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RELIGIOUS FREEDOM IN SUDAN

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Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting and protecting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic and Social Council¹. The purpose of this report is to raise concerns regarding human rights violations in the Republic of the Sudan [hereinafter Sudan] for the 2015 Universal Periodic Review (UPR). These violations primarily stem from President Omar Hassan al-Bashir's hardline commitment to transform Sudan into a fully Islamic and fully Arabic State in the wake of South Sudan's secession².

Despite Constitutional Provisions and International Agreements Guaranteeing Freedom of Religion, the Sudanese Government Routinely Favors Islam and Persecutes Christians

2. The Interim National Constitution of Sudan states: "Every person shall have the right to the freedom of religious creed and worship [and] no person shall be coerced to adopt such faith, that he/she does not believe in"³. Sudan is also bound by Article 18 of the International Covenant on Civil and Political Rights (ICCPR)⁴ and Articles 2 and 8 of the African Charter on Human and Peoples' Rights⁵, both of which Sudan has ratified without reservations or interpretive declarations⁶. Despite these official commitments to religious freedom, however, the Sudanese government continues to engage in severe and ongoing violations of religious freedom⁷. Under the 1991 Penal Code, apostasy (the crime of leaving Islam) is punishable by death; this law has remained in force and the government has continued to prosecute persons accused of apostasy

¹NGO Branch, U.N. Dep't of Econ. & Soc. Affairs, Consultative Status for the European Centre for Law and Justice (2007), <http://esango.un.org/civilsociety/> (accessed by searching "European Centre for Law and Justice" in the iCSO Database).

²Khaled Abdel Aziz, *Sudan's Bashir Sees Islamic Law, Defends Flogging*, REUTERS (19 Dec. 2010, at 2:03 PM GMT), <http://af.reuters.com/article/topNews/idAFJOE6BI04I20101219> ("If south Sudan secedes, we will change the constitution and at that time there will be no time to speak of diversity of culture and ethnicity. . . . Sharia (Islamic law) and Islam will be the main source for the constitution, Islam the official religion and Arabic the official language").

³Interim National Constitution of the Republic of Sudan, 6 July 2005, art. 38 [hereinafter Interim Constitution]; *see also id.* art. 6.

⁴International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316, at 52 (16 Dec. 1966) [hereinafter ICCPR].

⁵African Charter on Human and Peoples' Rights ("Banjul Charter"), arts. 2, 8, 21 Oct. 1986, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 [hereinafter Banjul Charter].

⁶*Status of Ratification Interactive Dashboard*, OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (Jan. 2013), <http://indicators.ohchr.org/> (accessed by choosing "Sudan" from the Countries list); *Ratification Table: African Charter on Human and Peoples' Rights*, AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS (last visited on 27 July 2015), <http://www.achpr.org/instruments/achpr/ratification/>.

⁷USCIRF 2015 ANN. REP. 65, *available at* [http://www.uscirf.gov/sites/default/files/USCIRF%20Annual%20Report%202015%20\(2\).pdf](http://www.uscirf.gov/sites/default/files/USCIRF%20Annual%20Report%202015%20(2).pdf) [hereinafter USCIRF Report]. The U.S. State Department has classified Sudan as a Tier 1 "country of particular concern" (CPC) since 1999, and the USCIRF has recommended that Sudan be re-designated as a CPC in 2015.

despite the 2011 UPR Working Group's recommendations to abolish the law⁸. The Sudanese government also continues to apply *Sharia* law to non-Muslims⁹, in spite of the 2011 Working Group's recommendations¹⁰. Further, the government has prohibited the construction of Christian churches while freely allowing new Muslim mosques to be built and has confiscated and demolished several existing churches¹¹.

The Sudanese Government Has Banned the Construction of Christian Churches and Has Confiscated and Destroyed Existing Church Properties

3. On 12 July 2014, the Sudanese Minister of Guidance and Endowments, Shalil Abdullah, re-affirmed an April 2013 decree that the government would no longer issue permits for the construction of new churches in Sudan, claiming there were already enough churches in Sudan to serve the needs of the Christian population¹². In addition to prohibiting the construction of new churches, however, the Sudanese government has also systematically confiscated and destroyed the property of existing churches¹³. On 17 February 2014, a church in Omdurman was demolished without prior notice, and the land confiscated, reportedly because the authorities did “not want any church in [the] area”¹⁴. Similarly, on 30 June 2014, a church in Khartoum was “reduced to rubble” by a government force after the authorities sent notice of the scheduled demolition to the church only one day in advance¹⁵. In August 2014, the Sudan Pentecostal Church in Khartoum was forcibly closed down and padlocked by the authorities, and the 500-member congregation was forbidden to continue worshipping there¹⁶. In November 2014, the Khartoum Bahri Evangelical Church was partly demolished, along with homes on the property belonging to Christians¹⁷. A few weeks later, Sudanese police officers raided the same church and proceeded to beat, arrest, and fine 38 Christians who were worshipping there, charging them with “creating a public disturbance”¹⁸.

⁸Rep. of the Working Grp. on the Universal Periodic Review, Human Rights Council, 18th Sess., 11 July 2011, ¶¶ 83.31, 83.32, U.N. Doc. A/HRC/18/16 [hereinafter 2011 Working Group].

⁹USCIRF Report, *supra* note 7 at 65.

¹⁰2011 Working Group, *supra* note 8 ¶¶ 66, 83.31.

¹¹USCIRF Report, *supra* note 7 at 66.

¹²Mohammed Amin, *Sudan Bans Construction of New Churches*, DAILY NATION (13 July 2014), <http://www.bbc.com/news/world-africa-28291001>; *Sudan Government Policy Denying New Permits to Build Churches Reaffirmed*, CHRISTIAN SOLIDARITY WORLDWIDE USA (16 July 2014), <http://www.cswusa.org/filerequest/3030.pdf>.

¹³E.g., *Witnesses: Sudan Demolishes Church in Latest Persecution of Christians*, CNN (1 July 2014, 9:30 AM ET), <http://www.cnn.com/2014/06/30/world/africa/sudan-church-violence/>; *Tensions High as Church in Sudan Strives to Fend Off Further Demolition*, MORNING STAR NEWS (21 Nov. 2014), <http://morningstarnews.org/2014/11/tensions-high-as-church-in-sudan-strives-to-fend-off-demolition/>; Mohammed Amin, *Sudan Authorities Demolish Khartoum Church*, AFRICA REVIEW (2 Dec. 2014 at 19:43), <http://www.africareview.com/News/Sudan-authorities-demolish-Khartoum-church/-/979180/2542662/-/qw4f57z/-/index.html>.

¹⁴*Sudanese Authorities Demolish Church Building in Anti-Christian Campaign*, MORNING STAR NEWS (20 Feb. 2014), <http://morningstarnews.org/2014/02/sudanese-authorities-demolish-church-building/>.

¹⁵*Witnesses: Sudan Demolishes Church in Latest Persecution of Christians*, CNN (1 July 2014, 9:30 AM ET), <http://www.cnn.com/2014/06/30/world/africa/sudan-church-violence/>.

¹⁶*Sudan Shuttters 500-Member Church in Khartoum*, MORNING STAR NEWS (3 Sept. 2014), <http://morningstarnews.org/2014/09/sudan-shuttters-500-member-church-in-khartoum/>.

¹⁷*Tensions High as Church in Sudan Strives to Fend Off Further Demolition*, MORNING STAR NEWS (21 Nov. 2014), <http://morningstarnews.org/2014/11/tensions-high-as-church-in-sudan-strives-to-fend-off-demolition/>.

¹⁸*Police in Sudan Attack Worshipping Congregation, Arrest 38 Christians*, MORNING STAR NEWS (3 Dec. 2014), <http://morningstarnews.org/2014/12/police-in-sudan-attack-worshipping-congregation-arrest-38-christians/>.

4. Sudan’s Interim Constitution states that “[t]he State shall respect the religious rights to: worship or assemble in connection with any religion or belief and *to establish and maintain places for these purposes*” and to “acquire and possess movable and immovable property”¹⁹. The Sudanese government has blatantly ignored these provisions of its own constitution by banning the construction of churches and by demolishing existing churches²⁰. The Working Group for the 2015 UPR must demand that Sudan cease and desist its confiscation of church properties and allow Christians to build and maintain their places of worship.

Two South Sudanese Pastors Have Been Falsely Imprisoned for Their Faith

5. On 21 December 2014, Pastor Yat Michael Ruot from Juba, South Sudan, visited the same North Khartoum church from which the 38 Christians had been arrested three weeks earlier to give a sermon of encouragement²¹. After concluding the service, he was arrested by the National Intelligence and Security Service and detained incommunicado in an undisclosed location for several months²². Pastor Peter Yen, another pastor from Pastor Michael’s church, visited Khartoum in January and was also arrested after he inquired about Pastor Michael’s arrest²³.

6. Until 2 March 2015, the pastors were not charged with any crimes and were not permitted any contact with family or defence attorneys²⁴. The pastors were eventually charged with espionage, undermining the Constitution, waging war against the State, and blasphemy²⁵. According to Amnesty International, the pastors were arrested and charged due solely to peaceful expression of their religious convictions²⁶. At the trial, witnesses testified that the charges against the pastors were baseless²⁷. On 5 August 2015, after being imprisoned for eight months, a judge

¹⁹Interim Constitution, *supra* note 3, art. 6(a), 6(c) (emphasis added).

²⁰See Mohammed Amin, *Sudan Bans Construction of New Churches*, DAILY NATION (13 July 2014), <http://www.bbc.com/news/world-africa-28291001>; *Sudan Government Policy Denying New Permits to Build Churches Reaffirmed*, CHRISTIAN SOLIDARITY WORLDWIDE USA (16 July 2014), <http://www.cswusa.org/filerequest/3030.pdf>; *Witnesses: Sudan Demolishes Church in Latest Persecution of Christians*, CNN (1 July 2014, 9:30 AM ET), <http://www.cnn.com/2014/06/30/world/africa/sudan-church-violence/>.

²¹*South Sudanese Pastor Jailed After Preaching at Church in North Khartoum, Sudan*, MORNING STAR NEWS (28 Dec. 2014), <http://morningstarnews.org/2014/12/south-sudanese-pastor-jailed-after-preaching-at-north-khartoum-church/>.

²²*Id.*

²³*Fears for S. Sudan Pastors Held in Secret Detention After Arrest in Khartoum*, SUDAN TRIBUNE (11 Feb. 2015), <http://www.sudantribune.com/spip.php?article53954>.

²⁴*Further Information on UA 28/15 SUDAN - TWO SOUTH SUDAN PASTORS RISK DEATH PENALTY*, AMNESTY INTERNATIONAL (9 June 2015), <http://www.amnesty.se/upload/apps/webactions/urgentaction/2015/06/09/154182015.pdf>.

²⁵*Id.*

²⁶*Id.*

²⁷Anugrah Kumar, *Espionage Charges Against South Sudanese Pastors Facing Death Penalty are Baseless, Says Prominent Witness*, CP WORLD (19 July 2015, at 10:43 AM), <http://www.christianpost.com/news/espionage-charges-against-south-sudanese-pastors-facing-death-penalty-are-baseless-says-prominent-witness-141672/>.

found the pastors guilty of lesser crimes than those charged and ordered their immediate release²⁸. The judge concluded that the pastors had already served enough time in prison²⁹.

The 1991 Penal Code Penalises Apostasy and Prescribes the Death Penalty for Those Who Convert from Islam

7. In spite of the 2011 Working Group's recommendations to abolish the 1991 Penal Code's criminalisation of apostasy³⁰, the law is still in force³¹ and violations of this law are regularly prosecuted by the Sudanese government³². The punishment for apostasy is death, unless the person convicted recants his faith in exchange for his release³³. Over 170 persons have been arrested and charged with apostasy since 2011, and almost all of them have submitted to the government's intimidation and recanted to save their lives³⁴. The authorities intimidate and sometimes torture suspected converts to Christianity³⁵, and have threatened to kill Christians who refuse to divulge the names of converts³⁶.

8. On 10 December 2012, two priests of the Coptic Orthodox Church were arrested, along with three other Christians, for baptising a young woman who had converted from Islam to Christianity³⁷. The priests were detained in an unknown location and were not permitted contact with relatives, while the convert (a Sudanese Arab) fled Sudan in fear for her life, only to be intercepted in Ethiopia by members of the Sudanese Embassy and returned to Khartoum³⁸. Although the priests were eventually released³⁹, reports are unclear as to the fates of the convert and the other three arrested Christians.

9. Sudan's apostasy law is not only a violation of basic human rights, it directly contravenes the provisions of the Interim Constitution and international human rights agreements to which Sudan has acceded. Article 38 of the Interim Constitution guarantees that "[e]very person shall have the right to the freedom of religious creed and worship, and to declare his/her religion or creed and manifest the same. . . . [N]o person shall be coerced to adopt such faith, that he/she

²⁸Samuel Smith, *Pastors Finally Escape Sudan After 8 Months in Prison; First Stop Is Thanksgiving Prayer Service*, THE CHRISTIAN POST (21 Aug. 2015, 10:17 PM), <http://www.christianpost.com/news/pastors-finally-escape-sudan-after-8-months-in-prison-first-stop-is-thanksgiving-prayer-service-143292/>.

²⁹*Id.*

³⁰2011 Working Group, *supra* note 8 ¶¶ 83.31, 83.32.

³¹*See* Sudan Penal Code § 126 (1991).

³²*See* USCIRF Report, *supra* note 7 at 66.

³³Sudan Penal Code § 126 (1991).

³⁴USCIRF Report, *supra* note 7 at 66.

³⁵USCIRF Report, *supra* note 7 at 66 ("Suspected converts to Christianity face societal pressures, and government security personnel intimidate and sometimes torture those suspected of conversion").

³⁶*Sudan Tracking Down Converts from Islam in Purge of Christianity*, MORNING STAR NEWS (12 July 2013), http://morningstarnews.org/2013/07/sudan-tracking-down-converts-from-islam-in-purge-of-christianity/?utm_source=MorningStar+News&utm_campaign=e27552daa6-Sudan_2_girls_sentenced7_21_2015&utm_medium=email&utm_term=0_6e3978492c-e27552daa6-78081837.

³⁷*Did You Know...Sudan*, UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM (last visited 28 July 2015), <http://www.uscirtf.gov/reports-briefs/spotlight/did-you-knowsudan>.

³⁸*Sudan Arrests Coptic Priests for Baptizing Convert*, CHRISTIANITY.COM (1 Jan. 2013), <http://www.christianity.com/11684489/>.

³⁹*Did You Know...Sudan*, *supra* note 37.

does not believe in”⁴⁰. Additionally, Article 18 of the ICCPR explicitly protects the basic human right to convert from one religion to another, stating that “[e]veryone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have *or to adopt* a religion or belief of his choice No one shall be subject to coercion which would impair his freedom to have *or to adopt* a religion or belief of his choice”⁴¹. Sudan did not express any reservations to any provision of the ICCPR, nor did it issue any interpretative declarations when it acceded to the ICCPR’s authority⁴²; thus, it has no excuse for failing to abide by its provisions. Finally, Article 8 of the African Charter on Human and Peoples’ Rights reads: “Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms”⁴³. The Working Group for the 2015 UPR must urge Sudan to abide by these provisions and abolish the apostasy law.

The Sudanese Authorities Use Harsh Sharia Penalties to Force Islamic Practices on Non-Muslims

10. Sudan’s Penal Code allows corporal punishments to be inflicted for violations of Islamic law, or “*Hudud* offences”⁴⁴. In June 2015, several young Christian women dressed in trousers and skirts were arrested in Khartoum as they left a church service and were charged under a law prohibiting “indecent dress”⁴⁵: a violation of the broadly-worded and subjectively-applied section 152 of Sudan’s Penal Code⁴⁶. Four of the women were cleared of charges and released, and five were ordered to pay fines; one woman, however, was sentenced to 20 lashes and an additional fine, because the judge felt that the clothing she wore to her trial was also indecent⁴⁷. Because of the broad and vague wording, the indecency law is frequently and arbitrarily applied against women and girls in Sudan, especially Christians and non-Arabs; most cases do not receive widespread media attention, however, because of the social stigma placed on the women involved⁴⁸.

Conclusion

11. Despite nominal commitments to freedom of religion and conscience found in Sudan’s Interim Constitution and in the international human rights agreements to which the country has voluntarily acceded, Sudan continues to be an egregious offender of its citizens’ religious liberty. The Working Group for the 2015 UPR must confront the Sudanese government’s severe and ongoing violations of religious liberty. In 2011, the Working Group recommended that Sudan

⁴⁰Interim Constitution, *supra* note 3, art. 38 (emphasis added).

⁴¹ICCPR, *supra* note 4, art. 18(1)-(2) (emphasis added).

⁴²*Status of Ratification Interactive Dashboard*, OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (Jan. 2013), <http://indicators.ohchr.org/> (accessed by choosing “Sudan” from the Countries list).

⁴³Banjul Charter, *supra* note 5, art. 8.

⁴⁴Sudan Penal Code §§ 3, 35 (1991).

⁴⁵Zeinab Mohammed Salih, *Outrage as Nine Sudanese Women Face 40 Lashes for Wearing Trousers*, THE GUARDIAN (14 July 2015, at 8:36 EDT), <http://www.theguardian.com/world/2015/jul/14/sudan-christian-women-40-lashes-trousers>.

⁴⁶Sudan Penal Code § 152 (1991).

⁴⁷Laura Smith-Spark & Margot Haddad, *Sudanese Woman Sentenced to Lashes, Fine for Wearing Trousers*, CNN (14 Aug. 2015), <http://www.cnn.com/2015/08/14/africa/sudan-women-indecent-dress-case/>.

⁴⁸Salih, *supra* note 45.

abolish the criminalisation of apostasy, protect religious minorities from discrimination, and cease to apply *Sharia* law to non-Muslims⁴⁹. Sudan has not heeded any of these recommendations. Therefore, the 2015 Working Group must demand that Sudan cease these violations of religious freedom and must further demand that Sudan cease the confiscation and destruction of churches and allow Christians to freely build new churches in their communities.

⁴⁹2011 Working Group, *supra* note 8 ¶¶ 65, 66, 83.31, 83.32, 83.50.