

CHAPTER SIX

FREEDOM OF RELIGION IN SUDAN

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Introduction

The multiplicity of ethnic and religious communities has created divisions in the social setting in Sudan.¹ The present social tension is first and foremost portrayed in religious terms; there is an assumption that the Muslim-Christian division is the main cause of instability and that the basic line of demarcation goes between followers of these two religions. Moreover, Christians in Sudan are often depicted as the weaker part, and there is a tendency to single the 'Southerners' out as *the* Sudanese Christians par excellence. In February 2007, I conducted a fieldwork in Khartoum together with a colleague; the task consisted in interviewing Muslim and Christian leaders, as well as western representatives, particularly from Christian organisations responsible for aid programs among Christians in Khartoum and in Southern Sudan (Tønnessen and Roald 2007).² Contrary to the claim of the Christian-Muslim *religious* opposition, our findings point to cultural differences between the mainly urbanised population in Northern Sudan and the mainly rural population in the South, as well as those between the Africanised South and the Arabised North, as important reasons for the social tensions. In both cases, the differences are unrelated to religious affiliation. A third reason is the variation in religious practices among Christians coming from the South and the long-established Christian communities in the North: the Sudanese Copts and the European and Middle Eastern Christians.

All the Sudanese constitutions after independence in 1956 have taken religious differences in Sudan into consideration. Even the 1998 Constitution,

¹ This article is part of the research project *Moderation of Islamists Movements* at the Chr. Michelsen Institute, Bergen, Norway, funded by the Norwegian Research Council.

² The following is built on a fieldwork conducted by myself and Liv Tønnessen in Khartoum in February 2007 (see Tønnessen and Roald 2007). This study deals thus with the situation before the partition of Sudan into Sudan and Southern Sudan. 'Sudan' in this article therefore refers mainly to Sudan before the partition.

which was designed by the Islamist ideologue, Hasan al-Turabi, at the time Speaker of the National Assembly and a close ally to the President Umar al-Bashir, uses the term *religiousness* rather than *Islam*, in an attempt to avoid stirring tensions between religious groups. Because Sudan ratified the International Covenant on Civil and Political Rights (ICCPR [1966]) in 1986, the regime which came to power in 1989 was committed to grant citizens freedom of religion. Article 18 in the Covenant states:

1. Everyone 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, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.³

This chapter explores the topic of freedom of religion according to the UN conventions. The focus is directed at how various religious communities in Khartoum perceive and assess the way their freedom of religion is guaranteed in the State of Sudan.

The Coming of Monotheistic Religions

Both Christianity and Islam were introduced into the region in the sixth and seventh centuries (Holt and Daly 2000). At the time of the Ottoman-Egyptian invasion in 1820 the Northern part of the country was Arabized and Islamized, and during their reign (1820–1881) Middle Eastern Catholics started to settle in Northern Sudan, establishing small Christian minority Churches in the then mainly Muslim area (Holt and Daly 2000: 22–37). Although the Ottoman-Egyptian rulers never controlled Southern Sudan, it was formally included in the Ottoman Empire. Nevertheless, British missionaries entered Southern Sudan from the South of the region and converted

³ "International Covenant on Civil and Political Rights" at <http://www2.ohchr.org/english/law/ccpr.htm>.

many tribes to Christianity in the late nineteenth century. The Mahdists (1881–98), meanwhile, made a great effort to Islamize the South of Sudan (Fluehr-Lobban 1991: 76), and, judging from the large Southern Sudanese Muslim community, this effort has been successful. Although the British-Egyptian administration controlled the whole of today's Sudan, they treated the North and the South as two different regions. The British planned to add the South of Sudan to the British East African colonies, and in 1922 the Closed District Ordinance was passed, requiring permits for travelling between the North and the South. The division between the two parts was reinforced by allowing Christian missionaries to work in the South, whereas Islamic mission was strictly forbidden in this area. At the same time, the British neglected the development of the South and focused on the strengthening of administration in the North (Fluehr-Lobban 1991: 77–79; Rolandsen 2005: 24; Nyang and Johnston 2003). As the time for self-rule approached, however, the British decided to integrate the two parts (Nyang and Johnston 2003). From 1948 the whole of today's Sudan came under one administration. Arabic was the administrative language in the North, and English in the South. The Southerners could not participate in the political process for lack of proper Arabic knowledge. The Southerners' marginal position in central governing institutions, combined with their historical separation from the North, did not support Sudanese nationalist sentiment in the South, and by the time of Independence the civil war had already begun (Nyang and Johnston 2003).

Religious Communities

Sudan is a multi-religious, multiethnic and multilingual country. Tribalism is an important feature of social life on the micro- as well as the macro-level.⁴ Besides the distinction along religious lines, most Sudanese also distinguish between affiliation to African and Arab cultural traditions. Estimates of adherents to the various religious groups in the whole of Sudan vary in the different sources; Muslims are estimated to represent between 50 and 70 percent, adherents to African tribal religions between 25 and 35 percent and Christians between 4 to 15 percent.⁵

⁴ http://lexicorient.com/e.o/sudan_4.htm

⁵ http://lexicorient.com/e.o/sudan_4.htm At US government webpage for instance, the figures of Christians are given as 5% in 2004 (www.state.gov/g/drl/rls/hrrtp/2004/41628.htm).

It is generally estimated⁶ that before Numeiri's introduction of the shari'a in 1983, there were approximately 400,000 Christians in Khartoum; the Copts and other Orthodox were the largest communities, followed by the Catholics and the Anglicans. The Northern Christian groups have decreased considerably after 1983. The Coptic community has, for instance, nearly dimidiated, according to a representative from the Coptic Church.⁷ The Greek-Orthodox community, which had approximately 12–15 thousand members before 1983, is now reduced to a couple of hundred individuals.⁸ However, many of the displaced persons living in camps on the outskirts of Khartoum are Christians, and it is commonly agreed that before the partition in 2011 there were approximately 4 million Christians in the North. The Christians thus constituted nearly 20 percent of the 22 million inhabitants in the Northern states of Sudan at the time.⁹

Historically speaking, Sudanese Islam was influenced by Sufism. Moreover, nearly all Muslims today belong to the Sunni branch of Islam.¹⁰ Within the Christian minority in the North today, the Roman Catholic Church is the largest congregation, followed by the Episcopal Church.¹¹ Various Orthodox Churches, such as the Coptic, the Ethiopian and the Greek-Orthodox, and various Protestant Churches, such as the Presbyterian and the Pentecostal, are also present. The African traditional religions are mainly practiced in Southern Sudan, but due to the war, traditional beliefs are now also common in areas of displaced persons in Khartoum. Although traditional religious faiths, most of which are non-scriptural, differ between the various ethnic groups, there are common traits, such as worship of ancestor spirits and belief in a supreme God (Ray 1976).¹²

In Sudan the *millet* or rather the *neo-millet* system (see van den Boogert in this volume) in personal status matters re-emerged through the Non-Muhammadan Marriage Ordinance in 1906 (Tier n.d.: 4). Even after the British gained control of Sudan in 1899, two sets of courts were in function;

⁶ Personal communication with Christian and Muslim leaders.

⁷ Interview with Father Antonius, Deputy Bishop in the Coptic Orthodox Church in Omdurman, February 25, 2007.

⁸ Interview with a member of the Greek-Orthodox community in Khartoum in the 25th of February 2007.

⁹ U.S. Department of State "Background: Sudan". See www.state.gov/r/pa/ei/bgn/5424.htm.

¹⁰ According to the *Encyclopaedia of the Orient* there might be a small minority of Shi'a Muslims in Sudan. See http://lexicorient.com/e.o/sudan_4.htm. However, this possible minority is not mentioned in any statistics.

¹¹ www.anglicanifcon.org/SudanPF.htm

¹² http://lexicorient.com/e.o/sudan_4.htm

questions related to personal status were dealt with in religious courts, whereas other matters were handled in what the British called the civil law courts (Fluehr-Lobban 1987). In contemporary Sudan, Personal Status legislation is still based on religious and tribal/ethnic affiliations and dealt with by the community leaders. It is important to note that also on the political level individuals compete for positions along tribal/religious lines. Sudan is thus a society where citizenship is constituted through community affiliation and collective rights rather than individual rights. It is interesting to note that the legal advisor to the president, Farida Ibrahim, regarded the *neo-millet* system as the evidence that freedom of religion is highly developed in Sudan.¹³

Freedom of Religion in Sudan

The Initial Constitutions

Sudan's first Constitution, with minor amendments, has been in force since independence, but was suspended several times (1956, 1964 and 1985), until the coup d'état in 1989. It was founded on the ideal of a secular state, with citizenship as the basis for rights and freedoms, and on the prohibition against all discrimination based on religion, ethnic origin or gender (Abdelmoula 1997). Despite this ideal of individual rights, the Personal Status legislation was still placed under religious community authorities. In 1968 a provision was introduced through a constitutional bill making Islam the source of law. Article 113 of the bill states that "Islamic shari'a is the basic source of law in the State".¹⁴ This bill also made Islam the official religion and Arabic the official language of Sudan. And since the bill was introduced as a reaction to the influence of the Communist Party, "propagation of communism and atheism" was outlawed.¹⁵

When Numeiri introduced his 'Permanent Constitution' in 1973, after his dispute with the Communists in 1971, and despite his close ties with the West, he maintained the 1968 provision. Thus Islamic shari'a remained the source of law and Arabic the official language of Sudan. Sudan continued to "endeavour to express Islam's values".¹⁶ Nevertheless, the Constitution

¹³ Interview with the legal adviser of the President, Farida Ibrahim in Khartoum, 21 February 2007.

¹⁴ www.usip.org/religionpeace/rehr/sudanconf/abdelmoula.html

¹⁵ www.usip.org/religionpeace/rehr/sudanconf/abdelmoula.html

¹⁶ www.usip.org/religionpeace/rehr/sudanconf/abdelmoula.html

does explicitly, albeit vaguely, state that “[d]ivine religions [i.e. Christianity] and honourable spiritual beliefs [i.e. the tribal religious traditions] of the citizens should not be insulted or degraded”; neither should such beliefs be “misused” or politically exploited.¹⁷ It is not clear what is meant by ‘values’, and the claim of non-discrimination of “honourable spiritual beliefs” is rather vague. The question to pose is which Christian and ‘spiritual’ beliefs are “honourable” and which are not? In this Constitution, which remained in force for nearly ten years after the coup d’etat in 1989, freedom of religion for all the three main religious communities is explicitly stated along the line of “intolerance towards the intolerants”, as stated in Article 16 (e).

The 1998 ‘Islamist’ Constitution

al-Turabi was the major entrepreneur behind the Constitution that came into force the 1st of July 1998. In this Constitution, the term ‘shari’a’ (Islamic legislation) is mentioned only once, namely in the chapter on amendments to the Constitution. In this part the fundamentals of the Constitution are stated to be first and foremost Islamic legislation, then the consensus of the people on the basis of their referendum [the Arabic word used is *shura*, which means consultation], or their constitutional law [regulations] or their customs (*urf*) (Constitution of the Republic of Sudan 1998: Article 139: 3a). The word Islam is also mentioned only once, in Article 1, in which it is stated that “Islam is the religion of the majority of the population” and that “Christianity and customary creeds have considerable followers”. It is interesting to note how the aspects of ‘Islam’ and ‘Islamic legislation’ have been de-emphasised in the 1998 Constitution in comparison with the former Sudanese Constitutions. In contrast, this Constitution accentuates *religiousness*. In Article 18 it is stated that “those in service in the State and public life shall envisage the dedication thereof for the worship of God”. Moreover, the same article asserts that “religious motivation” should guide:

planning, legislation, policies and official business in the political, economic, social and cultural fields in order to prompt public life towards its objectives, and adjust them towards justice and up-rightness to be directed towards the grace of God in the Hereafter.

It is noteworthy that in order to provide a standard Islamic orientation and to prevent deviation from the main Islamic orientation of the state,

¹⁷ www.usip.org/religionpeace/rehr/sudanconf/abdelmoula.html

Article 18 stipulates specifically that as for the worship of God, “Muslims stick to the Koran and Sunna (Muhammad’s normative custom)”. The stress in the Constitution on religiosity rather than on Islam is also valid for the presidential office, as there is no requirement for the president to be a Muslim (Article 36). Even in the presidential oath, the dedication to God, is mentioned in neutral religious terms such as ‘God the Almighty’ (*allah al-azim*) (Article 40), a term also used by Christians in the Arabic language. This feature reflects al-Turabi’s suggestion in 2006 that even a Christian can be a president of Sudan.¹⁸ It seems obvious however, that al-Turabi speaks of “a Northern Christian”. In our discussion he consistently referred to Christians living in the North, seeing them as ‘civilized’, in contrast to the ‘backward’ Christians in the South.¹⁹ This view indicates that the tension between the Arab urban North and the African rural South is better analysed in terms of ethnicity and social development than in terms of religious opposition between Muslims and Christians.

Article 24 in the “al-Turabi” Constitution provides for freedom of religion under the heading “Freedom of creed and worship”. It is stated that

Every human being shall have the right of freedom of conscience (*wijdan*) and religious creed and he [sic] shall have the right to declare his religion or creed, and manifest the same by way of worship, education, practice or performance of rites or ceremonies; and no one shall be coerced to adopt such faith as he does not believe in, nor to practice rites or services he does not voluntarily consent to; and that is without prejudice to the right of choice of religion, injury to the feelings of others, or to public order, all as may be regulated by law.

Indeed, Article 24 adheres to the wording of Article 18 of the International Covenant on Civil and Political Rights (ICCPR). In this Covenant freedom to *not* have a religion was not explicitly stated. Furthermore, the text in Article 24 in the “al-Turabi” Constitution is fairly similar to Article 18 in the Declaration of Human Rights. However, regarding the possibility of *not* having a religion, an implication of Article 18 in the Declaration of Human Rights,²⁰ this seems at first glance also to be an option in the 1998 Constitution. The English text in Article 24 might give the impression that

¹⁸ <http://www.sudantribune.com/Next-Sudan-s-president-could-be.16048>

¹⁹ Discussion with Hasan al-Turabi in Khartoum, February 2007.

²⁰ Article 18 on the Declaration of Human Rights states: “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance”.

it is possible “to not believe” or *not* to profess belief in any religion, as the English translation of the Arabic text speaks of freedom of “conscience” (*wijdan*), which implies both the freedom to believe and not to believe.²¹ ‘Conscience’ can, however, also have an explicit religious meaning, as the *wijdan* indicates a link between the individual’s inner feeling and this individual’s moral values based on religious or moral systems.²² When Article 24 is read in light of other passages in the “al-Turabi” Constitution, however, it becomes clear that freedom of conscience in the Sudanese context is meant only in relation to religious systems and not to atheistic, agnostic, or non-religious moral worldviews. The Sudanese concept of freedom of religion in this Constitution thus only means freedom *to* religion, not freedom *from* religion.

Another important aspect of Article 24 of the “al-Turabi” Constitution lies in the phrase “all as may be regulated by law”. Article 24 does not mention the possibility or the prohibition of converting to another religion or leaving a religious tradition, but the 1991 Criminal Act explicitly prohibits apostasy from Islam, and the punishment for this offence is the death penalty.²³ This prohibition and its punishment contradict Article 18 of the ICCPR which explicitly states that “no one shall be subject to coercion which would impair his freedom to have or to adopt a religion or a belief of his choice”. In this regard the 1998 Constitution, due to its reference to “all as may be regulated by law”, is not compatible with the international covenants to which Sudan committed itself when it ratified the ICCPR.

Moreover, also regarding religious freedom for religious minorities in the “al-Turabi” Constitution, there seems to be a problem due to the phrase “all as may be regulated by law”. This is because prior to 2005 non-Muslims all over Sudan were obliged to follow the shari’a law, except in personal status affairs. However, this changed after the signing of the Comprehensive Peace Agreement (CPA) in 2005. In this agreement non-Muslims are exempted from being ruled according to Islamic law.²⁴ The Interim Constitution of 2005, which builds upon the CPA, stipulates also that in the states outside Southern Sudan the sources of legislation are “shari’a and the consensus of the people”, whereas “nationally enacted legislation applicable to Southern Sudan . . . shall have as its sources of legislation popular consensus, the

²¹ *Wijdan* is translated as “conscience”. According to Wehr’s dictionary, however, *wijdan* means sentiments or emotions. (Wehr 1994: 1231).

²² For a discussion on conscience (Arabic: *damir*), see Leirvik 2002.

²³ Sudan Department of Justice; Criminal Act Chapter 13: 126.

²⁴ <http://www.iss.co.za/af/profiles/Sudan/darfur/cpaprov.htm>

values and the customs of the people of the Sudan, including their traditions and religious beliefs, having regard to the Sudan's diversity".²⁵

Freedom of Religion in Sudan After 2005

According to Farida Ibrahim, the religious minority 'right' of the *neo-millet* system is also extended to the 'traditional religions'. Sudanese Personal Status Law, whether Christian, Muslim or traditional tribal, builds on the patriarchal system of gender inequality. Thus, the legal pluralism in Personal Status Law is not compatible with the Declaration of Human Rights, especially the principle of equality. However, as Sudan is one of the few UN member countries²⁶ which have not signed the CEDAW (Convention on the Elimination of All Forms of Discriminations Against Women), it is not particularly bound by the principle of gender equality.

Islamists, both those close to the regime and those with a more critical view of the official policy, claimed that the Muslim majority have surrendered to minority claims inside Sudan as well as to international pressure, and have given up much of their majority privileges after the Comprehensive Peace Agreement came into force in 2005. Quite a few Christians living in Khartoum, on the other hand, contended that many of the shari'a laws apply to Christian citizens despite the Interim Constitution's emphasis on religious minority rights and its claim that shari'a shall not apply to non-Muslims. In particular, it is the shari'a prohibition of alcohol many Christians find offensive. But even non-legal issues, such as difficulties in building churches and marginalization from the public space, such as the representation of Christians in the media, were viewed by many representatives of Christian Churches in Khartoum as restrictions on their freedom of religion.

Since Sudan has ratified the International Covenant of Civil and Political Rights (ICCPR), I will, in the following, discuss three issues linked to religious freedom for religious minorities in Sudan: restrictions on the building of churches, the prohibition of alcohol, and representation in the public sphere. I will further discuss two restrictions on religious freedom,

²⁵ Interim Constitution of Sudan 2005: Article 5.

²⁶ Iran and Somalia are among the countries which have refused to sign CEDAW. It is interesting to note that, although the United States has signed the treaty, it is one of the few countries which have not ratified CEDAW.

this time regarding the Muslim majority: apostasy and compulsory female dress code.

Freedom of Religion for non-Muslims

Under the regime led by Umar al-Bashir there have been frequent reports on how Christian women trading in alcohol were jailed in Sudan due to the shari'a prohibition. Although the 2005 Interim Constitution claims that Islamic law shall not apply to non-Muslims, there are indications that Southern women from various religious denominations continue to be charged and jailed for trading in alcohol after 2005.²⁷ The trade in alcohol is common among refugee women living in the displaced areas in the outskirt of Khartoum, as many of them are the main breadwinners for large families, and job opportunities are scarce.²⁸ Besides, the prohibition against the trade in alcohol makes it difficult for Christian Churches to purchase wine for the Holy Communion. Representatives from various Christian denominations complained that even though, in principle, there is no prohibition against non-Muslims drinking alcohol, the Sudanese authorities do not accept any kind of private use of alcohol. This criticism was rejected by Helen Louise Olear, Member of Parliament for the ruling party, the National Congress and a Christian from the South. She claimed that the prohibition of alcohol is not a problem for Christians as they, unlike Muslims, are allowed to drink alcohol in private gatherings. "Before the gathering the Christians have to inform the police, and the drinking of alcohol will be accepted", she claimed, "as it is the trading of alcohol which is forbidden".²⁹ Olear's contention must be assessed in view of her being a representative of the ruling party. Moreover, she did not mention the practical problem of how to have access to alcoholic beverages if trade is prohibited. And how can Churches perform Holy Communion according to ritual rules if it is impossible to get hold of wine due to the trade prohibition? One of the Christian representatives, however, claimed that some Churches do have wine for ritual purposes, but they have to get hold of the wine illegally, mainly through smuggling. Christian Church leaders

²⁷ See for instance "Sudan jails 'harsh and crowded'", 30/11-2007, at: <http://news.bbc.co.uk/2/hi/africa/7120615.stm>.

²⁸ Interview with Sabah Muhammad, journalist at the newspaper *al-ayam*, February 26, 2007 in Khartoum. See also articles in the newspaper *al-ayam*: 1 March 2006; 17 May 2006; 31 October 2006; 22 November 2006.

²⁹ Interview with Helen Louise Olear, Member of Parliament for the National Congress Party, February 14, 2007 in Khartoum.

thus have to break Sudanese laws in order to fulfill their ritual obligations towards their congregations. There is an obvious contradiction between the Sudanese principle of freedom of religion and the “al-Turabi” Constitution’s emphasis on religiosity and the fact that trade in alcohol, even by Christians, is forbidden. Thus in this matter the Sudanese authorities fail to adhere to the principle of freedom of religion stated in the ICCPR.

As for the building of churches, there has been a slight improvement lately. Due to the efforts of the non-governmental organisation SIRC (Sudan inter-relations Council), the Guidance and Endowment Ministry has decided to raise three new churches in Khartoum.³⁰ The SIRC is an organisation consisting of Muslims and Christians. The Secretary General is at present a Muslim, al-Tayyib Zain al-Abidin, and the vice Secretary General is a Christian. “SIRC tries to protect the non-Muslims, but there is still much to do”, Abidin stated. He was critical to the fact that Christians are not given free plots of land to build their churches, whereas Muslims get land for mosques. The government’s rationale for this unequal treatment is because it assumes that the presence of the Southern Christian population in Khartoum is temporary; “The authorities therefore see no need to offer possibilities for authorized churches in Khartoum, as most Christians will return to the South”, said Abidin.³¹ On the other hand, he did not believe that the government deliberately impedes the establishment of unauthorized worship buildings, as some Christians have claimed, saying that many such buildings are situated in the areas of the displaced camps, and these camps are often in unplanned areas. “Khartoum is expanding, and whenever the governmental urban planning office arrives at such an unplanned place in order to start building new houses, they will destroy all unauthorized buildings in the area.”³²

One of the community worker from Europe affiliated to a Western Christian organisation believes Christians are exaggerating the problem of church construction. He questioned the Christians’ demand that the state take responsibility for building churches, as in his view Christians should be responsible for raising their own churches. According to him, the state also restricts the building of mosques, particularly those belonging to Muslim groups which the authorities mistrust, for instance the salafi movement,

³⁰ Interview with al-Tayyib Zain Abidin in Khartoum, February 11, 2007. Several church leaders confirmed Abidin’s claim that it is due to SIRC that the government has accepted to raise the three churches.

³¹ Interview with al-Tayyib Zain Abidin in Khartoum, February 11, 2007.

³² Interview with al-Tayyib Zain Abidin in Khartoum, February 11, 2007.

Ansar al-Sunna.³³ Father Antonius, a Coptic priest, is among those who complained about the difficulties of building new churches.³⁴ Yet, at the same time he claimed that the Coptic community has decreased dramatically since the 1970s. Indeed it is a problem for the Coptic community if the State does not offer economic support for the maintenance of churches. However, the fact that the priest used the argument about ‘the building of churches’ indicates that he resorted to a discourse common among Christians, even though this is not necessarily a problem within his own specific community. Recently, the authorities allowed the building of three new churches. In view of the discussion above, it seems safe to conclude that, as far as the construction of worship buildings is concerned, Sudan respects the principle of freedom of religion as defined in the ICCPR.

In our discussions with Christians, the lack of media representation for non-Muslims came up as an important aspect of freedom of religion in Sudan. Sister Margareth, a Sudanese Catholic nun with Syrian ancestors, is the vice-chairperson of CAMP (Christians and Muslims for Peace), an organisation which came into being through governmental initiative. She complained that on the national radio and television Christian issues would be aired only one hour a week. “On Sundays”, she said, “there is a Christian sermon on the radio, whereas the Islamic call for prayer (*adhan*) is aired both on radio and television five times daily”. Moreover, “recitations of the Qur’an and religious Islamic programs are superfluous in the media”, she exclaimed. She was further critical to the national educational curriculum which is compulsory for all pupils in order to get a Sudanese exam:

The government wants to force upon us [the Christians] Islamic education. In the curriculum everything deals with Islam; Islamic history, Islamic geography, and even Islamic maths. They want our children to learn the Koran by heart. What do the Muslims want? Do they give out their holy texts to dogs? We the Christians do not care about the Koran, so we do not venerate this text.³⁵

The lack of Christian representation in the national media is by many regarded as a political issue. One of the Muslim informants, a person active in a grass-root peace group, stated that since 1983 Islam has been promoted in national media, and this results in Muslims feeling superior in society and in Christians feeling oppressed. In the matter of public representation,

³³ Interview with a European Community worker affiliated with a Western Christian organisation, who prefers to be anonymous.

³⁴ Interview with Father Antonius, Deputy Bishop in the Coptic Orthodox Church in Omdurman Sudan, February 25, 2007.

³⁵ Interview with Sister Margareth in Khartoum, February 26, 2007.

taking into account the relative number of non-Muslims in Sudan, and unlike in the matter of church construction, the authorities do not seem to respect the principle of freedom of religion contained in the ICCPR.

Freedom of Religion for Muslims

The issue of Islamic law and apostasy has been at the centre of worldwide discussions over the last years. The right to change religion is a major theme in the international freedom of religion discourse. As freedom of religion in most secular states has come to mean not only the right *to* religion but also the right to *not* belong to a religion, the apostasy law in countries such as Pakistan and Sudan has gained international attention. In Sudan, conversion from Islam to another religion is forbidden according to the 1992 Criminal Act. In the discussion with Abidin I asked what the SIRC is doing to protect individuals who convert from Islam. He answered:

In the Constitutions [of 1998 and 2005] there is nothing about apostasy, as both include the principle of religious freedom. Moreover, today apostasy is not an issue. If we raise the issue, a new problem will be created, as theoretically speaking there is a problem [due to the apostasy law in the Criminal Act]. Practically, however, apostasy is not a problem. No one has been punished according to this law. If this happens we will work against it.³⁶

According to Abidin, the execution of the politician and scholar Mahmoud Muhammad Taha in 1985 was not a religious but a political decision. Abidin elaborated on his view:

Taha criticized Numeiri's religious laws, and Numeiri looked for a junior judge to take the case and get him executed. It was not at first about apostasy. Taha refused to appeal, so the Court itself decided to appeal. This procedure in itself is rather uncommon. The appeal was brought to the special court created by Numeiri for Islamic laws, and they changed the charge to apostasy. But, in my view, it was not about apostasy, it was a political issue.³⁷

As apostasy is a crime according to Sudanese law, it is obvious that the Sudanese authorities do not keep to the principle stated in ICCPR Article 18: 1, namely that everyone has the right to freedom of thought, conscience and religion and that this right includes the freedom to have or to adopt a religion or belief of his/her own choice. However, the text in ICCPR Article 18: 3 is ambiguous. It says:

³⁶ Interview with al-Tayyib Zain Abidin in Khartoum, February 11, 2007.

³⁷ Interview with al-Tayyib Zain Abidin in Khartoum, February 11, 2007.

Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.³⁸

This can be interpreted as saying that limitations prescribed by law are acceptable. One can thus argue that the criminalization of apostasy is acceptable in accordance with the ICCPR. However, if these limitations are read in connection with the last part of the sentence, "to protect public safety, order, health, or morals or the fundamental rights and freedoms of others", it would be harder to argue that the criminalization of conversion from Islam is compatible with Article 18. In pre-modern states when religious affiliation was an important aspect of power relations, apostasy on a larger scale from the majority religion would affect the balance of power in society. Sudan, however, is a nation-state where membership is based on citizenship rather than religious affiliation, except in the family legislation.³⁹ The criminalization of apostasy in today's Sudan would thus have to be legitimated in terms of the protection of public security, order, and behavior.

The restriction of freedom to change one's religion is applicable for Muslims only. Christians are, according to Sudanese law, free to embrace Islam or any other religion. Conversion to Islam or Christianity happens all the time among those who belong to traditional tribal religions.⁴⁰ However the matter of *not* belonging to a religion seems to be a taboo topic in Sudanese society. When asked about atheists and their rights in this society, Abidin answered that he does not believe there are atheists in Sudan, "at least", he says, "if there are any, they do not declare themselves to be atheists".⁴¹ "Atheists would be afraid to declare to be atheists" as this "will create a bad image for them", Abidin says. The general religious character of the Sudanese people, he believed, will make people shun atheists. "There are no atheists in Sudan. Even the communists believe in God, as in the last Sudanese election in Sudan the communist party's political meetings would start with recitation of the Koran." It is symptomatic that Abidin associated

³⁸ "International Covenant on Civil and Political Rights" at <http://www2.ohchr.org/english/law/ccpr.htm>.

³⁹ It is important to be aware that although legally employment in the state is based on citizenship, practically speaking the authorities tend to favour professionals with an Islamist orientation. It is also important to point out that in contrast to other countries with Muslim majorities, the Sudanese Constitution opens up for a non-Muslim being the highest leader (*al-qiyada al-'ulya*) in the country.

⁴⁰ Interview with Church leaders in Khartoum, February 2007.

⁴¹ Interview with al-Tayyib Zain Abidin in Khartoum, February 11, 2007.

atheism particularly with the communist movement, a view common in other parts of the Muslim world as well, including among Christians in this region. In a discussion about how Christian children have to learn about Islam, sister Margareth declared:

I never teach Muslim children in our school about Christianity. Do we want Sudan to be a communist society? If we teach the children various religious traditions they will end up not believing in anything and become communists.⁴²

The tendency to link non-belief and atheism with communism is thus not a specifically Muslim trait; rather it seems to be a phenomenon culturally shared by Christians and Muslims alike. Moreover, the right to *not* belong to a religion is not explicitly mentioned in the Sudanese law; it is only referred to implicitly by linking “freedom of conscience (*wijdan*)” to religious system, as discussed above, and it is obviously socially unacceptable in Sudan to not have a religion.

According to Abidin, apostasy has not been an issue in Sudan. It is, however, hard to overlook the fact that apostasy is a criminal offence according to Sudanese legislation. The question is why there have not been any legal cases against apostasy (if we accept Abidin’s notion that the Numeiri-Taha case was political)? Is it because Sudanese Muslims do not convert to other religions? Or, if Sudanese Muslims do convert, do they do this secretly? Whatever the answer to this question, it is obvious that the law of apostasy might at any time be activated, for purely religious reasons or for political reasons.⁴³ When freedom of religion is defined as the right for individuals to freely choose to embrace or abstain from religion, in Sudan there is no such freedom.

Before the implementation of the Comprehensive Peace Agreement (CPA) in 2005, the regime made it compulsory for Muslim women to adhere to the female Islamic dress code, with covering of the body and the hair. Non-Muslims were not forced to wear a headscarf, but they were expected to wear “decent” clothing, meaning that the body, but not necessarily the hair, should be well covered. Muslim women I interviewed claimed that, after the CPA, the authorities are less prone than before to punish women who do not follow the strict Islamic dress code. A Muslim woman working in the government stated that before the CPA came into being she would always wear a tight headscarf under her *thawb* (the long piece of cloth

⁴² Interview with Sister Margareth in Khartoum, February 26, 2007.

⁴³ For a discussion on apostasy see Longva 2002.

Sudanese Muslim women wrap around their bodies and loosely over the head). After 2005 she has, however, often taken off her headscarf; instead her head is loosely covered by part of her *thawb* only. Although to take off the headscarf is not a legal offence, she claims, social control makes it hard for women who want to dress less strictly. She experienced that colleagues and relatives commented on her “loose” clothing style in the beginning, when she took off her headscarf. But the last year, she claims, even social control has decreased in this matter. The story of the 13 women who were arrested for ‘indecentcy’ in 2009 for wearing pants indicates, however, that the strict female dress code is not only a matter of social control, but has also legal implications. Of the 13 women 12 accepted their fines and the flogging, whereas one woman, a journalist, went to court. She was spared the 40 lashes but had to pay the fine. This event reinforces the impression that the right *not* to belong to a religion or not to practice a religion is unacceptable in Sudan, and this implies a violation of freedom of religion not compatible with the ICCPR.

In Sudan there are clearly certain restrictions of freedom of religion as defined in the ICCPR’s Article 18. The prohibition against trading in alcohol restricts the Christian minority’s possibility to perform the religious rituals. Another violation of Art. 18 is the fact that Islamic education is compulsory for Christian children. As for representation in the public space, e.g. in the media, and restrictions in the building of churches, however, it is important to view these issues in a broad comparative perspective. In most western⁴⁴ societies the official holidays follow the Christian calendar, despite these states’ overt secularism. Nor are Muslim children in many European countries, automatically given permission to attend the weekly Friday prayer, and some would even not get permission at all. We also find certain restrictions against religious buildings, in Scandinavia for instance. As for public representation, all religions have limited representation in the public space, as religion in European countries is supposed to belong to the private sphere. The fact that countries in the West have restrictions on religious freedom similar to those in Sudan does not mean, of course, that these restrictions are not violations of the ICCPR’s Article 18. Rather it means that to guarantee freedom of religion for minorities is always problematic, as religion, socio-cultural structures, politics, and power are interlinked. Besides, it is difficult to differentiate ‘pure’ religious phenomena from social, cultural, and political aspects.

⁴⁴ I use “western countries” to denote Europe, USA, Australia, and New Zealand.

It is also obvious from the discussion above that neither the religious minorities nor the Muslims in Sudan enjoy full freedom of religion. The prohibition of conversion from Islam seriously restricts the Muslims' freedom of choice in matters of religion. Thus, there are restrictions on freedom of religion in the State of Sudan for Muslims and non-Muslims alike.

Religious Freedom in the South?

The 2005 Interim Constitution of Southern Sudan also refers to religious freedom in the South. Article 8 affirms that religion and state shall be separated in Southern Sudan; all religions shall be treated equally, and religious belief shall not be used for divisive purposes. Abidin claimed, however, that such equal treatment of religious followers in the South does not exist "despite the words on tolerance between religious followers in the Southern Sudan Interim Constitution".⁴⁵ He claimed that there have been several cases of violence against Muslims in the South, such as a decree preventing women from wearing a headscarf and the closing down of Zakat institutions in the South.⁴⁶ The discrimination of Muslims in the South was unintentionally confirmed by the Christian editor of the newspaper *Khartoum Monitor*, Alfred Taban, himself of Southern origin.⁴⁷ When asked about the number of Christians and Muslims in the South, he stated that there are 18 percent Christians and 19 percent Muslims.⁴⁸ "However," he goes on, "I believe that after the partition of Sudan the Muslims will be reduced in number. They will be afraid, and they will conceal that they are Muslims, or they will turn away from Islam. The Southerners will treat them badly. The Southerners are so suspicious, and some people [Muslims] might be spies." In his statement it is obvious that he sees 'Southerners' as Christians and people adhering to traditional beliefs. That Muslim Southerners encounter discrimination in the South was further confirmed by a community worker from Europe engaged in Christian-Muslim relations in the South.⁴⁹ Thus, violations of Article 18 of the ICCPR take place not only

⁴⁵ Interview with al-Tayyib Zain Abidin in Khartoum, February 11, 2007.

⁴⁶ Interview with al-Tayyib Zain Abidin in Khartoum, February 11, 2007.

⁴⁷ Interview with Alfred Taban in Khartoum, February 24 2007.

⁴⁸ A European informant, working for a Western organisation confirmed this number, saying that "the Southern Christians and Westerners believe that the Christian community is the biggest in the South. This is probably not true. The Mahdi [in the late nineteenth century] had an aggressive Islamization policy in the South, and I believe there are as many Muslims as Christians".

⁴⁹ Interview with a community worker from Europe affiliated with a Western Christian organisation, who prefers to be anonymous.

at the hands of the Islamic regime in Northern Sudan, but also at those of non-Muslim authorities in the South as well.

Protection of Non-Muslims in Khartoum

Article 157 of the Interim Constitution of 2005 deals with the issue of protection of non-Muslim rights in the North. Abidin linked this article to the establishment of the *Commission for Protection of non-Muslims in the National Capital*, of which he is a member, stating that this was a step towards ensuring that the rights of non-Muslims are protected and respected in accordance with the guidelines mentioned in the Constitution. On the 8th of February 2007 the government appointed the Southern Christian, Joshua Dao to head this commission. At first, his appointment was favoured by many Christian intellectuals. Taban, for instance, welcomed Dao's appointment in his February 13th editorial, but after the names of the members of the commission were announced, he wrote a critical editorial about the composition of the commission. He saw the Commission as "a great disservice to non-Muslims", and he called for its dissolution (*Khartoum Monitor* February 17 2007, page 2). His main argument was that there were 15 Muslims and only 13 non-Muslims in the commission. He discussed the Muslim members and claimed that they are "predominantly fundamentalists who would like to see Sudan become an Islamic state." "Thus", he declared, "the so-called rights of non-Muslims which the commission is supposed to protect are actually what the shari'a law permits."⁵⁰ Taban further regarded the appointment of the commission as "a political ploy meant to reassure non-Muslims that they, in theory, are most welcome in their own capital city. In practice, however, the non-Muslims, who by definition do not believe in Islamic laws, have to live according to the Islamic shari'a law!"⁵¹ Taban added that many of the Muslim members are staunch Islamists. "What is the point?" he exclaimed. "The committee is just a show-off!"

Whereas Taban sees the commission as a show-off case, and is critical to how non-Muslims are treated in Khartoum, Abidin, as a Muslim and a member of the commission, has a far more positive view of the rights of, for instance, the Christians in Khartoum. According to him, the CPA and the Interim Constitution have secured the protection of the minorities in the North. When asked specifically whether Christians after the imple-

⁵⁰ Interview with Alfred Taban in Khartoum, February 24 2007.

⁵¹ Interview with Alfred Taban in Khartoum, February 24 2007.

mentation of the CPA are judged according to shari'a law, he stated that earlier, shari'a rules used to be applied to non-Muslims in certain *hudud* crimes such as murder and theft, whereas they did not apply to crimes such as apostasy, wine drinking, fornication or *qasf* [bringing false witnesses to fornication]. He believed that it was difficult for non-Muslims to comply with the shari'a prohibition against theft and alcohol selling, as many Christians were displaced and poor and have to find a way to make a living (see discussion above). He claimed, however, that "now [in 2007] Christians are no longer punished for these offences in accordance with the shari'a".⁵² Taban admitted that, although it is true in practice that non-Muslims are no longer judged according to the *hudud* laws, theoretically there is still a problem. "The laws remain", he stated, "and the only reason for the Sudanese authorities to postpone the *hudud* punishments are the international reactions against them. The punishments might, though, be re-applied at any moment."

Many Christian leaders referred to the event in December 2006, when the police entered the All-Saints Cathedral and attacked worshippers, as a violation of freedom of religion. The mass was attended by individuals belonging to the Southern elite, including the former vice president Abel Alier. The newspaper *The Citizen* saw in the assault a case of Christian-Muslim hostility, stating that the assault on the All-Saints Cathedral was "an indication of *religious fanaticism, if not outright hostility towards Southerners*, inculcated by the regime into the psyche of the police [our italics]."⁵³ The journalist obviously associated hostility towards the Christian Southerners with 'religious fanaticism', implying, as Taban above, that all Southerners are Christians. However, given the fact that the number of Muslim southerners is approximately to equal to that of Christian southerners, and that they are both minorities in the South, followers of the traditional tribal religions being the majority there, there are good reasons to interpret the hostility between Southerners and Northerners in socio-political and cultural, rather than in religious terms. The leadership in Southern Sudan is Christian, however, as Mordechai Nisan has noted. He stated that the Southern African elite is particularly "a Christian vanguard", with "higher educational standards derived from missionary-school education, which offered religious instruction, the English language, and a worldly outlook" (Nisan 2002). The hostility between the political leadership in the South

⁵² Interview with al-Tayyib Zain Abidin in Khartoum, February 11, 2007.

⁵³ *The Citizen* on 12 February, 2007 Vol. 2 No 52. See also *The Citizen* on 24 February 2007. Vol. 2. No. 64.

and the North is thus portrayed in religious terms; the Christian leadership in the South versus the Islamic regime in the North, whereas the reality is much more complex.

Conclusion

Sudan has signed the International Covenant of Civil and Political Rights of 1966 (ICCPR) and is also committed to guarantee religious freedom as stated in Article 18 of the Covenant for Sudanese citizens. As the discussion above indicates, prior to the Comprehensive Peace Agreement (CPA) of 2005, the Umar al-Bashir regime flouted the principle of religious freedom, not least by applying shari'a law to non-Muslims. After 2005, the situation of rights has improved to a certain degree. However, as trade in alcohol is still prohibited after the CPA, also including non-Muslims; some Christian communities have difficulties in performing their rituals. Nor do the authorities live up to their commitment to the ICCPR in matters of religious education. Religious freedom is not fully guaranteed in the case of Muslims, because the right to not belong to a religion is not respected. The criminalization of conversion constitutes a serious violation of freedom of religion proclaimed in the ICCPR. Against this background, the widespread claim that only the Christians in Southern Sudan are victims of violation of religious freedom and powerlessness needs to be challenged. Moreover, the present study shows that political, cultural, and social divisions in Sudanese society have to be considered seriously when looking into the issue of religious freedom in Sudan.

The case of religious minorities in Sudan is complex and multifaceted, as ethnic boundaries between the communities are not drawn merely along religious lines. As a result of the tribal nature of the society and the complex cultural differences between the South and the North, any social demarcations and divisions are bound to be the product of more variables than the much publicized religious and political conflicts in Sudanese society.

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