

SUDAN



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Gender Justice & The Law

DOES THE LAW ENSURE GENDER EQUALITY AND PROTECTION FROM VIOLENCE?

The colour codes indicate whether the laws comply with international human rights standards, the recommendations of the UN Committee on the Elimination of Violence against Women, and recommendations of the country's Universal Periodic Review.

YES

The law provides for gender equality and/or protection from gender-based violence and is substantially compliant with international standards. A green category does not indicate that the law is perfect or that gender justice in the relevant topic area has been fully achieved.

NO

The law does not provide for gender equality and/or there is no or minimal protection from gender-based violence.

Partly

Some gender justice aspects of the law have been addressed, but important gender inequalities remain.

No available data or inadequate information.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Sudan has not acceded to CEDAW. In 2019, the Ministry of Justice of Sudan's transitional government announced its intention to ratify CEDAW.

Constitution

Article 47 of the 2019 Draft Constitutional Declaration for the Transitional Period guarantees the right to protection of the law without discrimination because of gender. Article 48 guarantees that women and men enjoy equal civil, political, social, cultural and economic rights.

NATIONALITY LAW

NATIONALITY

Article 44 of the 2019 Draft Constitutional Declaration provides that a child born to a Sudanese mother or father has an inalienable right to citizenship and nationality. Amendments to the nationality law are yet to be introduced to regulate the enjoyment of this right.

CRIMINAL LAWS

Domestic violence

Sudan does not have domestic violence legislation.

Abortion for rape survivors

Under Article 135 of the Criminal Act 1991, abortion is legal if the pregnancy is the result of a rape which occurred not more than 90 days before the pregnant woman has desired to have the abortion.

Female Genital Mutilation / Cutting (FGM/C)

A proposed amendment to the Criminal Act to criminalize FGM/C was adopted by the Council of Ministers in 2016. Article 47 of the 2019 Draft Constitutional Declaration guarantees the right to protection of the law without discrimination because of gender, and Article 48 provides that the State will work to combat harmful customs and traditions that reduce the dignity and status of women. There are sub-national laws prohibiting FGM/C in some states of Sudan.

Marital rape

Marital rape is not specifically criminalized. The wife owes a duty of obedience to her husband and is required to fulfil conjugal duties in the marriage.

Sexual harassment

Article 151 of the Criminal Act was amended in 2015 to criminalize acts of sexual harassment.

Human trafficking

The Combating of Human Trafficking Act of 2014 provides comprehensive measures against trafficking.

Rape (other than of a spouse)

Rape is criminalized by Article 149 of the Criminal Act 1991. The death penalty applies in some circumstances.

Femicide: Mitigation of penalty (so called 'honour' crimes)

There is no specific provision in the Criminal Act allowing for reduction in penalty for perpetrators of so called 'honour' crimes.

Sex work and anti-prostitution laws

Prostitution is prohibited by Articles 154–156 of the Criminal Act.

Exoneration by marriage

There is no marry-your-rapist law in Sudan.

Adultery

Adultery is an offence under Articles 145 and 146 of the Criminal Act.

PERSONAL STATUS LAWS

Minimum age of marriage

The Personal Status Law is unclear regarding the age of legal marriage. Article 215 of the Personal Status Law states that the age of majority is 18. However, other articles allow underage marriages in some cases.

Male guardianship over women

A woman requires permission of a guardian to marry. The woman's consent is also required, but the guardian can conclude the marriage contract first and seek the woman's consent later.

Marriage and divorce

The Personal Status Law requires the husband to maintain the wife. The wife owes obedience to the husband. A husband can divorce by repudiation (talaq). A wife has the right to divorce on specified grounds. She can also apply for a khul'a divorce without grounds if she forgoes financial rights.

Polygamy

Polygamy is permitted by the Personal Status Law.

Guardianship of children

The father is the guardian and is responsible for providing financial support.

Custody of children

After divorce, a mother's custody of her children continues till boys reach seven years and girls reach nine years. A mother may lose custody if she remarries unless a court permits her to retain custody in the best interest of the child.

Inheritance

The Personal Status Law defines the rules of inheritance for Muslims, which follow Sharia principles. Women have a right to inheritance, but in many cases receive less than men. Daughters receive half the share that sons receive.

LABOUR LAWS

Right to equal pay for the same work as men

The Labour Act of 1997 recognises the principle of equal pay for equal work.

Domestic workers

Domestic workers are not covered by the Labour Act. Some protections are provided by the Domestic Servants Act of 1955 in terms of contracts of employment, wages, holidays, and gratuity on termination of service.

Dismissal for pregnancy

There is no specific prohibition against dismissing women because of pregnancy in the Labour Act. However, Article 48 of the 2019 Draft Constitutional Declaration provides that the State shall guarantee women equal rights to enjoy all economic rights including professional benefits. Civil servants have rights under the Civil Service Law.

Paid maternity leave

Article 46 of the Labour Act states that a female worker is entitled to 8 weeks of maternity leave with full pay. This is less than the ILO standard of 14 weeks.

Legal restrictions on women's work

Article 19 of the Labour Act prohibits women from working in occupations that are hazardous, arduous, or harmful to their health.