

POLICY BRIEF



Sudan

A pivotal moment for religious freedom in a new Sudan

In December 2018, Sudan's former President Omar Al-Bashir imposed an emergency austerity measure to prevent economic collapse, sparking demonstrations in the east and in the capital, Khartoum.

The protests broadened into demands to remove the president from power. On April 11, 2019, the Sudanese Military announced that the President had been overthrown after more than 30 years in power, and a Transitional Military Council (TMC), led by General Abdel Fattah Burhan, seized power. On August 4, 2019, the TMC and the movement leading the protests, the Forces of Freedom and Change, subsequently reached an agreement and signed a Constitutional Declaration that paved the way for the formation of a civilian transitional government for the new Sudan.¹ After this recent

thread of events, Sudan is finding itself in transition and its new Prime Minister, Abdallah Hamdok, bears the responsibility of leading the transition from a dictatorial regime, isolated from the rest of the international community and temporarily turned military regime, to a democratic republic integrated into the international community of states.

Despite the change of government, respect for human life and dignity is still a major source of concern

Historically, Sudan has had a poor human rights record. Violations of freedom of religion or belief

¹ See <https://www.bbc.co.uk/news/world-africa-48511226>.

and other human rights have occurred for years and minority religions have been regularly and constantly oppressed by the state machinery. Despite the change of government, respect for human life and dignity is still a major source of concern, as shown by the lack of accountability under the new Government to hold those responsible for the massacre of June 3, 2019, when the Sudanese Rapid Support Forces (RSF) – a Government militia responsible for serious crimes in Darfur – attacked protesters in Khartoum and allegedly killed more than 100.²

Ensuring compliance with international freedom of religion or belief standards.

The Constitutional Declaration for the transitional period paves the way for the formation of a new Sudan. Article 55 of such declaration recognizes freedom of belief and worship, and the *“right to profess or express their religion or belief through worship, education, practice, performance of rituals, or celebrations, in accordance with the requirements of the law and public order.”*³ The wording of Article 55 raises concern regarding implementation given past governmental abuses carried out under the same language found in Article 38 of the 2005 Constitution.⁴ Historically, the terms “law and public order” have been extended in practice far beyond the narrow limitations permitted under international human rights standards.⁵ Seeing no substantial change in language, we remain concerned with the wording and

its application to be used more broadly than permitted under international law.

Historically, the terms “law and public order” have been extended in practice far beyond the narrow limitation permitted under international human rights standards

The Transitional Government has shown commitment to improving freedom of religion or belief conditions in the country by repealing, amongst others, Article 126 (apostasy law, prescribing death sentence for those who abandon Islam) of the 1991 Penal Code in a series of reforms in July 2020.⁶ These reforms, however, did not repeal Article 125 of the Penal Code, which prescribes blasphemy as a criminal offense, but only amended this provision by abolishing flogging as a punishment for insulting religious beliefs, retaining imprisonment and a fine. Flogging was also abolished for crimes prescribed in Article 152 (public decency law) of the Penal Code, used by authorities to target Christian women and girls for alleged indecent clothing (on the basis of not covering their head or wearing trousers) and other offences based on state interpretation of Islamic precepts. However, the amended article, although it removed the wording “wears an indecent or immoral dress”, still leaves significant room for interpretation by law enforcement officers to assess what they deem to be a breach of modesty, without the protections of an objective standard.⁷ Freedom of religion

2 See <https://www.nytimes.com/2019/06/04/world/africa/sudan-war-facts-history.html>.

3 Sudan: Draft Constitutional Charter for the 2019 Transitional Period, Art. 55. Available at: <http://sudanreeves.org/2019/08/06/sudan-draft-constitutional-charter-for-the-2019-transitional-period/>.

4 Sudan's Constitution of 2005, Art 38. Available at: https://www.constituteproject.org/constitution/Sudan_2005.pdf?lang=en.

5 International Covenant on Civil and Political Rights, Article 18, December 1966. Available at: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

6 <https://www.aljazeera.com/news/2020/07/criminal-law-sudan-annuls-apostasy-death-sentence-200712143654619.html>.

7 <https://sihanet.org/a-collaborative-civil-society-statement-in-response-to-the-law-of-various-amendments-abolishing-and-amending-provisions-restricting-freedom-exposing-a-wolf-in-sheeps-cloth/>.



Photo: Women receiving training in the Nuba Mountains, Sudan.

or belief cannot be ensured nor fully guaranteed until all these provisions are repealed in full.

If the above mentioned wording of Article 55 of the Constitutional Declaration and Penal Code provisions remain in force, the Sudanese Transitional Government continues the flawed legal foundation that has promoted discrimination, repression and persecution of religious minorities.

The right to manifest or express one's religion or belief through practice, worship and performance of rituals.

The Christian minority in Sudan has been particularly targeted by the Government, National Intelligence and Security Services (NISS) and law enforcement officers through monitoring, harassment, and arrests for allegations of proselytization, alleged criminal activities and actions against the Government.⁸

Faith leaders and churches of the Sudanese Presbyterian Evangelical Church (SPEC) and the Sudanese Church of Christ (SCOC), predominantly Nuban denominations, have been uniquely targeted. The former-Sudanese Government demolished and destroyed a number of churches of different denominations throughout the years under the premises that they were illegally constructed, and confiscated church properties.⁹ The Ministry of Guidance and Endowments has continually and unduly interfered in church affairs since 2012 by confiscating church properties, commanding Christian leaders to hand over church properties to a government committee and arbitrarily replacing church leaders with government-chosen leaders.¹⁰ In 2013, The Sudanese Minister of Guidance and Endowments announced that no new licenses would be granted to build new churches in the country, explaining that there was no need for any new churches because many Christian South Sudanese refugees returned to South Sudan after the secession in 2011.¹¹ Harassment of faith leaders, pressure on minority faiths and Government interference

continue under the new Government, as exemplified by the recent case against eight SCOC leaders who refused to hand over control over SCOC property to a government committee. On October 7, 2019, the Sudanese Judiciary confirmed charges of criminal trespass and illegal possession of church properties against them. Such case, which was dismissed in August 2018 but reopened in July 2019, is an example showing that pressure on minority faiths in Sudan has not ended with the end of the Al-Bashir Government.¹²

The International Community and Sudan.

Al-Bashir's removal from power opened the gates for an end to Sudan's isolation from the International Community. Foreign Governments have already expressed their interest in opening a channel for economic cooperation with Sudan and to help Sudan with debt relief.¹³ Governments have also expressed their willingness to press the U.S. to remove Sudan from the List of States Sponsors of Terrorism, to which Sudan was added in August 1993.¹⁴ The recent positive changes in Sudan's political scenario, with the appointment of Abdallah Hamdok as Prime Minister and the prospect of a democratic Sudan after the transitional period, should however not remove international attention on the violations of fundamental rights that are still occurring in the country. As per above, the current legal framework is not compliant to international religious freedom standards, serious restrictions against church property, construction and permits still exist, and harassment and discrimination against faith communities is still a reoccurring issue. The massacre of June 3, 2019 and the appointment of General Burhan and General Mohamed Hamdan Dagalo (known as "Hemeti" – head of the RSF, which has a record of serious human rights abuses in Darfur, Southern Kordofan and Blue Nile, and allegedly responsible for the June 3 massacre) to positions of power in the Sudan's Sovereign Council, should encourage international stakeholders to use caution and set clear benchmarks in terms of human rights developments, when engaging with the Sudanese Government.

8 "Sudan: Country Dossier", World Watch Research, February 2019, pp. 20. Available at : <http://opendoorsanalytical.org/country-dossiers/> (password: freedom).

9 See, for example, <https://www.worldwatchmonitor.org/2018/02/sudan-government-demolishes-church-despite-pending-appeal/>.

10 See <https://www.worldwatchmonitor.org/2017/08/sudan-church-leader-re-arrested-with-at-least-6-more-over-government-pressure-for-property/> and <https://www.worldwatchmonitor.org/2018/10/sudan-13-christians-arrested-in-darfur-another-church-told-to-hand-over-property/>. See also "2018 Report on International Religious Freedom: Sudan", *United States Department of State*, June 2019. Available at: <https://www.state.gov/reports/2018-report-on-international-religious-freedom/sudan/>.

11 See <https://www.csw.org.uk/2013/04/18/news/1438/article.htm>.

12 See <https://www.csw.org.uk/2019/10/15/press/4476/article.htm>, and <https://www.worldwatchmonitor.org/coe/who-owns-the-church-sudan-court-puts-elders-on-trial-for-trespass-and-theft/>.

13 See <https://www.arabnews.com/node/1548956/world> and <https://www.reuters.com/article/us-france-sudan/france-offers-a-conference-on-sudans-debt-if-us-lifts-sanctions-idUSKBN1WF20Q>.

14 *Ibid.*, and see <https://uk.reuters.com/article/uk-saudi-arabia-sudan-list/saudi-arabia-working-to-remove-sudan-from-u-s-state-sponsors-of-terrorism-list-tweet-idUKKC1WLOAU>.

To ensure the respect of every human right, including the right to freedom of religion or belief, for every Sudanese citizen in the new Sudan, Open Doors recommends:

1 To ensure an **adequate legal framework** compliant to international freedom of religion standards:

- The International Community should urge the Sudanese Government to amend Article 55 of the Constitutional Declaration in a way that any exception to freedom of religion or belief will be subject only to the narrow exceptions allowed by Article 18 ICCPR (public safety, order, health, or morals or the fundamental rights and freedoms of others), to which Sudan is a signatory and therefore bound to respect;
- The Sudanese Government should keep repealing or amending all articles in the 1991 Penal Code – especially repeal Article 125 (blasphemy) and 152 (public decency) in full – and all laws that violate Sudan's international commitments to freedom of religion or belief and related human rights.

2 To ensure the **right to manifest or express one's religion or belief through practice, worship and performance of rituals**, the Sudanese Government should:

- Permit registration of churches, lift government prohibitions on church construction and issue permits for the building of new churches;
- Create a legal mechanism to provide compensation for destroyed churches and return confiscated church properties;
- Cease any undue interference in churches' internal affairs and allow representation of members of minority faiths, appointed by each faith community, in the Ministry of Religious Endowment.

3 The U.S. and its allies should make the **removal of Sudan from the list of State Sponsors of Terrorism** conditional to the fundamental reforms above and other significant developments in the area of human rights;

4 Any negotiations around **debt relief** or **economic agreements** with the International Community should be rigorously linked to fundamental reforms as above in religious freedom and related human rights from the Sudanese Government;

5 The International Community should consider investing in programs aimed at **empowering minority faith adherents**, especially minority faith leaders, and train them to know their rights and how they can contribute to the construction of the new Sudan.

Any questions? Please email advocacy@od.org