

Female Genital Mutilation and Torture in Sudan

Submission for the UN Universal Periodic Review
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Introduction

1. The Helena Kennedy Centre for international Justice is a human rights centre based at Sheffield Hallam University in the UK.¹ The Centre supports a range of research and scholarship activity including supervised work by our students. This submission is the product of undergraduate students studying with the Human Rights Law Clinic.
2. This report examines the practices of female genital mutilation (FGM) and torture in Sudan. These include how the constitutional and legislative framework is adhering to the international conventions the country has signed regarding these issues and whether there is any financial and economic influences or support for those affected. The report also details the treatment of women through Sudan's history and how their role in society has changed.

Socio-cultural norms

3. In Sudan, women are expected to handle a range of social responsibilities placed upon them by society, from dressing appropriately to the ways they act. Prior to the former president, women used to "flourish" in society and played a major part in political movements. Yet, in 1989, when Omar Al-Bashir started his rule, his interpretation of Sharia Law served to "disempower women"². Despite having basic women's rights written into the Constitution in Article 15(2), that the state shall protect 'women from injustice, promote gender equality and the role of women in family, and empower them in public life'³, this right is loosely monitored by law enforcement.
4. It is recognised that most women are married young, with the legal age for marriage being 10 years old, when a girl is tanyeez (Mature), with the permission of an elder. In a survey

¹ See <https://www.shu.ac.uk/helena-kennedy-centre-international-justice>.

² Yousra Samir Imran, 'Sudan's revolution and the broken promise of women's rights', The New Arab, October 7th 2020

³ Constitution of the Republic of Sudan 2005, Article 15.

undertaken by Dabanga⁴, it was reported that a third of the female population in Sudan aged between 20 and 24 were married by the age of 18,⁵ despite having ratified the Convention on the Rights of Children. It should be noted that Sudan has also signed the Committee on the Elimination of Discrimination against Women (CEDAW)⁶, but has yet to ratify this.

5. In the last UPR, Sudan received a number of recommendations to amend its legislation that permits child marriages. However, these recommendations remain outstanding,⁷ and the common practice of child marriage continues.⁸

Female Genital Mutilation

6. Sudan has one of the highest rates of FGM in the world: It is reported that 88% of women aged 15-49 have been cut. There is some difference, however, in the prevalence of FGM between provinces with North Darfur being the most common with a rate of 97.6% and the lowest region being Central Darfur with 45.4%.⁹ FGM can cover many different styles of operations all against human rights, the most commonly seen is type 3 also known as infibulation. This is the narrowing of the vaginal opening through the creation of a covering seal. The seal is formed by cutting and repositioning the labia minora, or labia majora, sometimes through stitching, with or without removal of the clitoral prepuce/clitoral hood and glans (Type III FGM)¹⁰. This surgery is very painful and is often done by the untrained and in unsanitary conditions which can lead to further complications.¹¹
7. The World Health Organisation (WHO) reports that it is not just a breach of human rights, but the practice is extremely dangerous and damaging to the victim. It states the practice can lead to problems including “severe bleeding and problems urinating, and later cysts, infections, as well as complications in childbirth and increased risk of new-born deaths.”¹² WHO conclude that FGM “has no health benefits for girls and women.”¹³

⁴ Dabanga, ‘Sudan one of the worst countries for women’s right survey’, November 13th 2013
<<https://www.dabangasudan.org/en/all-news/article/sudan-one-of-worst-countries-for-women-s-rights-survey>>

⁵ Dabanga, ‘Sudan one of the worst countries for women’s right survey’, November 13th 2013
<<https://www.dabangasudan.org/en/all-news/article/sudan-one-of-worst-countries-for-women-s-rights-survey>>

⁶ Committee on the Elimination of Discrimination against Women

⁷ 2RP: Responses to Recommendations & Voluntary Pledges, IPR, 2016
< https://www.upr-info.org/sites/default/files/document/sudan/session_25_-_may_2016/recommendations_and_pledges_sudan_2016.pdf>

⁸ Rhona Scullion, ‘Sudan may have banned FGM, but the harsh practice continues’ Inter Press Service, 2020
<<http://www.ipsnews.net/2020/08/sudan-may-banned-fgm-harsh-practice-continues/>>

⁹ Sudan FGM Prevalence, 28Too Many, 2018
<<https://www.28toomany.org/country/sudan/>>

¹⁰ World health organisation, FGM, february 2020
<<https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>>

¹¹ UNICEF, ‘Sudan enters new era for girl rights criminalisation, 2020
<<https://www.unicef.org/mena/press-releases/sudan-enters-new-era-girl-rights-criminalization-fgm>>

¹² Fisaha KG, ‘Journal of Political Sciences & Public Affairs, Female Genital Mutilation: A violation of Human Rights’, 2016.

¹³ Supra, fn.2.

8. In September 2016, an amendment to the Federal Criminal Act was approved to criminalise all forms of FGM, yet the law was not given effect until 2020 when Article 141 Female Genital Mutilation was introduced. This law has finally been approved, effectively banning the practice of FGM in Sudan and making the practice a criminal offence punished with up to three years in prison.¹⁴ However, due to the strict rooted sharia law, cultural resistance and the consequences of the COVID pandemic, Sudan now faces significant challenges in enforcement.¹⁵

Torture

9. Torture is widely practiced in Sudan today.¹⁶ Since the last UPR review, there has been very little in terms of progress with tackling torture. Sudan has yet to ratify the Convention against Torture and has failed to investigate frequent torture allegations by national security officials.¹⁷
10. Article 115(2) of the 1991 Criminal Act,¹⁸ prohibits torture and offer punishment for it. However, this protection is relatively weak. The main issue is that Sudanese law does not have a precise definition for torture itself and the crime itself is far too narrow, resulting in a difficulty for courts to clearly distinguish what acts ultimately constitute torture.¹⁹ The failure to adopt a more effective law makes it easier for acts of torture to go unreported and leads to a system of law that establishes rules on the premise of a blurred line.
11. Although it has taken steps to reduce the use of corporal punishment in 2020,²⁰ Sudan continues to provide an extension of powers to the National Intelligence Service and security service to engage in law enforcement,²¹ which allows for more widespread harassment and torture related incidents that are ultimately mishandled and ignored.

¹⁴ Rhona Scullion, 'Sudan may have banned FGM, but the harsh practice continues' Inter Press Service, 2020

<http://www.ipsnews.net/2020/08/sudan-may-banned-fgm-harsh-practice-continues/>

¹⁵ UNFPA, 'Accountability for eliminating Female Genital Mutilation', 2020

https://www.unfpa.org/sites/default/files/resource-pdf/FGM_factsheet_16-online.pdf

¹⁶ Mohammed Amin, 'Sudanese Citizen tortured to death in army facility' Anadolu Agency, 2020

<https://www.aa.com.tr/en/africa/sudanese-citizen-tortured-to-death-in-army-facility/2091537> accessed (23/03/21)

¹⁷ Human Rights Watch, 'Sudan: Events of 2018', 2018

<https://www.hrw.org/world-report/2019/country-chapters/sudan#:~:text=Sudan%20has%20failed%20to%20investigate,corporal%20punishment%20of%20numerous%20crimes> accessed (18/02/21)

¹⁸ International Labour Organisation, Sudan, 2014

https://www.ilo.org/dyn/natlex/natlex4.detail?p_isn=80450&p_lang=> accessed (19/02/21)

¹⁹ ReliefWeb, 'Sudan its high time to ratify the UN convention against torture', 2019

<https://reliefweb.int/report/sudan/sudan-it-s-high-time-ratify-un-convention-against-torture#:~:text=The%20prohibition%20of%20torture%20and,times%2F%5Bstate%5D%20of%20emergency.>> Accessed (19/02/21)

²⁰ Michael Robbins, Lawrence Rubin, 'Islamic law has long been the basis of law in Sudan', Washington Post, 2020,

<https://www.washingtonpost.com/politics/2020/08/27/sudans-government-seems-be-shifting-away-sharia-law-not-everyone-supports-these-moves/> accessed (23/02/21)

²¹ Priscilla Nyagoah, 'Sudanese national intelligence service empowered to violate human rights', Amnesty International, 2015

<https://www.amnesty.org/en/latest/campaigns/2015/03/sudanese-national-intelligence-service-empowered-to-violate-human-rights/> accessed (18/02/21)

12. Torture impacts on all levels of Sudanese society, starting within education. Islamic school children are reportedly subject to regular beatings and shackling²² which ultimately correlate the nationwide standard of basic treatment in regard to punishment. Furthermore, protesters were exposed to harsh beatings, electric shocks and sleep deprivation in early 2011²³.
13. Aligning national and international standards becomes difficult when tackling human rights issues that are essentially imbedded in a heavily religious country. However, with the recent rise in other religious and/or non-religious groups making up over 10% of the Sudanese population,²⁴ it may become critical for Sudan to adopt fewer religious policies. This comes after the attack and torture of converted Christians in South Sudan who could have potentially faced the death penalty if they had not reverted their faith.²⁵ Sudan is one of the few remaining countries that permits the death penalty for apostasy. A system that is allowed to prescribe death for a crime under national law that restricts freedoms of religious choice could inadvertently turn a blind eye to violations of human rights in the form of torture to carry out justice.

Recommendations

14. Following our report, it is recommended that Sudan:

- **Strengthen measures to address violence against women, including sexual violence. This should be done by providing help for victims at the initial reporting and continuing, including protecting them from the perpetrator, family members and others in the community who may have an issue with them for reporting it.**
- **Closely monitor the practice of child marriages and make sure they are happening legally and with consent following the Convention on Children's Rights. This also means ratifying the CEDAW and following the COCR despite the Muslim Personal Act 1991, as it shows how Sharia Law is restricting women's rights.**
- **Taking account of the fact that bringing awareness to the people in Sudan accounted for 15% of the last UPR recommendations, provide for better education of human rights issues, by engaging rural communities, as well as tribal and religious leaders. Particular attention should be given to the establishment of education programmes that describe the damage of FGM, which should be taught in schools and religious places to ensure people see it from a young age.**
- **Enforce the prohibition on FGM through effective prosecution of people encouraging, facilitating and performing these surgeries.**
- **Adopt a strict definition of torture and focus on implementing anti-torture legislation with appropriate punishments. They should also ensure that torture cases are both taken**

²² Fateh Al-Rahman Al-Hamdani, 'Revealed chaining, beating and torture inside Sudan's Islamic schools', The Guardian, 2020

<<https://www.theguardian.com/global-development/2020/oct/19/revealed-chaining-beatings-and-torture-inside-sudan-is-lamic-schools>> accessed (19/02/21)

²³ Human Rights Watch, 'Sudan protesters describes torture by security officers', 2011 <www.hrw.org/news/2011/03/04/sudan-protesters-describe-torture-security-officers> accessed (12/02/21)

²⁴ Ahmad Alawad Sikainga, 'Sudan religion', Britannica, <<https://www.britannica.com/place/Sudan/Religion>> accessed (23/03/21)

²⁵ Barnabasfund, 'Christian converts from Islam arrested and tortured in Darfur, Sudan', 2020 <<https://barnabasfund.org/news/christian-converts-from-islam-arrested-and-tortured-in-darfur-sudan/>> accessed (23/02/21)

seriously and properly investigated with victims of torture to receive support for their experiences, whilst also reviewing the utility of the death penalty and the crimes that justify its use.

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