LEGAL FRAMEWORK ON FREEDOM OF RELIGION AND ACTUAL APPLICATION

Muslims

After 30 years in power, Sudan's strongman Omar al-Bashir was ousted in April 2019. His downfall began in December 2018 when peaceful protests which broke out across Sudan, were violently suppressed. Al-Bashir's overthrow by the country's military put an end to a system sustained by corruption and authoritarianism. Already in 2009, the International Criminal Court (ICC)¹ had indicted him for ethnic cleansing and genocide in Darfur, where 500,000 civilians died.² After the new Sudanese government came to power, it agreed to hand al-Bashir over to the ICC for trial.³

Following the change in regime, the 2005 Interim National Constitution of Sudan was replaced by the Draft Constitution Declaration. This new charter was signed by the Transitional Military Council and the Forces of Freedom of Change coalition on 4th August 2019.⁴ It sets the basis for a transition of three years towards civilian rule, culminating in elections. Currently, Sudan's governing body is called the Sovereign Council, and is composed of 11 members (both military and civilian). One of them is a Coptic Chris-

tian.5

Under the 2019 constitution, non-discrimination on the basis of religion is recognised in Article 4 (1). Article 43 establishes the obligation of the state to protect such a right. Article 56 focuses on "freedom of religion and worship", stating that everyone has the right to freely express their religion and no one can be forced to convert or practise any rituals that "they do not voluntarily accept."

4,467 US\$

34.2

Despite the formal recognition of religious freedom expressed in the constitution, issues like conversion, apostasy, blasphemy, proselytising and other "religious offences" are areas of serious concern for Sudan's government and legislators.

There are strong penalties for blasphemy under the criminal code. Apostasy, conversion from Islam, religious discrimination and other controversial religious matters rarely reach the Constitutional Court and are handled instead in lower courts in accordance with laws and procedures based on Islamic jurisprudence. This leaves those suspected of acting against Islamic norms largely unprotected before the law and with little access to impartial courts.

The Ministry of Education requires a minimum of 15 students in any class in order to provide Christian instruction.

Since South Sudan's secession, this number is rarely attained, so Christian students have to resort to extra-curricular religious instruction provided by their own churches.⁹ The government is also suspected of exploiting internal divisions or dissident tendencies within minority religious groups in order to weaken existing Churches and congregations, particularly in the case of conflicts over Churchowned properties.¹⁰

Sudan has been defined in the past as a "militia state",¹¹ notorious for its quick arrest of citizens on charges like indecency and disturbance of public order, easily filed against political dissidents, activists, journalists, religious or political leaders, etc. considered a threat to the government. Sudan's Armed Forces and security agencies have often been accused of arbitrary detentions, extrajudicial killings, torture, and ill-treatment of detainees.¹² Violations of human rights seem particularly flagrant in those states still affected by armed conflict, namely Darfur, Southern Kordofan, and Blue Nile.

Until the change of government in 2019, human rights organisations were unanimous in their criticism of Sudanese authorities for their discrimination and oppression of certain groups on religious grounds, ¹³ as though they were a threat to social cohesion or security. Christians were frequently targeted in the Nuba Mountains, a region in South Kordofan State that has been embroiled in insurgencies led by groups demanding independence. Some Muslim groups, especially Shi'a and Qur'anist congregations, are also under the close surveillance of security agencies. ¹⁴

In July 2017, the Ministry of Education of Khartoum State issued an order preventing Christian schools from holding classes on Saturdays and imposing on them the "Muslim weekend" of Friday and Saturday instead of the usual weekend of Friday and Sunday permitted hitherto. 15 The country's bishops and various Christians complained, but it was not until the Transitional Military Council came to power that this order was rescinded. Now, Sunday is the official recess day for Christian schools in Sudan. 16

The New Transitional Government of Sudan heralds a new era for religious freedom in the country. The Minister of Religious Affairs and Endowments, Nasredin Mufreh, issued a public apology to Sudanese Christians "for the oppression and harm inflicted on your bodies, the destruction of your temples, the theft of your property, and the unjust arrest and prosecution of your servants and confiscation of church buildings." At present, the government has officially expressed its intention to re-establish the val-

ues of religious coexistence that existed before al-Bashir's Islamist regime.¹⁸

Under its new rulers, Sudan declared Christmas a national holiday which it hadn't been since the secession of South Sudan. Christians marked the occasion by taking to the streets in the capital for a "March for Jesus", singing and sharing the Gospel message on banners, ¹⁹ a tradition outlawed under Bashir's government.

The minister of Religious Affairs and Endowments asked religious leaders and preachers "to adopt a discourse that is moderate, [that] refrains from extremism, and focuses on what unites the people." He added that he wanted to change the school's religious curriculum "to deepen the spirit of tolerance." Furthermore, he also invited Sudanese Jews to come back to the country; most left after independence in 1956.23

This shows a clear contrast with the previous government of Omar al-Bashir, who in 2011 stated that he wanted to adopt a "100 per cent" Islamic constitution after the secession of the South, ²⁴ which has a Christian majority. Under the former strongman, "foreign missionaries have been expelled, churches confiscated or demolished, and leaders harassed and arrested." ²⁵ As part of this full Islamisation policy, the minister of Guidance and Endowments had announced in 2013 that no new licences would be issued to build new churches. ²⁶

In July 2020, the apostasy law was abolished, but for several NGOs this did not go far enough; in their view, the new constitution is flawed since many personal freedoms are still not adequately protected.²⁷

INCIDENTS AND DEVELOPMENTS

During the period under review, Sudan went through a major transition. Omar Al-Bashir was ousted from power in April 2019 after months of protests and a violent response by the security forces. During the unrest, discrimination against Christians continued.

Before the protests, Christians reported violations of their freedom to worship, complained of pastors being arrested and Church properties systematically confiscated.²⁸

In October 2018, 13 Christians were arrested by agents of Sudan's National Intelligence and Security Service in Darfur.²⁹ Three of them had a Christian background and were released, but the rest of them, who were converts from Islam, were freed only after they were beaten and

forced to promise that they would recant their new faith.³⁰ The ill-treatment during the detention was so severe that four had to be transferred to Khartoum for medical treatment.³¹ The group's leader, Tajadin Idris Yousef, "refused to deny his faith" and was remanded for trial on apostasy charges.³²

The Sudanese Church of Christ (SCOC) and the government have been involved in a long-standing dispute over the ownership and control of certain Church properties. In October 2018, the police in Omdurman instructed SCOC to "hand over leadership of the congregation" to a rival group.³³ In a different case that same month, the government lost in court against the Church, and was forced to return 19 SCOC properties that had been confiscated two years earlier.³⁴

The Sudan Presbyterian Evangelical Church and the government are also at loggerheads over the ownership of properties. In the past, the Church has been fined and has had properties destroyed.³⁵

After 2011 Christians faced a serious shortage of religious texts and teaching material because "government customs officials [. . .] delayed the clearing of several shipments of Arabic Bibles via Port Sudan, without explanation". ³⁶ In October 2018, the authorities finally cleared a consignment of Bibles that had been held up for six years.

In December 2019, three churches (Orthodox, Catholic and Baptist) in Blue Nile State (south-eastern Sudan) were set on fire. After they were rebuilt, unidentified attackers burnt them down again on 16th January 2020. The police did not investigate the attacks even though the Minister of Religious Affairs said they would do so because of the government's "commitment to protecting religious freedoms" and "houses of worship from any threats."³⁷

For the Catholic Church the past few years have been a challenging time. After the independence of South Sudan, there was a lack of priests in El Obeid, the capital of Sudan's North Kordofan State, after many of them returned to their homelands in what is now South Sudan. After civil war broke out in the new country in December 2013 (lasting until February 2020) around 200,000 South Sudanese fled to Sudan, more than half of them Catholics who needed "not only humanitarian but also spiritual assistance."

In Sudan, the anti-government protests that broke out in December 2018 lasted seven months, until June 2019. During this period, human rights groups condemned the "use of excessive force, including live ammunition, against

peaceful protestors",³⁹ urging the government to stop using lethal force and killing the protestors. The African Council of Religious Leaders – Religions for Peace also criticised the suppression by the Transitional Military Council against the protests.⁴⁰

During the unrest, several places of worship were the target of attacks. In February 2019, security forces fired tear gas at an important mosque in Khartoum after noon prayers on a Friday, injuring a number of worshippers. Muslim clerics condemned these acts that "(violated) the sanctity of mosques". Eccurity forces also forced their way into another mosque, Beit el Mal, where they beat the imam and muezzin, carrying weapons and wearing shoes, which is considered a sacrilege. 43

In June 2019, Pope Francis called for peace in the country and a cessation to the violence, inviting the parties to engage in dialogue. ⁴⁴ The president of the Sudan Catholic Bishops' Conference, Bishop Edward Hiiboro Kussala of Tombura-Yambio, welcomed the peace agreement of August 2019 between the Sudanese military and the civilian opposition, and thanked the international community, especially the African Union, for mediating. ⁴⁵

A year later, Sudan's Churches welcomed the peace deal between the transitional government and various rebel groups. 46 Archbishop Michael Didi Adgum Mangoria of Khartoum declared that the peace agreement reached in August 2020 between the government and five rebel groups could only be comprehensive if all the armed groups joined it. The agreement provides for the creation of a national commission for religious freedom that would protect the rights of Christians in the country. 47 It also stipulates the separation of religion and the state. The deal will have an effect on education because the Qur'an will now be taught only in Islamic religious courses. 48

During the measures implemented to halt the spread of coronavirus, Bishop Andali of El Obeid said that "Christians were considered on the same level as Muslims" in terms of the "precautions to be taken".⁴⁹ The number of people attending places of worship had to be reduced, including during Holy Week. The Bishop also stated that no clashes were reported because of the fear of COVID-19 and the peace talks taking place.⁵⁰

Between 2018 and 2020, a freelance investigative journalist working for the BBC went undercover to probe allegations of ill-treatment in Qur'anic schools or "khalwas". He was able to visit 23 out of 30,000 that exist in Sudan. He



documented all sorts of abuse against very young boys, some of whom were chained to the ground. The government was informed of this before the airing of the documentary, and ordered legal action against the schools in question and quickly adopted a new law to prohibit the beating of students.⁵¹

PROSPECTS FOR FREEDOM OF RELIGION

At the end of December 2019, the United States removed Sudan from its list of "Countries of Particular Concern" and moved it to the "Special Watch List". This is an acknowledgement that the new Sudanese government has taken steps in favour of greater freedom, including religious freedom.

Indeed, the Minister of Religious Affairs apologised to Christians for the oppression they suffered in the recent past and has invited Sudanese Jews to come back. Furthermore, the new government has repealed bans imposed during Bashir's rule so as to enable Christians to practise again their traditions, and is promoting a spirit of tolerance among religious groups, in contrast to the previous regime.

Violations of religious freedom, however, continue to occur. The situation in the south-western region of Darfur is particularly worrying. Even though the government has taken positive steps towards religious freedom in the country, it remains to be seen how the situation will evolve during the ongoing transition.

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