (UN and GLTN Aug. 2020, 49)

5. Access to Support Services

Information on national or local support services available to single women or women heads of household could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The December 2018 UNDP et al. report states the following:

The General Directorate of Women and Family Affairs [GDWFA] develops national programmes in the field of childhood and motherhood social care. In 2006, the Women's Centre for Human Rights was established as a tool for GDWFA.

In 2007, the Ministry of Interior established Family and Child Protection Units in 17 states, and there are currently 63 such units providing psychological, social, health, and legal support services for children. However, these units do not offer services to women who experience violence. (UN Dec. 2018, 12)

The US Department of State's *Country Reports on Human Rights Practices for 2019* indicates that "child friendly" family and child protection units were available in "[s]ome" police stations to provide "legal, medical and psychosocial support" for children (US 11 Mar. 2020, 37). In a June 2020 interview with Radio Dabanga, Sudan's Minister of Labour and Social Development, indicated that her ministry had coordinated with the family and child protection unit of the police to launch a hotline for reporting domestic violence; the hotline provides "psychological, social, health, and legal support" (Radio Dabanga 21 June 2020).

A report on the humanitarian situation in Sudan by the UN Office for the Coordination of Humanitarian Affairs (OCHA) indicates the following:

Women and girls lack access to quality specialized lifesaving GBV [gender-based violence] services, such as the clinical management of rape (CMR), and psycho-social support (PSS), legal aid, case management and referral mechanisms, which are unavailable in over 90 per cent of localities in Sudan. Across all Darfur states, only 14 to 21 per cent of health facilities provide CMR services. This gap in services is further exacerbated by the shortage in trained personnel and weak referral pathways. Community structures are weak with only a few localities with functioning community-based protection networks and women's centers offering GBV services. (UN Jan. 2020, 52)

US *Country Reports 2019* states that GBV programs were interrupted by "restrictions, harassment, and the threat of expulsion" under the al-Bashir government (US 11 Mar. 2020, 26). In November 2019, Voice of America (VOA), an American broadcaster funded by US Congress (VOA n.d.), reported that "[f]or the first time in three decades, Sudan has joined the international 16 Days of Activism Against Gender-Based Violence campaign sponsored in the country by the Ministry of Social Welfare, Women and Child Affairs" (VOA 27 Nov. 2019).

A May 2020 article by the UN Population Fund (UNFPA) indicates that the UNFPA launched a free GBV hotline, available in seven states in Sudan, allowing social workers to provide psychological counseling, social support and legal advice during the COVID-19

pandemic; the hotline is "expected to continue" after the pandemic (UN 20 May 2020).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] The BBC indicates that Sudan is governed by a "joint military and civilian council, as well as a civilian-led cabinet headed by Prime Minister [Abdalla] Hamdok," after peaceful protests in April 2019 ousted former President Omar al-Bashir, who ruled for nearly 30 years (BBC 29 Nov. 2019).

[2] The Strategic Initiative for Women in the Horn of Africa (SIHA) is an African women's rights organization supporting "broad coalitions of grass-root members to campaign and advocate for women['s] rights and equality" (SIHA n.d.).

[3] The REDRESS Trust (REDRESS) is a human rights organization with offices in the Netherlands and in London (REDRESS n.d.a) that "seek[s] justice and reparation for survivors of torture" (REDRESS n.d.b).

[4] The US Department of State's *Country Reports on Human Rights Practices for 2019* states that Wini Nawal Omer, a "human rights activist and journalist," was arrested with three friends in February 2018 at a private residence in Khartoum and charged with "attempting to commit an offense, possessing alcohol, and prostitution" (US 13 Mar. 2019, 6). The same source further indicates that Omer was also arrested in December 2017 for "indecent dress" when attending a "high profile public order hearing" for 24 women arrested for "indecent dress" (US 13 Mar. 2019, 6).

[5] Port Sudan is the capital of Red Sea State and has a population of around 500,000; the urban area offers access to education, health and transportation services and "receives migrants from rural areas of Red Sea State, as well as from other states, giving it a diverse ethnic composition" (CMI Sept. 2017, 9).

[6] Haya is "located in a rural setting with limited infrastructure and facilities in comparison to Port Sudan. It is one of the pastoralists' temporary settlement areas. The Hadendwa, a conservative Beja sub-tribe, is the predominant group in Haya, but a few other ethnic groups also live there" (CMI Sept. 2017, 9).

[7] Algodaref State is in eastern Sudan and is a "state with a high prevalence of child marriage compared to other parts of Sudan" (CMI Dec. 2017, 9).

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