



Sudan: Researched and compiled by the Refugee Documentation Centre of Ireland on 30 June 2009

Information on the treatment of women who are known to have had sex before marriage and what protection is available if family have threatened to kill them.

Section 1d of the *US Department of State 2008 Country Report on Human Rights Practices* under the heading 'Arrest and Detention', states:

"Women in Southern Sudan were frequently arrested and detained on suspicion of adultery.

Lengthy pretrial detention was common. Trial delays were caused by large numbers of detainees and judicial inefficiency, such as the failure of judges to appear for court. In Southern Sudan, trial delays also resulted in unreasonably lengthy pretrial detentions, and persons were not provided prompt access to lawyers." (US Department of State (Bureau of Democracy, Human Rights, and Labor) (25 February 2009) – *2008 Human Rights Report: Sudan*)

Section 5 of the same report, under the heading 'Women', states:

"The punishment for rape under the law varies from 100 lashes to 10 years' imprisonment to death; however, the government did not effectively enforce these provisions. In most rape cases convictions were not publicized; however, observers believed that sentences often were less than the legal maximum. Spousal rape is not addressed in the law. There was no information available on the total number of persons who were prosecuted, convicted, or punished for rape.

Rape of women and girls throughout the country, including systematic rape in Darfur, continued to be a serious problem (see section 1.g.). Authorities often obstructed access to justice for rape victims, and during the year only one person was convicted of rape in Darfur.

Many victims did not report their cases either to family or authorities for fear they would be punished or arrested for "illegal pregnancy." The police arrested unmarried pregnant women who claimed to have been raped. Unless a rape victim could provide proof of the crime, she could be charged with the capital offense of adultery." (ibid)

An August 2007 report from the *Child Rights Information Network* states:

“Improvements to statutory support for birth families and abandoned children: adequate resources from Government are required to protect children born out of wedlock, backed up by legislation and agreed policy—for example on the issue of kafala. Such legislation should include provisions for such children to safeguard their rights to a name, identity and nationality. Single mothers need to be legally protected, especially victims of rape—at present victims of rape can be criminalized under adultery laws. The Government needs to take a lead on prevention of child abandonment, for example through improved protection of girls against sexual violence and exploitation, and improved life skills and reproductive health education for young people. Mandatory psycho social support for victims of sexual abuse and rape needs to be provided.” (Child Rights Information Network (24 August 2007) - *Sudan: "Sudan: Technical Briefing Paper on Alternative Family Care"*)

A June 2007 report from *Refugees International* states:

“The analysis by Refugees International concluded that: 1. Sudan’s laws governing rape expose victims to further abuse. • Rape is defined as the offense of zina -- intercourse between a man and a woman who are not married to one another -- that is performed without consent. Where a woman is unable to prove that she did not consent to such intercourse, she becomes at risk for being charged with the crime of zina because she has confessed to sexual penetration outside of marriage. • Unmarried women convicted of zina receive one hundred lashes and married women are sentenced to death by stoning. In February and March of 2007, two women were sentenced to death by stoning for committing adultery. • In prosecutions for rape, many judges require the sexual act to have been witnessed by four competent men, verification that is all but impossible to obtain. Others will accept the testimony of a man who swears on the Qur’an that he did not commit rape, but will not accept contrary testimony from a woman that she was indeed raped.” (Refugees International (June 2007) - *Laws without Justice: an Assessment of Sudanese Laws Affecting Survivors of Rape*)

A section of an April 2006 report from the European Country of Origin Information Seminar on Sudan published by the *Austrian Centre for Country of Origin Information and Asylum Research and Documentation (ACCORD)* titled “Women with Children Born out of Wedlock/Honour Killings/Abortion” (paragraph 3.5.5) says that:

“In addition, women who become pregnant out of wedlock might be subject to honour killings, which are still widespread in the countryside and less common in Khartoum. The perpetrators of honour killings are usually not punished. According to sharia, a murderer will not be sentenced if the family of the victim absolves him. If a person is murdered by her own family there is hardly any punishment.” (Austrian Centre for Country of Origin Information and Asylum Research and Documentation (ACCORD) (20 April 2006) *10th European Country of Origin Information Seminar 1-2 December 2005, Budapest: Final Report on Sudan*, p.15)

The footnotes to a July 2005 report from the *UN Office of the High Commissioner for Human Rights* states:

“Adultery (zina) is defined as sexual intercourse between a man and a woman, with consent, outside of marriage (art. 145). Adultery, according to sharia as contained in the Law of Evidence Act 1993, can be proved by one of the following: (a) confession before a court in judicial proceeding unless retracted before execution; (b) four male eyewitnesses; (c) pregnancy of an unmarried woman, unless there is doubt about being married; (d) the oath of the husband that she committed adultery, and she refused to take the oath to the contrary. Penalties vary according to the marital status of the offenders and whether they are from northern or southern states. If the offender is married the penalty is execution by lapidation. If the offender is not married the penalty is 100 lashes. The non-married male offender may be punished with expatriation for one year in addition to the lashes. The penalty is three years’ imprisonment for married offenders from the southern states (art. 146). 7 See rule 96 (ii) of the Rules of Procedure and Evidence of ICTY and ICTR, which states: “In cases of sexual assault ... consent shall not be allowed as a defence if the victim (a) has been subjected to or threatened with or has had reason to fear violence, duress, detention or psychological oppression, or (b) reasonably” (UN Office of the High Commissioner for Human Rights (29 July 2005) - *Access to Justice for Victims of Sexual Violence, Report of the United Nations High Commissioner for Human Rights*)

A May 2004 report from the *International Federation for Human Rights* states:

“In Nyala on 17 May 2003, a 14-year girl from the Wihida Neighbourhood of Nyala in Darfur, western Sudan, was convicted of adultery under article 146 of the Penal code and sentenced to 100 lashes of the whip. The child, who cannot be named because of her age, was arrested from her home by the People's Police Force (alshorta alsha'abiya), an unconventional police force set up by the ruling party to "guard the public decency and morality of the nation". Charges of adultery were brought against the young girl because it became obvious that she was pregnant, although unmarried. At the time of the conviction she was nine months pregnant, this is sufficient proof to convict her of adultery. Mr. Alsir Sabeel Nour Aldeen, a 25 year-old businessman who was initially charged in connection with this incident, was found not guilty due to a lack of evidence against him. He was subsequently freed. The un-named girl was tried in front of the criminal court in Nyala under article 146 of Sudan's 1991 Penal Code, which states: "Whoever commits the offence of adultery (Zina) shall be punished as follows: a) Execution by stoning if the offender is married (muhsan) b) One hundred lashes of the whip if the offender is unmarried (non-muhsan).""(International Federation for Human Rights (May 2004) - *Sudan: One step forward, many steps back*, n° 390/2.)

References:

Austrian Centre for Country of Origin Information and Asylum Research and Documentation (ACCORD) (20 April 2006) *10th European Country of Origin Information Seminar 1-2 December 2005, Budapest: Final Report on Sudan*
<http://www.ecoi.net/download/45330/127789/coi-se-budapest200611-sudan-report-revised-version.pdf>
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This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

Sources Consulted:

All Africa

Amnesty International

BBC News

ECOI: European Country of Origin Information Network

Freedom House

Human Rights Watch

International Crisis Group (ICG)

IRB: Immigration and Refugee Board of Canada

IRIN News

Lexis Nexis

Refugee Documentation Centre Query Database

United Kingdom: Home Office

UNHCR Refworld

United States Department of State