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SUDAN

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Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people before national and international institutions. As well as having ECOSOC consultative status with the United Nations (registered name “Alliance Defending Freedom”), ADF International has accreditation with the European Commission and Parliament, and the Organization of American States. ADF International is also a participant in the FRA Fundamental Rights Platform.
2. This report outlines the continued legal restrictions on the rights to freedom of religion or belief and expression in Sudan. It notes that while progress has been made, the continued prohibition of blasphemy combined with other discriminatory legal provisions perpetuate a climate of religious discrimination in the country. Furthermore, the report details the ongoing social hostilities against Christians and other minorities.

(a) Freedom of Religion or Belief and Freedom of Expression

3. The Republic of Sudan has a population of approximately 44 million, estimated to be 97% Muslim, with a small Christian minority as well as some adherents to indigenous folk religions.¹
4. Since April 2019, Sudan has entered a period of political transition following the deposition of former President Omar Al-Bashir.² In August 2019, the Transitional Military Council (TMC) and the Forces for Freedom and Change (FFC) signed a Constitutional Declaration, establishing the Sovereign Council of Sudan as the interim government. The Declaration will remain in force until the conclusion of the 39-month transition period in November 2022.³
5. Article 56 of the Constitutional Declaration guarantees freedom of belief and worship, including the protection against compulsion ‘to convert to a religion they do not believe in or to practice rites or rituals they do not voluntarily accept.’⁴ Furthermore, Article 57 states that ‘Every citizen has the unrestricted right to freedom of expression, to receive and publish information and publications, and to access the press, without prejudice to public order, safety and morals in accordance with what is determined by law.’⁵
6. In September 2020, the transitional government formally agreed to embrace religion-state separation, ending Sudan’s 30 year Sharia law regime.⁶

¹ World Population Review ‘Sudan Population 2021’ (12 March 2021)

<<https://worldpopulationreview.com/countries/sudan-population>>.

² UN News ‘Sudan: New political transition, bolstered by peacebuilding, could bring long-term stability to Darfur, Security Council told’ (29 August 2019) <<https://news.un.org/en/story/2019/08/1044961>>.

³ 2019 Interim Constitutional Declaration of Sudan

<https://www.constituteproject.org/constitution/Sudan_2019.pdf?lang=en>, art 7.

⁴ *Ibid.*, art. 56.

⁵ *Ibid.*, art 57.

⁶ Bloomberg ‘Sudan ends 30 years of Islamic law by separating religion, state’ (6 September 2020) Gulf News <<https://gulfnews.com/world/africa/sudan-ends-30-years-of-islamic-law-by-separating-religion-state-1.1599359147751>>.

7. In July 2020, the Sovereign Council of Sudan enacted Law No. 12, which provided significant amendments to the 1991 Penal Code.⁷ These legislative changes are part of an ongoing campaign by the transitional government to ‘demolish any kind of discrimination that was enacted by the old regime and to move toward equality of citizenship and a democratic transformation.’⁸ Among these changes, the Law also ended the criminalization of apostasy and reduced the punishment for blasphemy and certain other ‘hudud’ crimes (that is, crimes under Sharia law). It also criminalized female genital mutilation, removed many restrictions for non-Muslims, and raised the age of criminal responsibility to 18 years.⁹
8. In spite of these positive developments, Sudan was ranked 13th on the 2021 World Watch List, which ranks the top 50 countries where Christians are most persecuted. Open Doors cites societal stigma and oppression as key threat factors for persons belonging to minority religious groups.¹⁰
9. While the changes made are commendable and reflect a renewed commitment by Sudan to implementing its human rights obligations, they have been criticized by many local civil society actors. According to a joint statement by a coalition of 29 Sudanese organizations, in addition to lacking adequate community consultation, ‘these amendments have upheld nearly all of the militant Salafi principles within the policies and laws.’¹¹
10. As far as freedom of expression is concerned, Article 125 of the Penal Code continues to punish ‘Whoever, by any means, publicly abuses or insults any of the religions, their rites, or beliefs, or sanctities or seeks to excite feelings of contempt and disrespect against the believers thereof...’ despite the reduced penalties.¹²
11. Likewise, the persisting reliance on Shariah law in the Penal Code and other legislation undermines the principle of separation between religion and state espoused by the transitional government. This includes references to ‘hudud punishments’ as well as the provision of crimes applying exclusively to Muslims. Consequently, the law explicitly creates distinct legal obligations based on one’s religious affiliation, rather than applying equally to all persons. A clear example of this is Article 79 of the Penal Code, which criminalizes the sale or purchase of alcohol by Muslims. It also allows prosecution of non-Muslims who engage in business with

⁷ Miscellaneous Amendments Law of 2020 (Law 12) <<https://redress.org/wp-content/uploads/2020/07/2-Sudan-Amendments-July-2020-English-REDRESS-translation.pdf>>.

⁸ BBC News ‘Sudan scraps apostasy law and alcohol ban for non-Muslims’ (12 July 2020) <<https://perma.cc/4QDY-8VEH>>.

⁹ Miscellaneous Amendments Law of 2020 (Law 12) <<https://redress.org/wp-content/uploads/2020/07/2-Sudan-Amendments-July-2020-English-REDRESS-translation.pdf>>.

¹⁰ Open Doors ‘World Watch List: Sudan’ (2021) <<https://www.opendoorsuk.org/persecution/world-watch-list/sudan/>>.

¹¹ SIHA Network ‘A Collaborative Civil Society Statement in Response to The Law of Various Amendments (Abolishing and Amending Provisions Restricting Freedom) – Exposing ‘a wolf in sheep’s clothing’ (July 2020) <<https://sihanet.org/a-collaborative-civil-society-statement-in-response-to-the-law-of-various-amendments-abolishing-and-amending-provisions-restricting-freedom-exposing-a-wolf-in-sheeps-clot/>>.

¹² End Blasphemy Laws ‘Sudan’ (13 October 2020) <<https://end-blasphemy-laws.org/countries/middle-east-and-north-africa/sudan/>>.

Muslims. Since religion is not recorded on identity cards, a non-Muslim may inadvertently commit a crime by unintentionally selling alcohol to a Muslim.¹³

Social Hostilities against Christians

12. Despite some progress in terms of legal restrictions on freedom of religion and expression, incidents of hostility against religious minorities, especially Christians, continue to take place in Sudan.
13. In December 2020, 9 Islamist radicals were arrested after burning down the temporary worship structures of a Christian community. Having been subject to repeated acts of vandalism over the past year, the congregants were threatened with violence if they attempted to report the crimes to the police. Even after reporting the matter, the police refused to take the case, forcing the victims to hire a lawyer simply to have their case heard.¹⁴
14. In January 2021, another church was burned down in the State of Al Jazirah. After publicly speaking out against the incident, the local Christian leader, Osama Saeed Kodi, was handcuffed, blindfolded and beaten by masked men, whom he claimed were national security personnel. The assailants threatened him with death if he continued to speak out on the matter.¹⁵
15. Despite claims of gradual improvements in the treatment of religious minorities, Christians are continuing to face barriers when seeking permission to construct new buildings, including churches and schools. For example, as of January 2021, a local Coptic Christian community have been waiting for almost a year to hear back on their request to construct a new church building. They have received no response from local officials.
16. Furthermore, many Christian groups had their church properties confiscated by the former regime and have yet to have them returned despite repeated demands to the Ministry of Religious Affairs.¹⁶

Violence Against Christians and other Religious Minorities in the Nuba Mountains

17. As of February 2021, ethnic clashes in Sudan continue to result in hundreds of thousands of people being displaced.¹⁷ While not inherently religious in nature, the violence has disproportionately impacted persons belonging to religious minorities, including certain Christian groups. Multiple cases of soldiers and militia involved in

¹³ SIHA Network 'A Collaborative Civil Society Statement in Response to The Law of Various Amendments (Abolishing and Amending Provisions Restricting Freedom) – Exposing 'a wolf in sheep's clothing'' (July 2020) <<https://sihanet.org/a-collaborative-civil-society-statement-in-response-to-the-law-of-various-amendments-abolishing-and-amending-provisions-restricting-freedom-exposing-a-wolf-in-sheeps-clot/>>.

¹⁴ Morning Star News 'Worship Structures in Sudan Burned, Christians Threatened' (22 December 2020) <<https://morningstarnews.org/2020/12/worship-structures-in-sudan-burned-christians-threatened/>>.

¹⁵ Morning Star News 'Christian Leader in Sudan Detained and Beaten, Sources Say' (22 February 2021) <<https://morningstarnews.org/2021/02/christian-leader-in-sudan-detained-and-beaten-sources-say/>>.

¹⁶ Morning Star News 'Religious Rights Still Blocked in Sudan, Christian Leaders Say' (7 January 2021) <<https://morningstarnews.org/2021/01/religious-rights-still-blocked-in-sudan-christian-leaders-say/>>.

¹⁷ Internal Displacement Monitoring Center 'Burst of violence in Darfur triggers Sudan's highest number of conflict displacements in six years' (22 February 2021) Relief Web <<https://reliefweb.int/report/sudan/burst-violence-darfur-triggers-sudans-highest-number-conflict-displacements-six-years>>.

killings, robberies and looting in the Nuba Mountains, a region with a sizable Christian population, have been reported.¹⁸

Freedom of Religion and Freedom of Expression in International Law

18. Article 18 of the International Covenant on Civil and Political Rights (ICCPR) guarantees the right to freedom of religion or belief, including the right to manifest one's religion or belief on private as well as public settings. Inseparably linked to Article 18 is Article 19, which enshrines the right to freedom of opinion and expression. Along with the freedom of association, guaranteed under Article 22, these freedoms are fundamental to the operation and maintenance of an open and free society, even when content that is expressed and disseminated proves unpopular or offensive. Sudan's blasphemy law violates all three provisions of international law by criminalizing expression that is deemed problematic by the State.
19. Criminalizing blasphemy does not constitute an acceptable derogation from the right to freedom of expression, as ICCPR Article 19(3) only allows restrictions on expression where they are necessary 'for the respect of the rights and reputations of others' or 'for the protection of national security, public order or public health or morals'. Clearly, restrictions must serve as a necessary protection of persons, not of religions as such.
20. Furthermore, the subjective language of the blasphemy provision opens the door to arbitrary and unjustified application of the law, contributing to further discrimination against those belonging to religious and other minorities.
21. ICCPR Article 26 commits states to 'prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination,' including on the basis of religion. The Human Rights Committee's General Comment No. 22 on Article 18 of the ICCPR notes that 'The fact that a religion is recognized as a State religion or that it is established as official or traditional or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the Covenant, including articles 18 and 27, nor in any discrimination against adherents of other religions or non-believers.'¹⁹ This applies both to adherents of minority religions such as Christianity, as well as to Muslim sects that may differ from the predominant interpretation of Islamic law, for example on the permissibility of purchasing alcohol.²⁰ Neither blasphemy laws nor any other law discriminating on the basis on religion can be consider permissible under human rights law.
22. Accordingly, Sudan has an obligation to ensure that people belonging to religious minorities receive equal and effective protection from violence, whether at the hand

¹⁸ Dabanga 'Increased violence in Darfur and South Kordofan continues' (19 January 2021) <<https://www.dabangasudan.org/en/all-news/article/increased-violence-in-darfur-and-south-kordofan-continues>>.

¹⁹ UN Human Rights Committee 'General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion)' (30 July 1993) CCPR/C/21/Rev.1/Add.4, 9.

²⁰ SIHA Network 'A Collaborative Civil Society Statement in Response to The Law of Various Amendments (Abolishing and Amending Provisions Restricting Freedom) – Exposing 'a wolf in sheep's clothing'' (July 2020) <<https://sihanet.org/a-collaborative-civil-society-statement-in-response-to-the-law-of-various-amendments-abolishing-and-amending-provisions-restricting-freedom-exposing-a-wolf-in-sheeps-clot/>>.

of militias or its own military, and discrimination, including from unfair treatment by local officials.

(b) Recommendations

23. In light of the aforementioned, ADF International suggests the following recommendations be made to Sudan:

- a. Ensure full respect for the rights to freedom of religion or belief and freedom of expression, in accordance with international human rights law;
- b. Repeal Article 125 of the Penal Code criminalizing blasphemy;
- c. Ensure equality before the law, including by repealing or reviewing all legal provisions, including those contained in the Penal Code, that violate freedom of religion or discriminate based on religious affiliation;
- d. Take steps to guarantee the right of Christians to build places of worship, including by removing unnecessary barriers for approval of new properties;
- e. Ensure the prompt return to Christians of properties confiscated under the former regime;
- f. Take steps to guarantee the equal treatment of Christians and other religious minorities by local and state officials, including the police;
- g. Increase efforts to protect Christians and other religious minorities from all forms of violence and discrimination, including by non-state actors;
- h. Investigate and prosecute reported incidents of violence or harassment of religious minorities by military or police personnel;
- i. Promote interfaith dialogue and religious tolerance in order to counter social hostility against religious minorities and prevent radicalization.



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