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&

**The Asian Population and Development Association and Forum of
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**Review and Analysis of Human Rights and Gender-Based
Violence and Their Policy Frameworks in Sudan**

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Abbreviations

UNFPA	United Nations Population Fund
APDA	The Asian Population and Development Association
FAPPD	Forum of Arab Parliamentarians on Population and Development
CVAWC	Combating Violence against Women and Children
BRD	Bill of Rights and Duties
GBV	Gender-Based Violence
GDU	Gender and Development Unit
UN	United Nations
CSOP	Common Standard Operating Procedures
CPA	Comprehensive Peace Agreement
CD	Constitutional Document
CEDAW	Convention on the Elimination of all Forms of Discriminations against Women
FGM	Female Genital Mutilation
NGOs	Non-Governmental Organisations
IDPs	Internally Displaced Persons
SC	Security Council
UNSCR 1325	United Nations Security Council Resolution 1325

Review and Analysis of Human Rights and Gender-Based Violence and Their Policy Frameworks in Sudan

Introduction

This report presents the findings of a review study conducted with the aim of analysing human rights and Gender-Based Violence (GBV) legal and policy frameworks in Sudan. It is an effort jointly conducted by UNFPA, APDA and FAPPD. The report is expected to serve as a useful source for tracing policy and legal development in a selected group of countries in the Arab region. It reviews the existing laws, and legal and policy frameworks which regulate human rights and GBV related issues.

The study methodology is basically a desk review. The data collection method was based on reviewing existing literature in different sources, mainly books, case studies, personal sources, journals, newspapers, websites, and government records.

There are international obligations that arise as soon as a country becomes a member of the United Nations (UN), including its commitment to all the Security Council (SC) resolutions as well as to the Vienna Convention on International Treaties according to Article 26 thereof, which clarifies the legal consequence based on ratified agreements and how a country has to reserve what is issued by the SC resolutions, most of which are related to human rights. Accordingly, international charters and protocols ratified by the concerned country, and resolutions of the UN SC become binding to it. Such commitments are confirmed by the Bill of Rights contained in constitutions. Countries' constitutions, whether written or unwritten, include guiding principles and directives and the Bill of Rights, if any, which are prominent sources and should never conflict with international obligations. Unfortunately, such standards are violated in many third world countries where the constitutions are manipulated presidential decrees, interim orders or laws.

In Sudan, ministries draw up their plans for policies of their own. It is believed that the policies should never contradict the Constitution or the principles "above the Constitution". Each ministry develops its plan according to powers acknowledged from the top of the executive body (the Council of Ministers), currently, by means of resolution 70 for the year 2020 and resolution 104 for the year 2021. The plans are then submitted to the national legislative body, via the Cabinet, be this the parliament or a joint council, as is the case in Sudan now in the transitional period) or any legislative body that has the same powers. As soon as the proposed policy is endorsed, it becomes a binding law at various levels within the jurisdiction of the designated ministry. The concerned ministry shall transform the legislation or its approved policies into operational plans and programmes.

As for human rights and GBV and combating violence against women, the Ministry of Justice and a number of line ministries translate laws into policies, plans and executive programmes for each ministry according to the nature of its work. For example, while the Ministry of Justice is responsible for putting laws in their legal form, the Ministry of Social Development is responsible for formulating anti-poverty policies, strategies and women development policies in accordance with the powers vested in it by the Cabinet. As for the legislative authority, it has both a legislative role and the oversight of ensuring accountability for the implementation of the general policies of the executive body through

parliamentary committees, questioning, interrogating, and passing procedures of voting no confidence in the government if necessary. The executive authority may put in action an exceptional legislative role for a limited period in accordance with specific circumstances and conditions that guarantee its submission to the main legislative body for continuity.

The Constitutions as a Source for Human Rights Policies in Sudan

With Sudan's accession to the United Nations General Assembly in 1956, it became a full member bound by its regulations according to the provisions of the Charter of the United Nations. Most of the executive procedures in the state within its general framework of plans and programmes are drawn up by the ministries based on their powers according to decisions issued by the top executive authority after having been approved by parliament or representative assemblies, especially national or state assemblies. Presidential decrees and decisions that receive their legitimacy from the constitution or whatever functions as the constitution such as the current Constitutional Document gain the status of laws as they are issued based on the powers of the constitution or its interpretations, in particular during the eras of totalitarian governments that change the state's intellectual or economic orientation according to what they see based on their interests. Human rights were not included in most of the constitutions that followed independence, and other laws were passed by parliament or approved for their continuity.

The Cabinet sets forth general policies but each ministry develops its ministerial policies, provided that they do not conflict with the Constitution or any law issued by the parliament. There are also sectoral policies that consist of coordination and cooperation between ministries related to specific rights. In any case, in countries that have settled on the principle of separation of powers, the legislative bodies are separated from executive ones, except in cases in particular circumstances and conditions such as state of emergency, for example. But if the executive authority took a greater role at the expense of the legislative and judicial authorities, the matter would turn into a totalitarian regime and emergency provisions and immunities would appear to limit human rights and the frequency of human rights violations increases, including violence against women. In general, Sudan has gone through different experiences in this regard since independence in particular. Regarding women's rights and gender equality, the degrees of clarity vary, and this disparity appears in the extent to which women are mentioned implicitly or explicitly in policies and mechanisms aiming at promoting gender equality or women's rights.

During the colonial era, the traditional view of women's issues prevailed, but no political intentions emerged to integrate them into the plan of Sudan's concerns. This appeared in the 1953 Constitution during the colonial era, which stated "there shall be no discrimination between the Sudanese in service in the private and public sectors because of their birth, religion, or gender". All the texts mentioned the term "person", i.e., it did not mention women. All the focus was on the system of government and the relationship within the components of government and the executive and judicial authorities, how they were constituted and chosen, elections and the qualifications of candidates¹. Despite Sudan's accession as a member of the UN, the 1956 Constitution only mentioned a number of rights, most notably the right to freedom and equality and that people should not to be deprived

¹ The General Secretariat of the Council of Ministers, Constitutions of Sudan 1953-2005, June 2009

of them because of their birth, race, religion or gender. No reference was made to the International Charter of Human Rights, which includes broad and comprehensive rights. During the period of military rule from 1958 to 1964, the Cabinet was purely male. The Supreme Council of the Armed Forces was the supreme legislative body and the executive and judicial authority in Sudan according to the first constitutional order issued by Lieutenant-General Ibrahim Abboud, the Head of the Supreme Council of the Armed Forces in which the Constitutional Declaration (1) states that the Supreme Council of the Armed Forces has the supreme constitutional authority in the country in addition to the constitutional and executive powers².

The Constitution of October 1964, carried over from the Interim Constitution of 1956, clarified the system for the State of Sudan to deal with international agreements through the authority of the Constituent Assembly in Article 64, which states: “No treaty or agreement with another country or countries, nor any decision taken regarding any international agreement or an international association or body shall be effective in Sudan unless the constituent assembly ratifies each of them by law.” This is known as a dual system, as international and regional charters must be harmonised with the Sudanese laws, even if they are mentioned in the constitution to be binding on the courts and official institutions and this has become the norm until today³. Article 65 (1) of 1964 constitution also mentioned that the legislation suggestion should be by a draft law or a temporary order, meaning that it could be issued by a presidential order subject to the approval of the Constituent Assembly and the approval of the Sovereignty Council. But if the Constituent Assembly introduced amendments to the draft law and the Council of Ministers did not adopt them, the Council of Ministers might withdraw it. This was mentioned even though the Constitution did not authorize Sudan's accession to the United Nations Charter and its commitment to all resolutions of the UN SC . This means that the Constitution and the Parliament were not the only sources of policies, for there were decisions and orders which were issued by the Presidency of the Cabinet⁴.

The Permanent Constitution of the Democratic Republic of the Sudan of 1973, which claimed socialism, stated in Article 1 that “Sudan is a sovereign, democratic, socialist republic and belongs to the Arab and African entities⁵.” It adopted socialism on the basis of the alliance of the working forces of the people and the principles of democracy. It also stipulated in Article 9 that Islamic Sharia and custom are two main sources of legislation, while the personal status of non-Muslims is governed by their own law. The 1973 Constitution mentioned most of the rights that were contained in the International Charter of Human Rights, but it did not refer to women except in Article 27 which states that the state takes care of motherhood and childhood and enacts the necessary legislation for this; and in Article 55 it refers to the right of mothers and children to receive care and adequate guarantees for working mothers and women, but made no reference to the right of women

² Dr. Ahmed Ali Ibrahim, Constitutional Development in Sudan, Al-Neelain University Digital Repository, p. 64

³ General Secretariat of the Council of Ministers, Constitutions of Sudan 1953-2005, Sudan Currency Printing Company Limited, June 2009, p. 174..

⁴ Ibid.

⁵. Ministry of Justice website, Permanent Constitution of the Democratic Republic of Sudan for the year 1973, p. 1.

in occupying decision-making roles. However, it is generally observed that women's rights and their participation in decision making positions were based on presidential orders that were not governed by specific texts. Although the regime adopted decentralisation that requires the participation of all components of Sudan in decision-making, the constitution did not address the issue of women's participation. After adoption of the Islamic laws in September 1983, women's rights received a hard blow, and gender-based violence increased in particular in the law and state institutions, all legitimised by irrevocable rhetoric of the Islamic *Sharia*. The provision of custom as a basic legislative source constituted a major obstacle for women to achieve their rights, thus becoming a source of gender-based violence that was in turn applied in the laws and state structures which strengthened tribal domination and made it one of the main causes of conflict and the absence of social justice later⁶.

Sudan's Interim Constitution of 1985, which was adopted by the Transitional Military Council, made Islamic law and custom two sources of legislation. Non-Muslims are governed by their own law, just as the 1983 Constitution did, except that it did not refer to women or children in any text, even in matters of providing any service, nor did it make reference to undertake any legal reform. There was no reference to any commitment to the International Charter either. This Constitution mentioned different types of freedoms and human rights, but the extent to which they adhered to was not clear⁷.

The 1998 Constitution stipulates the sources of legislation in the general principles of legislative authority in Article 65: That Islamic *Sharia* and the nation's consensus by referendum, constitution and custom were the sources of legislation. In the chapter on the state principles and directives, Article 15, the creation and unity of society, Article 15 stipulates that "the state shall look after the family system, facilitate marriage, take care of children policies and raise children, take care of pregnant women or children, and liberate women from oppression in any of the conditions and purposes of life, and by encouraging its role in the family and public life⁸. The authority to appoint holders of constitutional positions, declarations of war and emergencies, and to initiate draft constitutional amendments and legal legislation remained in the hands of the President of the Republic according to Article 43. According to Article 49, the Council of Ministers has the authority to approve the country's supreme policies in any federal ministry or ministerial sector. As for the National Council, it is in charge of approving policies, plans and programmes related to the state and the society. The President of the Republic or the Prime Minister can issue resolutions regarding women's rights at the policy level to turn into proposals for laws that are passed through the process of passing laws or even decisions that are implemented directly, such as decisions related to women's participation and others, such as decision for women economic and social empowerment.

The 2005 Constitution was linked to the Comprehensive Peace Agreement (CPA) of 2005, which provided a good opportunity for discussion and dialogue because of the Bill of Rights that was included in it. The 2005 Constitution ensured the revision of Sudan's laws

⁶ Women's Activism in Africa, Women's Rights and Women's Movement in Sudan (1952-2014), 2017

⁷ Ministry of Justice, Sudan Interim Constitution of 1985

⁸ General Secretariat of the Council of Ministers, Constitutions of Sudan, 1953-2005, Sudanese Currency Printing Company, 2006

to conform to the Constitution. The most important content of the 2005 Constitution is the Bill of Rights in Article 27 which was devised for the first time in the history of Sudan. The Bill of Rights instructed the commitment of rights on the part of the people of Sudan and the state and work to promote them, considering them the cornerstone of social justice and equality. All rights included in international conventions, covenants and charters authorised by human rights were considered an integral part of the document and therefore the Constitution⁹. Prior to that, Article 7 of the Constitution established the right to citizenship for every child of a Sudanese mother or father, the right of a man and a woman to marry with the voluntary and full consent of both parties, according to Article 15 of it. This means recognising the equality of males and females in rights and duties, and legally obligating them, at least from a theoretical point of view. The matter was reinforced in Article 32 - Rights of Women and Children of the 2005 Constitution - which affirmed the rights contained in international legislations were discriminatory against women, even if it is a loose phrase whose effect depends on the interpretation of those in authority, combating harmful customs and traditions that reduce the dignity and status of women, health care for mothers, children, pregnant women and the protection of the rights of the child as stated in the international and regional agreements ratified by Sudan. It became a source of state policies towards human rights in general, and above all, the protection and prevention of women and children from violence.

The Constitutional Document (CD) of the Transitional Government for the year 2019 in Article 42 (1) Chapter 14 of the Bill of Rights and Duties (BRD) included all the rights and freedoms that were mentioned in the ratified international and regional charters, as stipulated in Article 42 (3) of the same chapter “Legislation regulates the rights and freedoms contained in the document does not detract from it except for the necessity required by a democratic society.” Article 8 stipulates that “the state is obligated during the Transitional Period to implement the following tasks: legal reform, rebuilding and developing the legal and justice system, ensuring the independence of the judiciary and the rule of law”. In order to enhance the status of women and their rights, Article 68 (3) of Chapter 15 ensured the implementation of SC Resolution 1325. The same Article stipulates that “State agencies shall work in the transitional period to implement tasks by carrying out legal reforms that guarantee women’s rights by repealing all laws that discriminate against women and protect the rights guaranteed by this constitutional document.” It is known that legal reform includes structures and means, enacting laws, repealing them and amending them if they conflict with the constitutional texts. Therefore, the legal protection of women was included in the highest human rights framework and became one of the policies and directives of the Transitional Government.

At the top of the legal measures taken by the 2019 Transitional Government of Sudan in order to address women’s human rights is what is stipulated in its Constitutional Document, amended in 2020, on women’s rights. Article 49 Paragraph 2 states “The state guarantees men and women equal rights to enjoy all civil, political, social, cultural and economic rights including the right to equal pay for equal work and other job benefits”; and in Article 24 Paragraph 2, it stipulates that the percentage of women’s participation shall not be less than 40% of the membership of the Legislative Council and state structures. All such

⁹ Ministry of Justice website, Sudan Constitution of 2005 p. 16

advancements in women's rights were exemplified by a woman assuming positions of leadership: chief justice, state governors, state and federal ministers and directors in some institutions.

In conclusion, the development of human rights in the successive constitutions of Sudan since independence has a progressive method. This development has been reinforced by the peace agreements such as the Comprehensive Peace Agreement of 2005, the Darfur agreements (Abuja and Doha) and most recently the Juba Agreement for Sudan Peace which was signed in October 2020. We find that this development was reflected in honouring women's rights in line with the development in the global framework for these rights, especially the United Nations Women's Decade, the global and national feminist movements pushing for equal entitlements in women's and gender issues, and the adoption of more specific frameworks for these rights, such as CEDAW 1979 and SC Resolution 1325 (2000) on Women Peace and Security.

Human Rights in Laws and Policies Frameworks:

The constitution, is usually developed with high political consensus, including guiding principles and guidelines that include the state's basic position on human rights, and there may also be a bill of rights as in the Sudan 2005 constitution, and then presidential decisions that define the competencies and powers of each ministry, and it is clear in which each ministry's relationship with human rights is explicitly or implicitly. The ministries submit the perceptions of their policies and strategic plans to the Council of Ministers and then to the Legislative Council and after their endorsement they become obligatory for implementation. This applies to the establishment of any department, committee or body entrusted with any executive work in the field of human rights and dealing with it in exceptional circumstances such as emergencies, wars, or political instabilities. The work of the ministries are related to the political framework like signing the international and regional agreements and protocols, including those concerned with human rights, signing of peace agreements and the rights they contain, and the establishment of bodies concerned with various issues, including human rights and legal and structural reform of the justice system.

Constitutions also provide frameworks for policies on human rights, and frameworks of laws and draw from them. Constitutions include a number of direct legal principles, rights, and the scope of rights in ordinary and exceptional cases, as well as in cases of emergency. A number of Sudan's constitutions omitted the text on the sources of legislation, but some of them, such as the 1998 and 2005 constitutions, stipulate the sources of legislation and the scope of the law are the mentioned legislation and the proven powers and competencies of some bodies. The President of the Republic and the Prime Minister issue presidential orders and decisions to establish some government bodies and projects and declare and end a state of emergency and war, and parliament, for example, in approving laws and legislation. Despite the assumption of the neutrality of laws, the political orientation of the state and the extent of the control of its security mechanism cast a shadow over the course of legislating the law in particular and influence human rights and their clear details, especially in the criminal law, the law of evidence and the personal status law. All of these laws were subject to the strict traditional view, so violence against women and human rights violations remained persistent. An example of this is placing the complainant of

harassment or rape in the position of the accused woman and applying the *Hidoud* punishment to her if she is unable to provide witnesses, while the male escapes from any punishment simply because the evidence will not prove anything against him physically, and he will not be required to defend the accusation. As for personal status, similarly, it will not be dealt with unless it is abolished, because more than half of texts contain grave injustice against women and children, which is difficult to reform.

The laws and concepts of justice and judicial organs are very important for human rights and the fight against violence against women. If the powers of appointment and dismissal fall into the hands of the executive authority, the principle of separation of powers and independence of the judicial authorities will be misused. Justice represents all bodies, agencies, and actors in the governmental or non-governmental field, that is, official and non-official, who provide justice services and manage them or exercise control over them. Even if the concept of justice differ according to cultures, it remains a broad concept that justice is the conduct of what is just or equitable. Legal frameworks differ, but remain divisible into criminal and non-criminal - dealing with relations, transactions and interactions between individuals, whether with regard to property, contracts, damage, etc., and the extent of justice and fairness in decisions and actions of government bodies. Among the tasks of the justice sector are (1) conflict resolution (2) law enforcement (3) protection of rights (4) judicial review (5) legal accountability (6) legalisation and evaluation. The justice sector comprises the judicial system, its executive powers, and its oversight bodies and includes judges, security, prosecution, unions, legal aid agencies, legal assistants, employees, military justice, municipal mechanisms, advertisements, and arbitration and mediation boards, if any. Traditional justice includes criminal follow-up, investigation committees and reparations. The composition of the justice sector varies with the diversity of national contexts as a result of differences in legal and political systems, differences in cultural and historical traditions, and stereotypical and normative frameworks.

There are laws governing the justice and judicial bodies and controls for the conduct of their work, each according to its competence. The Constitutional Court has a law that defines its competences, and its composition is governed by the Constitution. The Ministry of Justice is an executive body affiliated to the Council of Ministers. Some of its most important tasks are to: publish laws and subsidiary legislation, propose standards, controls and procedures that guarantee human rights, monitor the performance of state agencies at different levels of governance and civil society institutions when they carry out work related to human rights, and represent Sudan in international and regional events concerned with human rights issues, highlighting the efforts of the government and society in this regard, and providing legal aid and facilitating legal services to those who are not able to have them. On the other hand, the Minister supervises several units including the National Human Rights Council, which was established by a decision of the Prime Minister. The Ministry of Justice contains the Council for Human Rights, which specialises in providing advice on human rights, and is made up of bodies related to human rights. The Advisory Council includes several specialised sections, namely human rights, women and children, people with disabilities, and international humanitarian law. According to the constitutional document for the transitional period, the Sovereignty Council is currently appointing the chief justice, the judges of the Supreme Court, the president and members of the Constitutional Court, and the attorney general. However, due to the composition of

the Sovereignty Council and the military's control over decision-making through the civilians who support it, judicial and law enforcement agencies are almost losing their independence, which is reflected in the access to human rights directly, in particular the Gender-Based Violence and sexual violence that occurs against women by armed militias and regular forces, and this is one of the reasons why women and families are reluctant to report the severe violations they are subjected to. On the other hand, the Sovereignty Council has the right to approve international and regional charters and protocols. Therefore, the delay in approving the authorisation of charters and protocols is due to the reluctance and lack of seriousness of the Sovereignty Council in permitting them, including those concerned with the protection of women and the prevention of all kinds of violence.

Impact of Immunities on Human Rights and Gender-Based Violence:

Immunity is an exceptional situation, as the basis is the rule of law, and it is a suspension of legal procedures in the face of some people to enable them to carry out their work to the fullest extent until permission is granted by the competent authority¹⁰. Immunity has a legal basis, as in Article 35 of the Criminal Procedures Act 1991, which prohibits the police filing a criminal case except:

- after obtaining permission from the Public Prosecutor in some crimes and on some persons, such as:
 - crimes wherein suspects may not be arrested without an arrest warrant,
 - crimes related to a public official, and
 - crimes wherein arrest may not be made except upon receipt of permission from the competent authority,
 - if the crimes against the course of justice are committed except by the court
 - in which a special waiver is permitted only by the right holder or his representative,
 - for which any law stipulates a requirement for permission from the authority enjoying procedural immunity, or
 - objectivity except in accordance with the provisions of the law that stipulates it, and
 - its omission invalidates the criminal procedures taken against the person concerned at a stage in the life of the case, whether it is in the investigation, trial, or even appeals against the ruling.

Despite the issuance of many decrees regulating the matter from the Minister of Justice and the Public Prosecutor of the Republic of Sudan, especially with regard to the regular forces, the matter was greatly exploited in committing violations against human rights, especially with regard to violence against women and sexual and GBV. Particularly in conflict areas, taking advantage of the immunities granted to regular forces and state employees (Article 60 of the 2005 Constitution, Articles 20, 21 and 22 of the Law on Allocations for Occupants of Constitutional, Executive and Legislative Positions of 2001). Security in Article 52 of the Security and Intelligence Agency Law 2010 and the Police in Article 45 of the Sudan Police Law of 2008 and the People's Defense before its dissolution

Advisory Council for Human Rights, Journal of Human Rights and International Humanitarian Law, ¹⁰ Issues 9 and 10, March 2016, June 2016.

in the People's Defense Law of 1989 Article 17, and National Service Personnel in Article 20 (1) of the National Service Law of 1992 and the Customs Forces in the Customs Law 1986, Article 34. Thus, all regular forces and members of executive and legislative bodies are covered by immunities that the responsible authorities are intransigent in lifting, and it is often impossible, especially in cases of war crimes and violations that require accountability under the Rome Statute of the International Criminal Court and all crimes of sexual and gender-based violence to lift them. Sudan had the opportunity to legally reform the Armed Forces Act of 2007, the Police Act of 2008, and the National Security Act of 2010, but did not. The Sudanese Constitutional Court at the time justified the immunities by emphasising that they were of a conditional nature and the possibility of judicial review existed. However, in practice, immunities often lead to impunity, including acts of serious human rights violation. Judicial remedies are neither clear nor effective¹¹. There are also other parties covered by immunities that extend to public and private shareholding companies. According to the 2005 constitution, the immunity of the President of the Republic does not fall except in the case of high treason by a decision of three quarters of the Legislative Council, and the action against him is taken before the Constitutional Court in accordance with the law of the holders of constitutional, executive and legislative positions. There are procedural immunities granted under state laws to authorised persons, administrative officers and some directors of departments. Their crimes are taking advantage of the worst exploitation in violation of the rights of the simple and the vulnerable, criminal and non-criminal violations and abuse of the authorities, which consequently hindered the prosecution in completing the investigation. The first is because the suspects have not been extradited to take their statements and determine whether or not a criminal case will be opened, which helps to delay the course of the trial, if there is justification for it, and opens the door to impunity for the perpetrators.

Impact of Emergency Laws on Human Rights and Gender-Based Violence:

The Emergency and Protection of Public Safety Law that was promulgated in 1997 is still in force and has not been repealed¹². Emergency provisions usually come in exceptional circumstances that are restricted by conditions in the constitution, and they should be registered with justification in the United Nations. There are some very limited human rights that are not suspended under the emergency, but none of them preserve the woman's right to freedom from sexual violence in general and rape in particular. Rather, the emergency is usually justified because it is one of the attacks often carried out by those covered by various immunities, in particular, officers and soldiers of the regular forces. Cases have been recorded, but many remained in the police and prosecutors' files as reports. Very few reached the stage of litigation in the courts. It is unfortunate that many cases remained outside the registration process, whether it was for terrorism and intimidation by the perpetrators or for fear of stigma or lack of confidence in the national judicial authorities. In all cases, emergency provisions effectively contributed to the increase in cases of human rights violations and violence against women, particularly sexual.. On the

¹¹ Redress, Human Rights Concerns and Barriers to Justice in Sudan: The View of National, Regional and International Bodies, Compilation of Reports Advocating for Legal Reform in Sudan, February 2014.

¹² Ministry of Justice, Laws of Sudan, Volume Eleven 1997-1998, Seventh Edition

other hand, emergency powers give the head of state the right to amend, suspend or apply any law or part of it, and to issue subsidiary judgments as he deems fit. Accordingly there will be arrests and trials for any suspect under the emergency law¹³.

Development in Human Rights Frameworks Post Sudan Revolution:

The regime headed by former President Omar Hassan Ahmed al-Bashir was collapsed in 2019. In March 2020 the government declared a national health emergency in response to the COVID-19 pandemic, introducing measures including night curfews, movement restrictions and border closures. In August, a peace agreement was signed between the government and the Sudan Revolutionary Front, an alliance of nine armed political groups stationed across the country, including Blue Nile, Darfur and South Kordofan. Some armed groups did not sign the peace agreement. The Sudan Liberation Movement/Abdul Wahid Muhammad Nur Army in Darfur refused to participate in any peace talks. Nor was an agreement reached with the Sudan People's Liberation Movement-North, which controlled parts of South Kordofan and Blue Nile. With the end of a dictatorship regime characterised by a great violations of human rights, everyone expected that human rights would be at the top of the political agenda of the new regime - the transitional government. In accordance with the general framework of the transitional government programme, human rights were considered the top of ten priorities¹⁴ identified by the framework, and were addressed according to priorities number four and five.

Priority Number Four:

Spreading public and private freedoms and guaranteeing human rights. This priority states "Totalitarian regimes in the modern history of Sudan, especially during the era of the Salvation regime, contributed to digesting the rights of individuals and minorities, suppressing freedoms, violating Sudanese human rights and wasting their dignity, which led to the feeling of large groups of the Sudanese people of injustice and persecution. To address this, the transitional government will take the following measures":

- Cancellation of laws, legislation and texts restricting freedoms, through urgent legal reform.
- Restructuring and building the human rights and justice system and rehabilitating its cadres to achieve the independence and integrity of the judiciary, the strengthening of the rule of law and the achievement of justice.
- Establishing and activating an independent and specialised national commission dealing with transitional justice issues, as stipulated in the constitutional document.
- Supporting the independent investigation committee established by the government in the light of the provisions of the constitutional document to accomplish its tasks in investigating the incidents of violence and murder that accompanied the glorious

¹³ Article 12(k) of the Constitutional Document for the Transitional Period, 2019.

¹⁴ General framework for the program of the transitional government, Republic of Sudan, Ministry of Cabinet Affairs, December 2019.

December revolution, especially the dispersal of the sit-in and bringing the perpetrators to a speedy trial.

- Establishing and activating a National Commission for Legal Reform for the purpose of reviewing existing laws or enacting new laws and ensuring their enforcement in order to consolidate the principle of the rule of law.
- Adopting and encouraging oversight and support bodies, mechanisms and associations related to human rights issues.
- The adoption and enforcement of international conventions on human rights and their enforcement, starting with the International Bill of Human Rights, especially the rights of women and children.
- Promoting and guaranteeing religious freedoms in a way that preserves the citizen's full right to practice his religious rites

Priority Number Five:

Ensuring the promotion of women's rights in all fields with equitable representation in governance structures. "In accordance with the texts of the Universal Declaration of Human Rights 1948, and in order to redress the role of Sudanese women who were in the first ranks of the glorious December revolution and as real actors in society and as a human being in the first place". This priority included the following:

- Establishing and activating the Commission for Women and Gender Justice and developing strategies, policies and mechanisms for gender mainstreaming in all fields.
- Inclusion of women's rights in all social, political and economic fields and their fair and due participation in all state institutions and governance structures.
- Ratification of international and regional conventions on women's rights.
- Encouraging positive public discourse towards women's issues, especially through the media.
- Sponsoring programmes targeting political participation in public work in order to defend and obtain rights.
- Encouraging and supporting women's organisations in all public fields.
- Economic empowerment of women through access to economic and administrative resources, including financing and building productive and knowledge capacities.
- Activating and expanding the umbrella of social and health security for all women, focusing on those with limited income.
- Ensuring the principle of equal opportunities in all fields, empowering women economically, and providing decent work opportunities in all fields.

Despite this, we find that the great challenges facing the transitional government made the human rights file a neglected aspect, despite some positive legal reforms. Violations continued in large parts of Sudan (the Eastern Sudan and Darfur regions, in addition to Khartoum), where the authorities failed to provide adequate protection for civilians in Darfur and South Kordofan and Eastern Sudan from the grave violations of human rights resulting from the killing of demonstrators in Khartoum and tribal clashes in Eastern Sudan and armed attacks by militias on villages in Darfur.

Legal Amendments Made During the Transitional Period:

1. The law to dismantle the June 30 regime and remove empowerment, amendment for the year 2020, was passed on April 22, 2020
2. The Criminal Code 1991 Amendment for the year 2020 passed on April 22, 2020
3. The Law for the Protection of Medical Doctors, Cadres, and Health Facilities for the year 2020 was passed on May 29, 2020
4. The Law of Miscellaneous Amendments (Cancellation and Amendment of Provisions Restricting Freedoms) Legislation No. 12 of 2020 passed on April 22, 2020
5. The Law of the Human Rights and Justice System Reform Commission for the year 2020 was passed on April 22, 2020
6. Amending the Customs Law 1996 for the year 2020
7. The Law on Combating Information Crimes Amendment for the year 2020 was passed on April 22, 2020
8. The Law of Miscellaneous Amendments (Unifying Environmental Councils) for the year 2020 Legislation No. 3 passed on April 22, 2020
9. Anti-Human Trafficking (Amendment) Law for the year 2020
10. The Law of the Supreme Council for *Hajj* and *Umrah* for the year 2020 was passed on April 22, 2020
11. A law repealing the Sudanese Red Crescent Law of 2010 for the year 2020 was passed on April 22, 2020
12. A law repealing advocacy laws, advocacy and guidance councils, and endowment laws in states for the year 2020 and was passed on April 22, 2020
13. Legislation related to the tasks of the transitional period was enacted, such as the laws of commissions, all of which were deposited to the Legislation Department of the Ministry of Justice and were not approved, except for the Commission of the Human Rights and Justice System.

Despite the amendment of some articles of the Criminal Code on April 22, 2020, many laws that degrade the status of women were not reviewed, such as the law on domestic servants, land, civil service and labour, and the evidence law and personal status laws for Muslims and non-Muslims. None of the international and regional conventions that

promote women's rights and combat all forms of discrimination against them have been approved.

Legal reform, rebuilding and developing the Human Rights and Justice system and ensuring the independence of the judiciary:

In April 2020, the judicial bodies (the Attorney General, the Ministry of Justice and the Judicial Authority) and the Forces of Freedom and Change approved the draft law of the Commission for the Reform of the Human Rights and Justice System, and a text guaranteeing the independence of the judiciary was included in the draft law of the Commission¹⁵. With the issuance of it, the Commission itself was supposed to establish the High Judicial Law and establish the Constitutional Court, but as yet nothing has been done except to issue the Commission's law, which means that the process of structural and legal reform has stopped - i.e. a weak response to reform.

There are still laws awaiting decision to reform or cancel. There are objective and procedural laws and the Evidence Law awaiting review to issue the decision to cancel or amend, such as personal status laws for Muslims and non-Muslims, the Code of Criminal Procedure, and the Evidence Laws. A committee was formed to review and amend the Personal Status Law on October 8, 2020, as well as to review laws relating to women and children and the status of children in all laws. A decision was made on October 22, 2020 to establish a national committee to end child marriage and Female Genital Mutilation (FGM).

Holding employees of the former regime accountable for all crimes committed during the past thirty years including murder outside the judicial system:

(A) The Attorney General made several decisions regarding murder crimes during the previous regime:

1. The Port Sudan events of 2005, the execution of 28 officers of the armed forces in 1990, the investigation in the disappearance of persons, and the investigation of the events of September 2013. (decisions: November 7, 2019)
2. The Commission of Inquiry and Investigation into Extrajudicial Killings and Human Rights Violations from June 1989 to April 2019 (decisions 11 March 2019).
3. The establishment of a committee to investigate the events of *Al-Ailafoun* Camp 1998 and the investigation into the disappearance of Professor Omar Haroun Al-Khalifa. (decision: November 30 2019)
4. The commission of inquiry into the events of *Kajbar* Damp (decision issued: March 22, 2020)
5. The Prime Minister issued a decision to establish an independent national commission to investigate the crimes committed on June 3, 2019 (decision: on September 22, 2019). The commission was formed on set dates as provided for on the constitutional document with a time limit of three months, subject to renewal. In practice it has been renewed several times due to the large number of

¹⁵ The official website of the Ministry of Justice on the Internet, news and events, July 2020

- investigations. What is required of this committee is to determine responsibilities for violations that accompanied the sit-in in the public command square in Khartoum and the states. The committee questioned 3200 witnesses. Sub-committees in states are still conducting their work. The final report is incomplete due to the large number of necessary investigations and their limitations, related investigations, incomplete investigations in the states, and the need for careful technical analysis of a large number of videos, documents and audio recordings.
6. The Committee on Dismantling the Enabling Structure of the June 30 System and Building a State of law and Institutions: The committee's law was passed on November 29, 2020 and amended on April 22, 2020, as the powers of the committee were strengthened and expanded. The President of the Sovereignty Council issued the decision to establish a committee to dismantle the structure of empowerment of the June 30 regime and the recovery of public property on October 12, 2020 on recommendation of the Prime Minister. The committee's duties are: dismantling the National Congress Party and deleting it from the party registry and political organisations and all its party fronts from organisations, companies and entities to enable the June 30 system, seizing and recovering its property and money, property and money of its fronts and its access to the Ministry of Finance, and terminating the service of any person in any state agencies who participated in the party's activities or contributed to achieving its goals and agenda, helped achieve its empowerment policy, or got the job due to empowerment or the use of influence, or a job was created for him for the purpose of empowerment, directly or indirectly, based on state agencies¹⁶.
 7. The Prime Minister issued a decision to abolish the Advisory Council for Human Rights and to form the National Mechanism on Human Rights in January 2021. This was to be headed by the Minister of Justice and consists of 18 members representing the bodies related to human rights, namely the Council of Persons with Disabilities and the Public Prosecution and the Interior, to prepare reports and responses submitted by Sudan to international mechanisms and regional organisations in the field of human rights and the involvement of civil society active in human rights and the holding of public consultations¹⁷.

Human Rights in the Juba Agreements for Peace in Sudan:

The agreement expressed its intention to establish a state of equal citizenship and to consolidate social, political and economic justice in a democratic, developmental state in which the basic rights of all people and fairness to women, children, the marginalised and people with special needs are taken into account¹⁸. Article 14 talked about the basic rights included in the Bill of Rights and their promotion for all the people of Sudan. Article 1(15) stated, "All rights and freedoms included in international and regional agreements, covenants, and charters of human rights ratified by the Republic of Sudan are an integral

¹⁶ Records of the Attorney General's Office

¹⁷ Sudan, the official page of the Ministry of Justice, news and events

¹⁸ Juba Agreement for Sudan Peace 2020, Paragraphs 2, and 74 of the Preamble, Articles 1(14) and 1(15) respectively from Part One - Agreement on National Issues - General Principles

part of this agreement,”. Article 1.1 of the general principles of the Juba Peace Agreement stated, “All the principles mentioned in the agreements concluded in the various tracks in Juba shall be an integral part of the principles of the peace agreement with the signatory parties.” that is, the agreement of principles that gave the right to equal citizenship, as the agreement mentioned the importance of the inclusiveness of all the people of Sudan with the stipulated human rights and the accountability of the perpetrators of crimes and violations in the outgoing covenant and the absence of impunity for them.

Among the important principles mentioned are the:

- separation of powers,
- complete separation between state and religious institutions,
- commitment to peaceful and civil practice and;
- rejection of all forms of violence.

This lays the foundations for good governance, transparency, legal reform, development of the human rights and justice system, ensuring the independence of the judiciary, ensuring the rule of law, fair representation of citizens in the civil service and all regular forces, fair and effective representation of women at all levels of decision-making at a rate of no less than 40%, positive discrimination in regions affected by wars, conflicts and the least developed, combating the phenomenon of impunity and justice for the victims, political pluralism and the formation of trade unions and other organisations, freedom of access to information for all citizens in accordance with the constitution and the law, holding free and fair elections under international monitoring provided that this is preceded by the voluntary return of the displaced/refugees, holding the constitutional conference, conducting the population census, developing the elections and political parties’ laws, and forming the electoral commission.

The parties also agreed to issue strict legislation criminalising racism and clear policies combating racism and manifestations of religious superiority, fairness to the pensioners and those arbitrarily separated from the former system, free and mandatory basic education, the formation of the transitional justice commission, provided that the mechanisms of transitional justice include all Sudan, especially conflict areas.

The parties also agreed to form the Peace Commission, participate in the preparation of its law and structure, and establish a mechanism for monitoring and evaluating the peace agreement. The commission consisted of representatives of the parties, the guarantor, the mediator, and any other components agreed upon by the parties, and the inclusion of the signed peace agreement in the constitutional document.

The elaborate details in the Juba Agreement for Peace in Sudan obviate the need for many constitutional and legal interpretations, but to the same extent it may be a problem to enter into constitutional challenges to reach specific interpretations or even resort to settlements in the matter with a loose framework. The Eastern Sudan track of the agreement mentioned conducting necessary studies to consider the signing and ratification of treaties, agreements and protocols, especially those related to the rights of women, children and the family, compliance with the law and international human rights rules and the implementation of SC Resolution No. 1325 on women, peace and security according to Articles 7 and 8 respectively from the general principle of the political file for East Peace. The National

Issues Agreement stipulated many human rights in detail that were not repeated in the other tracks, while different tracks mentioned some issues specifically related to them.

The tracks of Darfur, the two regions and the East were similar in enhancing the conditions of the displaced and refugees, and differed in that the tracks of Darfur and the two regions stipulated the importance of establishing transitional justice commissions, IDPs and refugees voluntary return, reconstruction and lands in their areas, preserving fundamental rights during security arrangements and preventing their violation, such as freedom of movement, access to humanitarian aid, criminalisation of sexual violations, ceasefire, social integration, non-mobilisation of children, reform and development of the military institution to reach a lasting peace and political transition in Sudan. The East was limited to establishing the Land Commission and dealing with issues of displacement, asylum and relocation, without mentioning commissions.

The specifics of the tracks cast a shadow in the agreements, and each track was distinguished by different priorities. The Darfur track and the two regions provided for the:

- establishment of commissions for displaced persons and refugees,
- voluntary return and reconstruction,
- nomadic and pastoralist commission,
- disarmament,
- demobilisation and reintegration,
- unconditional condemnation and compensation to the victims of conflicts,
- reparation for the atrocities,
- abuses and violations of human rights and international humanitarian law
- accountability and dealing with children in the army in accordance with the Convention on the Rights of the Child,
- the Second Protocol to the Geneva Convention,
- the African Charter on the Rights of the Child,
- the Beijing Rules and related international standards of juvenile justice and fair trial in partnership with the United Nations Children's Fund and other relevant organisations, the parties to the agreement should
 - work to rehabilitate and integrate stagnant children into society.
 - Isolate those who have committed abuses and violations of human rights and international humanitarian law to reduce impunity,
 - build confidence and strengthen the rule of law,
 - provide security and full protection for all citizens.

There are crimes that fall under the jurisdiction of the International Criminal Court and crimes that are resolved within the framework of the special courts for Darfur crimes. Other than that, there are crimes that fall within the jurisdiction of the national judiciary. If it is not included in it, it is within the jurisdiction of the traditional mechanisms that can issue judgments, return property and compensate victims without prejudice to the jurisdiction of the Compensation Fund and reparation.

Regarding the Criminal Court, the two parties affirmed their cooperation to extradite the wanted persons and to abide by SC Resolution No. 1593 of 2005 in accordance with Article 24 (1). The two parties facilitate access to victims and witnesses, investigation sites, and

movement at all times and places, and ensure the safety of victims and witnesses. The peculiarity of the course of two regions appeared in the text:

- the protection of religious, ethnic and cultural diversity,
- the right to establish the state constitution on the 1973 amended in 1974,
- the establishment and rehabilitation of institutes for teaching local languages,
- the establishment of a mechanism to develop them in the two regions,
- the establishment of the National Commission for Religious Freedom,
- the maintenance of traditions and customary law,
- the Ministry of Peace and Human Rights and the Commission for the Development of the Nomads, Pastoralists and Farmers Sector.

The Eastern Sudan track highlighted the need to conduct urgent trials for all the abuses that occurred in the region since June 30, 1989, especially the events of January 29, 2005, the events of 27 and 28 Ramadan 2019, and the events that preceded it in Gedaref state and the rest of the region and the various events in it. Independent investigation committees are formed and the defendants are brought to trial, ensuring the rights of cargo and unloading workers inside and outside the ships, finding permanent solutions to their job conditions, achieving sustainable, parallel and integrated development in coastal areas of national economic importance and protecting fisheries from deterioration.

The Northern Sudan Agreement provided for investigations into the burial of atomic and electronic waste, recognition of the Nubian language among national languages, and solving the problems of dams and forced displacement. The Central Sudan track stipulated finding a radical settlement of issues (including agricultural) under negotiation.

Human rights charters referring to the Juba Agreement for Peace in Sudan are:

- the Universal Declaration of Human Rights 1948,
- the International Covenant on Civil and Political Rights 1966,
- the International Covenant on Economic, Social and Cultural Rights 1966,
- the Optional Protocol to the International Covenant on Civil and Political Rights,
- the Second Optional Protocol to the annex The International Covenant on Civil and Political Rights,
- the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights 1967,
- the 1951 Convention relating to the Status of Refugees,
- the 1967 Special Protocol,
- the Additional Protocol of 1979,
- the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),
- the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children,
- the United Nations Convention against Transnational Organised Crime 2000,
- International Convention for the Protection of Persons from Enforced Disappearance,
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,

- supplementing the United Nations Convention against Transnational Organised Crime 2000.

Human Rights and the Role of parliament and parliamentarians:

Parliament plays a role in law reform and the protection of human rights in general. Law reform involves a variety of actors, including government bodies tasked with law reform, such as the Ministry of Justice and the Constitutional Court, as well as the judicial system. Non-governmental entities also play an important role in this process.

The first constituent assembly was formed in 1965. Women were granted the right to vote and run for office for the first time during this era. Women were also represented in parliament for the first time, and different forms of parliament followed, until the last parliament in 2005, which was formed under the Comprehensive Peace Agreement.

The Sudanese Legislative Assembly or the national legislature is the constituent legislative branch of the Government of Sudan. The National Legislature was dissolved on April 11 2019 after the revolution. As part of Sudan's transition to democracy in 2019, a Transitional Legislative Council was formed to serve as Sudan's legislature until elections took place in 2022. Under the provisions of the Constitutional Declaration, the Transitional Legislative Assembly was supposed to be formed within three months, provided that the Forces for Freedom and Change group nominated two-thirds of members, and the remaining third is appointed by "other forces". The number of council members should not exceed 300, and the proportion of women should not be less than 40%. After transitional government in Sudan and the rebel factions in Darfur signed the peace agreement in 2020 between South Kordofan and Blue Nile State, a quarter of the seats in the council were allocated to members of those factions.

The eleven-member Sudan Sovereignty Council was appointed the collective head of the State of Sudan in August 20, 2019, when it was created by the draft constitutional declaration . On October 25 2021, it was dissolved following the Sudanese coup d'état in October 2021. The Council was supposed to undertake the presidency of the state for a transitional period of 39 months, which is scheduled to end in November 2022. The Sovereignty Council and the Council of Ministers assumed the authority to legislate and issue laws. Some observers say the delay in forming the Legislative Council is due to the desire of the transitional authority partners to exercise legislative powers and pass laws complication. Others believe that the repeated postponement of the Legislative Council is primarily due to waiting for the signing of the peace agreement with the two Sudan Liberation Movements led by Abdel Wahed Mohamed Nour and Abdel Aziz Al-Hilu.

The history of the formation of parliaments in Sudan has been marked by decades of women being denied participation. Then it became a symbolic, non-binding participation subject to the vision of decision-makers and not to any constitutional or legal right. Despite the term "person" used in different constitutions to mean both sexes, decision-makers reduced it to some limited social rights. At the start of the former regime, the membership of the National Council was by appointment, and a small number of women were appointed

to the National Congress. Their role was to reinforce decisions that the National Congress was committed to, and they did not promote women's rights. This was altered by the Comprehensive Peace Agreement of 2005 and the electoral law that followed it. Women's participation in parliament has expanded 25%, and their participation in legislation for the benefit of women has become better, even if it is limited and restricted to the women of the National Congress Party and parties loyal to it and signatories to the 2005 Comprehensive Peace Agreement. Despite the slow legal reform during the past era, especially in the period before the December 2018 revolution, the feminist movement succeeded in cooperating with women parliamentarians and advocates in reforming some laws and criminalising some practices such as FGM in five Sudanese states. This is one of the areas that has been intensively addressed by women parliamentarians in some states. However, progress has not been encouraging as the perpetrators enjoy the protection of ethnic loyalty and rural nature to form the population.

By failing to establish a parliament during the transitional period, Sudan missed great legal reform opportunities related to rights in general and women's rights in particular, specially in light of dominance of the military and weakness of the civil part of the government.

Conclusion:

Adopting a human rights-based approach in Sudan must be based on sound analytical grounds that considers eras of flagrant violations of human rights in Sudan due to conflicts, marginalisation, mismanagement of diversity, and political and constitutional instability. Dealing with human rights in Sudan's constitutions and laws is progressive, but the transition from legislation to implementation remains a major concern hampered by the absence of many challenges among which is the weak culture of human rights.

With the development of reforms aimed at strengthening the protection of human rights and the rule of law in Sudan, especially after the December 2018 revolution, which were included in the constitutional document and a large number of laws that were approved, they will remain to a large extent facing implementation challenges due to the deep-rooted structural problems in post-revolution Sudan. The political crisis has remained, the economic situation is escalating, and conflicts and violations continue in many areas, such as Darfur, which is currently witnessing massive violations of human rights and violence against women, including rape. The need to respect human rights and the rule of law in Sudan has become more urgent than it was in the past. The planned constitutional and legal and institutional reform are the basis for this process.

There is a level of complete impunity for the perpetrator of violations, including acts of rape and sexual violence in Sudan. A series of interrelated factors contribute to the occurrence of this impunity, such as the absence of a law or clear provisions in laws criminalising some forms of violations such as sexual violence in line with international standards; the absence of a system that allows officials to be held accountable for their mistakes, such as the use of prompt, impartial and effective means of investigation and prosecution. Granting immunity is one of the most prominent means of protecting alleged perpetrators from accountability. It reflects a system dominated by the executive branch at the expense of effective oversight, whether judicial or otherwise. This institutional lack of

accountability is deeply entrenched because of the many immunities in the laws, especially the laws of the judicial services and others.

Recommendations:

1. Taking legal and political measures consistent with Sudan's international obligations to lead to a real change in the effective management of justice and human rights affairs in Sudan.
2. The partial legal reforms that have been carried out are not sufficient. Some laws, such as the Personal Status Law, need to be redeveloped after the abolition of the old unfair law. A comprehensive legal reform is important.
3. Officials enjoying immunity, even if it is conditional, constitutes a barrier that contradicts Sudan's duty to urgently and effectively protect serious violations of human rights.
4. Ensuring freedom of expression and identity, protecting the right to peaceful demonstration in Sudan and preventing excessive violence which leads to a large number of casualties; arrests, detention, torture, and prosecution of individuals for organising/participating in demonstrations

Gender-Based Violence:

Violence against women and girls is a complex social problem. It is the result of gender inequality deeply rooted in patriarchal norms and unbalanced power relations, as a mechanism through which gender inequality is entrenched and maintained. Violence against women and girls remains a widespread human rights violation that most countries of the world suffer from, but states' response and degree of commitment to measures vary in adopting prevention and response measures that addresses institutional and structural causes and factors, including social, cultural, economic and developmental factors.

Adopting a human rights-based approach in implementing strategies to eliminate discrimination and violence against women and implementing the Beijing Platform for Action is imperative. The adoption of the 1995 Beijing Declaration and Platform for Action was an important step in developing a comprehensive international policy framework on women's empowerment, human rights and development. However, since the adoption of the Beijing Declaration and Platform for Action more than 25 years ago, Sudan has not witnessed clear positive changes for the realisation of women's rights, as conflicts, poverty, illiteracy, weak state commitment and many cultural factors have led to persistent and systematic violence and discrimination against women. The Beijing Platform for Action builds strongly on the 1993 United Nations Declaration on the Elimination of Violence against Women, the 1979 Convention on the Elimination of All Forms of Discrimination against Women, and the 2003 Maputo Protocol. The full implementation of the Platform therefore requires the implementation of all those instruments.

Over the past three decades, Sudan has faced the marginalisation of gender equality mechanisms and reduced capacities to advance gender equality. This affected the implementation of the Beijing Platform, including combating violence against women and Gender Based which is still widespread and the increasing reactions against feminism,

gender equality and women's empowerment even post the December 2018 revolution poses an additional challenge to the much-needed constitutional, legislative, and programme changes for the full implementation of the Beijing Platform for Action. Besides, gaps in the capacity of service providers to adequately protect survivors and prosecute perpetrators remain a challenge. The mobilisation of government, NGOs and individuals in local communities to work together to fulfil national and international commitments to prevent violence against women and to respond effectively remains weak. Also, work to change the normative framework, institutional practices and behaviours related to violence against women and girls at state, community and individual levels, and to develop a social and institutional environment that will contribute to zero tolerance and the elimination of violence against women in Sudan is still in its infancy, and there are many challenges facing improving legal and policy frameworks, strengthening the prevention system and assistance mechanisms for survivors and improving access to effective protection from violence.

The special information contained in the reports indicates the multiplicity of manifestations of violence against women in Sudan, whether in conflict areas or outside it. The most famous of these reports is the United Nations Special Rapporteur on violence against women, its causes and effects for the year 2015, which indicated: "Despite the existence of laws, policies and programmes we have noted that violence against women is still a worrying issue in Sudan, as a large number of women and girls live in a context of severe inequality, underdevelopment, poverty and conflict, which is exacerbated by violence in both public and private spheres, whether at the hands of the state or at the hands of other parties. Unfortunately, it is difficult to verify the extent of the spread of these phenomena, whether in the private or public sphere, due to the following factors:

- lack of detailed data,
- social stigma and silence about certain manifestations of violence,
- cultural and social traditions and norms that prevent disclosure and seeking help outside the family framework,
- focusing on reconciliation at the expense of accountability in relation to crimes committed against women and girls"¹⁹.

Reports and meetings conducted by the United Nations Special Rapporteur on violence against women, its causes and effects, have reflected the presence of violence within the family and society, including violence against women, girls and children, whether physical, psychological, sexual or economic.

Six years have passed since this important reference report, the results of which were published in a way that transcended all challenges related to the previous government's denial of violence against women in Sudan. Despite the great change in Sudan, and great efforts, the results of the latest study on GBV in Sudan²⁰, which was recently developed by

¹⁹ Ms. Rashida Manjoo, United Nations Special Rapporteur on violence against women, its causes and effects, May 2015.

²⁰ Voices from Sudan 2020, UNFPA & CVAW, Sudan, 2021

the United Nations Population Fund and the Unit for Combating Violence against Women in 2021, still largely correspond to this report, as the study concluded that domestic violence is the most common (19% of respondents), especially physical violence from brothers against their sisters and daughters, husband against the wife with restrictions on the movement of women without the permission of the head of the family, which is often not considered a violation of women's rights. Then sexual violence in the same percentage (19% of respondents), especially against women working in marginal professions with low returns such as tea sellers, women working in markets, women in displacement and refugee camps while searching for water and firewood, domestic servants, people with special disabilities like mental disability, and the *Qur'an* schools (*Khalawi*) in which a violation occurs for children of both sexes. The study also dealt with psychological violence, especially verbal, and verbal abuse of victims of violence and GBV which pushes some to attempt suicide, and the percentage of those who responded to the question was 15%. Forced marriage, especially for children under the age of 18 (16% of respondents). One of the most important factors according to the study is economic need, fear of misbehaviour for the girl, and fear of not marrying in the future. Economic violence came in at 14%, and the study linked it to depriving girls of education and early marriage for girls. FGM, which prevails in Sudan by 87% in the age group 15-49²¹, was one of the causes of GBV by 12% of respondents. The rate of violence has increased during the year 2020, especially forced marriage due to the economic deterioration. The study also indicated an increase in domestic violence due to restrictions on movement related to the Corona pandemic. The positive thing is an increase in awareness on the negative effects of some practices such as FGM and child marriage, and the presence of greater freedoms to discuss GBV after the December 2018 revolution. The study also indicated that most cases of violence are not reported, especially domestic violence by family members, and that the legal framework for redressing victims is ineffective, and traditional justice mechanisms such as judiciaries are unfair, and special services such as health, psychological and security centres are not available in most areas.

One of the most important recommendations of the study is to pay attention to domestic violence as a priority within interventions to protect from and respond to GBV by targeting negative social norms and gender inequality that lead to it. Combating FGM and child marriage with wide-ranging interventions that address social, religious and economic factors, and ensuring that victims of GBV obtain all health, psychological, legal services and living support. Harmonising the national legal framework with international practical standards and paying attention to the women groups most vulnerable to the risks of GBV, such as divorced women, widows, young girls, displaced people, refugees and people with disabilities.

The statements of officials and decision makers during 2020 demonstrate a good degree of political commitment to confronting GBV, which constitutes a strong position towards the previous government's denial of the existence of violence against women in Sudan and the beginning of a new era with regard to political will, at least, starting with the statement of

²¹ Thiam. M. Unicef, Female Genital Mutilation/Cutting and Child Marriage in Sudan, are there any changes taking place, 2016.

the Sudanese Prime Minister, who directed the accession Sudan is bound by international conventions and treaties, the most important of which is the Convention on Eradication of all forms of Discrimination against Women (CEDAW). In conjunction with the 16-days of no violence against women, the Minister of Labour and Social Development announced Sudan's commitment to combating all forms of violence against women, reviewing or repealing laws restricting women's freedom, enhancing capabilities to combat all methods and manifestations of violence, and finding mechanisms to ensure peace and security for women and their access to political, legal and social rights. As the Sudanese Minister of Justice made clear, the Transitional Government is committed to repealing all laws that oppress women, which were established and implemented during the previous era.. These statements were followed by amendments to the Sudanese Penal Code and the abolition of the Public Order Law, as will be detailed later.

In the same context, the speech of the Minister of Social Development on the occasion of International Women's Day March 2021 affirmed the commitment to protect women and girls through the transitional government's approval of common standard procedures to address GBV and the signing of the Framework Agreement to Combat Sexual Violence Related to Conflict in Sudan with the United Nations and launching the line the hot spot for receiving domestic violence reports, providing psychological and legal support to survivors of GBV, and criminalising FGM, according to Article 141 of the Criminal Code. The Minister of Social Development, in Sudan's statement before the 65th session of the Commission on the Status of Women at the United Nations in March 2021, referred to the efforts made by the state in reviewing national legislations and laws related to women to align them with international conventions, including the abolition of articles restricting freedoms and the abolition of the Public Order Law of Khartoum state and the amendments to the Criminal Law of 1991 Amendment 2020 / Article 47 (b). The measures prescribed for pregnant and breastfeeding women accompanied by their children, in addition to criminalising the FGM and amputation in Article 141, and permitting setting the age of marriage for girls at 18 years. In addition to amendments to the Passport and Immigration Law for the year 2015, the amendment of 2020 gave more rights to women by allowing them to accompany their children on travel. He also referred to the discussions that took place to ratify the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Mobutu Protocol for accession to them. With regard to violence against women, the statement dealt with measures, procedures and programmes combat violence against women and girls and to enhance their protection during the period of the Corona pandemic, including:

- providing psychological support hotlines and referral to health and legal services in a health emergency situation to limit the spread of Coronavirus
- Providing technical and material support to women in public, private and informal sectors, and,
- raising awareness of the pandemic through visual, audio and print media.

The statement referred to strengthening the role of women in peace through the development of a national action plan for SC Resolution No. 1325 (Women, Peace and Security), approved by the Council of Ministers in March 2020, and signing the Juba

Agreement for the Peace of Sudan and its impact on refugee and displaced women in achieving gender justice and equality and preventing violence against women.

The above confirms the significant shift in the political will to combat violence against women, and the following institutional, legal and procedural developments are further steps towards a stage of serious interventions to end violence against women in Sudan.

Developments in Laws and Policies:

During the past decade, regional and international bodies have repeatedly raised concerns about violations of women's rights in Sudan²², especially the lack of protection against rape and other forms of sexual and GBV, and demanded the enactment of legislation prohibiting discriminatory practices against women and demanding the speedy adaptation of laws governing family and personal status, especially with regard to the institution guardianship and rules on marriage and divorce, repeal all laws that discriminate against women, control legislation and practices that affect women and children with international law obligations that Sudan undertakes, and take measures to raise awareness of the police and other authorities, and the general public on GBV against women and girls, in addition to women's rights, and ratification of CEDAW and its optional protocol without any reservations restricting it. The results of the study of the prevalence of violence against women in northern Sudan²³, which is one of the few studies conducted during the last decade, drew conclusions similar to those mentioned in the UNFPA/CVAW Unit study, as it indicated that the efforts of all actors are dispersed and can only respond to the great needs within a broad strategic framework to combat violence against women that take care of cultural, economic and legal aspects.

One of the major steps taken during the current year is the ratification by the Council of Ministers of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in April 2021 with reservations on some provisions of the agreement, as well as the approval of the Protocol on Women's Rights in Africa annexed to the African Charter on Human and Peoples' Rights. The articles that are preserved in CEDAW are Articles 2, 16 and 1/29, and for the ratification to be effective, the agreement must be approved at the level of the temporary Legislative Council composed of the Council of Ministers and the Sovereign Council.

While the Sudanese government's approval of CEDAW caused a wave of controversy from extremist religious currents, which repeatedly expressed their objection to joining this agreement, the cabinet's reservation on some provisions of the CEDAW agreement found strong opposition from women's groups in Sudan for its contradiction with the principle of equality between men and women that it approved by the Constitution. Many gender experts and activists believe that the ratification of the Convention on the Elimination of All Forms of Discrimination against Women did not end the debate over women's rights.

²² Human Rights Concerns and Barriers to Justice in Sudan: The Vision of National, Regional and International Bodies Compilation of Reports Advocating for Legal Reform in Sudan, REDRESS TRUST Report, 2014.

²³ The Prevalence of Violence against Women in North Sudan, a Secondary Database Research for the Period January 2000 to January 2011, UN Women, Sudan, 2011.

Aisha al-Karib²⁴, a researcher, academic and human rights activist, said that the demand to sign CEDAW was part of the struggle of Sudanese women during the past two decades, especially with reservations that affect the essence of the agreement, and that the government's reservation on Article 2 of the agreement is not appropriate because the reserved article is found in the same words in the Interim Constitution of Sudan, which speaks about removing obstacles that discriminate against women and all the negative habits that prevent their participation and discriminate against them, so how do you reserve an article in the constitution? The Academy, Professor Belqis Badri, emphasised that there are family-related laws that need a major amendment, as is found in the Personal Status Law and others, and joining CEDAW without reservation²⁵.

In 2020, the Minister of Justice established a committee for the personal status law for the year 1991 by virtue of Resolution No. (47) whose task was to prepare a new law. Two provisions of the law have already been amended, one of which relates to the criminalisation of FGM. The second is to allow the mother to accompany her children to travel outside Sudan without the permission or approval of the father.. Human rights activists are calling for the family status law to be abolished and a new law to be developed in a spirit commensurate with the change in Sudan. The decision was accompanied by a media campaign by religious groups, which denounced the amendment decision and targeted members of the committee with violation and defamation. Before the committee completed its work, reservations were made to the three CEDAW articles, all of which are related to personal status, marriage and the family institution. Article 2 calls for appropriate legislative and non-legislative measures, including penalties, to prohibit all discrimination against women and to amend or repeal laws, regulations, existing customs and practices that constitute discrimination against women; Article 16, which calls for the elimination of discrimination against women in all matters related to marriage and family relations and in particular guarantees on the basis of equality between men and women, the same right to enter into marriage and the freedom to choose a spouse only with the free and full consent of the woman; the same rights and responsibilities during marriage and at its dissolution; and in parental rights, guardianship of children, the minimum age for marriage, and the guardianship system. Thus, the reservation to these provisions constituted a defeat for a long feminist walk to claim the same rights for those who were reserved. Many studies have previously recommended that the principle of equality in marriage be reflected in the provisions of the Convention on the Elimination of All Forms of Discrimination against Women and the Universal Declaration of Human Rights²⁶.

²⁴ The Democrat newspaper, Follow-ups, Issue 241, July 5, 2021

²⁵ Democratic Electronic Newspaper June 24, 2021

²⁶ UN WOMEN STUDY ON: WOMEN'S HUMAN RIGHTS IN SUDAN, A Gender-Based Review & Analysis OF the Sudanese Legal Framework, The IRIS Center at the University of Maryland, College Park, August 2010.

Among the most important recent developments in the field of policies, agreements and other procedures related to reforming legislation, policies, strategic plans and practices in relation to combating violence against women are:

1. Drafting a law on the prevention and response to violence against women

The Unit for Combating Violence against Women worked to develop a law on the prevention and response to violence against women, and the final draft was submitted after advice to the honouring minister

2. Common Standard Operating Procedures Document:

The joint standard work procedures for the prevention and response to GBV in Sudan were developed under the leadership of the Violence against Women and Children Unit in 2020. The Unit for Combating Violence against Women and Children plays a key role in implementing the document for its oversight role over services.

The Common Standard Operating Procedures (CSOP) describe international guidelines and best practices for procedures, roles and responsibilities for preventing and responding to GBV for all relevant actors from government institutions, UN agencies, national and international civil society actors. It provides information on services provided to a wide range of beneficiaries, including IDPs, refugees, returnees, host communities and those who remained in their communities during and after the conflict. Based on best national and international practices, these procedures were developed through a consultative process that included service providers in key sectors in the prevention and response to GBV, such as the medical, psychosocial, legal, safety and security sectors. The CSOPs detail minimum actions to be taken to respect international standards and a survivor-centred approach to the care of GBV survivors.

3. The Joint Framework Agreement between the Government of the Sudan and the Office of the Special Representative on Sexual Violence in Conflict:

The idea of this agreement is that some parties affiliated with the Sudanese government are included in the United Nations Secretary-General's blacklist of parties suspected of committing rape and other types of conflict-related sexual and GBV on the agenda of the UN SC. The Sudanese parties included in the blacklist include the Justice and Equality Movement, the Sudanese Armed Forces, and the Rapid Support Forces. According to these data, since the last quarter of 2017, the Permanent Mission in New York has conducted an intensive dialogue with the Office of the Special Representative of the Secretary-General of the United Nations on Sexual Violence in Conflict Areas, with the aim of bridging the gap that has existed in the framework of relations between the Sudanese government and the Office of the Special Representative over the previous years. This comes against the backdrop of the ongoing conflict in Darfur in the past period, and the monitoring of many violations by a number of United Nations offices and organisations related to cases of sexual violence in Darfur and the two regions. This was reflected in the information and data included in the annual report of the Secretary-General on conflict-related sexual violence, as there is an entire chapter dealing with the situation there. This report is presented annually to the members of the SC under the item "Women, Peace and Security." It receives extensive discussion. The results and data on Darfur are often discussed by some

members of the Council, which is reflected in the persistence of the negative image of human rights violations in Sudan²⁷.

During her visit to Sudan in February 2018, the Special Representative met an estimated number of Sudanese officials and stakeholders. She toured Darfur states and listened to testimonies of refugees and displaced persons in displacement and refugee camps. Following this visit, the Special Representative proposed preparing a document of a memorandum of understanding or a framework for joint cooperation between the two sides, ensuring the development of an action plan in cooperation with her office, aimed primarily at eliminating sexual violence in conflict areas in Sudan. According to the foregoing, the Permanent Mission in New York requested the Special Representative to prepare a framework for joint cooperation in accordance with Sudan's priorities, and to be complementary to national initiatives and efforts in this regard, in order to ensure the Sudanese side's ownership of these efforts, the latter agreed.

The text of the final draft of the joint cooperation framework includes the basic items that Sudan will work on implementing in light of its needs, while ensuring that they are compatible with SC resolutions in this regard. The draft addresses the measures that parties on the Secretary-General's blacklist suspected of committing such crimes must take to get off this disgraceful list. In the event that the Sudanese government is committed to implementing the terms of the joint cooperation framework and the action plan emanating from it in accordance with an established time plan, Sudan will meet the criteria that ensure that its affiliated parties (such as the regular forces) are removed from this blacklist. Commitment to the full implementation of the terms and the effective removal of the Sudanese parties from the list would contribute to supporting practical steps towards ending the sanctions imposed on it by the SC related to Darfur in this regard, and would contribute strongly to improving the human rights record in Sudan. The final version of the cooperation framework was signed in March 2020.

4- The National Plan for the Implementation of SC Resolution 1325:

The national plan for the implementation of SC Resolution No. 1325 was approved by the Sudanese Council of Ministers in March 2020. Accordingly, the Sudanese government is required to protect the rights of women and girls, the displaced, and the refugees, to reduce the policy of impunity, and to hold accountable the perpetrators of crimes against Sudanese women. The plan is a catalyst for setting ambitious goals to achieve UNSCR 1325, the protection of the rights of women and girls, the achievement of the principle of equality and non-discrimination, and the realisation of women's rights to access decision-making.

The national action plan included goals for the protection and prevention of all forms of violence against women within the pillar of protection, such as ensuring the approval and enforcement of national laws that follow international standards for the protection of women and girls. They are implemented through activities mentioned in the plan, such as joining and harmonising with international conventions and enacting and amending laws to be friendly to women without neglecting women with disability, combating all types of

²⁷ Report of the practical performance of the unit to combat violence against women and children, evaluating the performance of ministries and state institutions (September 2020 to September 6, 2019).

violence, especially sexual violence, protecting women at work in the public and private sectors, training law enforcement agencies, including regular forces and women cadres, towards gender sensitivity and human rights, raising awareness, solving circular 8 problems, and affirming the right of women to preserve criminal evidence in cases of physical and sexual violence without a report. The protection pillar of the plan also provides for the creation of social responsibility towards combating violence against women and girls. The implementation of these two pillars is carried out through the efforts of the Unit to combat violence against women and children, including combating violence in school curricula, societal reform through religious discourse and promoting opportunities for people with disabilities, and media plans focusing on radio using the mechanisms of societal change and community ownership of the tools of change and ensuring community active participation, producing literary and artistic works targeting different age groups that target combating violence against women and girls, including social responsibility programmes, health and clinical awareness of rape victims and providing counselling in medical students' training programmes.

The pillar also focused on protecting the rights and needs of women and girls during and after conflicts, and this includes accountability, trial, and the implementation of justice locally and internationally, and not allowing avoidance or waiving accountability in particular for major crimes, war crimes, GBV, genocide and crimes against humanity. This stage requires investigation, collecting evidence, protecting witnesses, and providing legal and humanitarian aid to victims and those affected by the conflict, particularly women, girls, children, people with special needs and the disabled. This pillar focuses on women as victims and directs the parties to take appropriate measures to protect them by conducting transparent investigations into all violations on the basis of gender, in particular sexual violence. This indicates the importance of:

- female officers to protect women in peacekeeping operations,
- gender advisers in the army,
- deterrent trials and not escaping justice,
- adopting the global protocol to document sexual violence during conflict and conduct related investigations to increase effective criminal prosecutions, and
- put in place effective measures to ensure that survivors have access to justice, treatment and rehabilitative services.

It is important to read the pillars of Resolution 1325 as interconnected packages when implementing the women's peace and security agenda, and the core of the agenda is:

- involving women,
- taking a serious gender perspective,
- protecting women,
- taking into account their needs in peacebuilding and reconstruction processes
- producing a reality that is different from the reality of violations and insecurity
- creating an environment in which women feel protected and lead their lives in a normal and safe manner
- ensuring those who violated their right received a satisfactory punishment for them
- ensuring that all women's needs were considered during the various peace building processes such as voluntary return,

- the development of the rural economy, services, disarmament and demobilisations,
- the formation of new national forces and their security strategy, and other changes²⁸.

Conclusion:

Despite the persistence of insecurity in some parts of Sudan, it is clear that there are legislative and institutional developments that have been taken to address the human rights situation of women in general and GBV in particular. A review of best practices in the various states of Sudan will benefit all actors and the government and the international community committed to helping the country. The state is considered the primary responsible for carrying out the duty and bearing the responsibility to work for the elimination of all forms of violence against women and girls. This responsibility includes protection, prevention, investigation, punishment and the provision of effective redress, including measures of compensation. Moreover, the state has a responsibility to hold accountable not only the perpetrators of violence but state authorities that fail to protect and prevent violations of the human rights of women and girls due to a failure to respond to the incidences ineffectively. Accountability of state authorities that perpetrate violence is an imperative in the current context.

The issues that should be given the utmost priority are insecurity in the majority of IDP camps, exposing women and girls to violence either at the hands of criminal elements, groups or the authorities. Interventions should also be characterised by transparency, comprehensive consultations, the participation of civil society, individuals and organisations in developing laws and policies, activating the role of the media in issues of violence against women and girls, and providing official data on violence against women by working with data collection or classification mechanisms.

It is important to study the newly developed frameworks in an integrated manner, such as the National Action Plan for Resolution 1325 and the Juba Agreement for Peace in Sudan, and to conduct analytical studies to harmonise their implementation with the requirements of protecting women from violence and giving priority to GBV and rape in conflict areas and strengthening the accountability framework for the security authorities in order to play their role in protection. As for the institutional frameworks, it is necessary to institutionalise the units of combating violence against women, starting in the areas most vulnerable to violations, building capacities of their staff, strengthening partnership with civil society organisations, and encouraging community organisations and groups to build safety nets and protect women.

Recommendations:

Sudan should consider the recommendations and implementation strategies proposed by the expert mechanisms of the Commission on the Status of Women, including good practices and legal and practical solutions it provided in a number of relevant thematic

²⁸ The Women, Peace and Security Agenda: Supporting the Implementation of Security Council Resolution 1325: Analytical Paper on: Synchronization of the Implementation of the Juba Agreement for Peace in Sudan and the National Action Plan on Security Council Resolution 1325, Khartoum University, Development Studies and Research Institute, December 2020.

areas. In particular, those related to implementation gaps and challenges and the use of reliable and comparable data to track progress and prevent regression by anti-gender campaigns and movements that threaten progress. Therefore, the following should be done:

1. Establish investigation committees consisting of trusted and specialised national persons to look into reports of sexual rape in different regions.
2. Facilitate the monitoring, documentation, verification or reporting of violations against women and girls.
3. Enhance the existence of responsive evidence to conduct impartial and objective investigations without fear, favouritism or retaliation.
4. Attend to justice and achieving justice in relation to crimes committed against women and girls particularly addressing the lack of accountability.
5. Review the various overlapping and intertwined institutional mechanisms with complementary and sometimes dual functions to ensure clarity, roles, functions and capabilities.
6. Study the persistence of the problem of violence against women in conflict areas.
7. Study the social stigma and cultural norms surrounding violence against women, which lead to a reluctance to report incidents, and designing appropriate interventions according to the context.
8. Promote awareness of knowledge and effective implementation of relevant laws.
9. Strengthen accountability for specific and sexual crimes, and statistical verification of such incidents, rates, places and reasons for their spread, in order to develop appropriate actions.

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