



Refugee Documentation Centre (Ireland)
LEGAL AID BOARD

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Refugee Documentation Centre

Country Marriage Pack

Sudan

Disclaimer

Country Marriage Packs (CMPs) are prepared by researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. CMPs contain a selection of representative links to and excerpts from sources under a number of categories for use as Country of Origin Information. Please note that CMPs are not, and do not purport to be, exhaustive with regard to conditions in the countries surveyed or conclusive as to the merit of any particular claim to refugee status or protection.

1. Types of Marriage

Civil Marriages

A document on the website of the *Embassy of the United States, Khartoum, Sudan* states:

“Under Sudanese law, there are three conditions for a valid civil marriage contract. First, the parties must both agree to the marriage and its conditions. Second, the couple must meet the proper age requirements (minimum age for men is 18; 16 for women). Finally, the marriage contract must be announced, notarized and signed by two Muslim witnesses (US Embassy in Sudan (undated) *Marriage*)

Religious Marriages

A document on the website of the *Embassy of the United States, Khartoum, Sudan* states:

“Sudanese legal provisions governing marriage and divorce do not apply to non-Muslims: in mixed marriages, the marriage contract is drawn up according to the national laws of each spouse. However, the effects of a marriage, such as property rights and child custody, are regulated by the laws of the husband's country; thus, a mixed marriage in which the husband is a Sudanese citizen would be governed by Sudanese personal status laws. With the exception of inheritance entitlements (see below), a foreign wife would have the same legal marital rights as a Sudanese woman.” (US Embassy in Sudan (Undated) *Marriage*)

A report by the *United States Department of State* under the heading 'Legal/Policy Framework' states:

"The interim constitution and other laws and policies provide for some religious freedom, but prohibit apostasy, conversion to a religion other than Islam, blasphemy, and some interfaith marriages. [...]"

Under the government's interpretation of Islamic law, a Muslim man may marry a Christian or Jewish women, but a Muslim woman cannot marry a non-Muslim unless he converts to Islam." *United States Department of State (20 May 2013) 2012 Report on International Religious Freedom Sudan*

Traditional/Other Marriages

A document on the website of the *Embassy of the United States, Sudan* states:

"Unofficial, non-registered marriages -- known as orfy or traditional weddings -
- are valid but do not guarantee the wife's legal rights. For example, in an orfy customary marriage, a woman is not entitled to alimony or pension, has no judicial protection without official recognition by her spouse, and must file a legal petition to establish her children's' parentage" (*US Embassy in Sudan (Undated) Marriage*)

Proxy Marriage

A document on the website of the *Embassy of the United States, Sudan* states:

"The Marriage Contract. Marriage is completed through the signing of a civil contract. The procedure is officiated by a ma'azuun (a religious official who is usually appointed by the government), a qadi (judge) or a legal proxy and is witnessed by two men or two women and one man. A woman may appoint a guardian to sign the contract on her behalf. In contrast to the Christian notion, a Muslim marriage is not considered a spiritual sacrament and no religious ceremony is required. However, the announcement of the marriage to the public, by a wedding party or contract gathering, is essential." (*US Embassy in Sudan (February 2001) Marriage*)

2. Formalities of Marriage (Consent, Minimum Age and Registration of Marriage)

A report by the *UN Human Rights Council* states:

"In addition, the traditional courts do not always respect women's rights. The catalogue of human rights violations that occur in these courts include the imprisonment of women for refusing forced marriages arranged by parents" (*UN Human Rights Council (26 May 2010) Report of the independent expert on the situation of human rights in the Sudan*)

A report by *Freedom House* states:

“Islamic law denies Northern women equitable rights in marriage, inheritance, and divorce” (Freedom House (24 May 2012) *Freedom in the World 2013 Sudan*)

A report by the *Social Institutions and Gender index* under the heading ‘Discriminatory Family Code’ states:

“In Sudan, marriage is governed by codified Sharia law, under the Muslim Personal Law Act of Sudan, 1991. The minimum age for marriage is defined as both parties having reached puberty. According to the law, both parties have to consent to marriage; however, the woman needs permission from a male guardian to validate the marriage. The husband is obliged to give the bride a dowry and the law stipulates that the dowry is the property of the wife and her family.

A large house-hold survey that included data covering the whole of present-day Sudan and South Sudan, conducted by the Government of South Sudan in 2006, found that 36% of women in Sudan were married before the age of 18 and 12% were married before the age of 15. In total, 24.7% of girls aged 15-19 were married or in union. These results correlate with data from UNICEF which reported that 34% of women aged 20-24 were married by the age of 18. The UNICEF data indicates that child marriage is more prevalent in rural areas.

Forced early marriage is reported to be a significant problem in Sudan, although information as regards to prevalence is not available. The national child protection legislation for Sudan introduced in 2010 does not include protection against early or forced marriage.” (Social Institutions and Gender index (2012) *Sudan*)

A report by the *United States Department of State* under the heading ‘Children’ states:

“Child Marriage: The law establishes the legal age of marriage as 10 for girls and 15 or puberty for boys. There were no reliable statistics on the extent of child marriage, but it remained a problem.” (United States Department of State (19 April 2013) *2012 Human Rights Reports: Sudan*)

A report by *Landinfo* states:

“The Sudanese family law – Muslim Personal Law Act 1991 – is based on Sharia. Marriages among Muslims often take place at home, attended by a representative from a Sharia court. The representative completes a registration form together with the spouses, which is later registered and archived by the authorities. A marriage certificate is issued on the basis of the registration. Christians are normally married in the church. The church will register the marriage and issue a marriage certificate. Both Muslims and Christians can be married in civil courts. Unlike marriages in Christian churches, civil court marriages are registered by the authorities” (Landinfo (5 January 2009) *Documents in Somalia and Sudan*)

The report goes on to say:

“However, in some areas of Sudan there are only a limited number of officials who are authorised to perform marriage ceremonies. This pertains in particular to the Darfur area and East Sudan, where marriages are often held in a traditional manner and without subsequent registration” (ibid)

This report also states:

“Sudanese marriage certificates need to be stamped by the court (or church) where the marriage was entered into or registered. The document must also be verified/stamped by the justice authorities and the Sudanese Ministry of Foreign Affairs. However, even if a document should lack the required stamps, it might still have been issued by a qualified authority and be genuine (verification report 12 November 1999).” (ibid)

A report by *Right to Education Project* states:

“Given that the basis of marriage is consent, article 34 of the Personal Status of Muslims Act of 1991 stipulates that a guardian may give a mature woman in marriage if she consents to the husband and to the dowry. Her statement of her maturity is accepted unless it is conspicuously false. Information has already been provided on how maturity is determined, namely on the attainment of puberty or the appearance of unmistakable physical signs. Article 40 of the Act nevertheless permits the marriage of a person of discretion; in accordance with paragraph 2 of the article, discretion is acquired at 10 years of age. A 10-year-old male is therefore permitted to marry if it is demonstrated that the marriage is likely to be in his interest. A guardian may not, however, give a 10-year-old girl in marriage without the consent of the judge, which is based on the considerations of advantage and good reason, provided that the husband is suitable and the dowry equals that of the girl's peers” (Right to Education Project (December 2001) *National Law and Police on Minimum Age: Sudan*)

A response by the *Immigration and Refugee Board of Canada* states:

“According to information provided by the Consular Section of the Embassy of the Republic of the Sudan in Ottawa during a 15 March 2002 telephone interview, Christians wishing to get married in Sudan do not require a licence issued by the state. The marriage is performed at a church, which then issues the couple a marriage certificate. If either party has been married before, the marriage cannot be performed in a church, and the couple must be married in court.

The Embassy of the United States in Cairo issued an information sheet on marriage procedures for non-Muslims in Sudan (Feb. 2001). Although the information is mainly intended for US citizens wishing to marry in Sudan, the procedures apply to all non-Muslims (ibid.). For civil marriages, a Notice of Intent to Marry, which is posted by the Court to allow objections to the intended marriage to be voiced, must be submitted to the Province Judge in Khartoum 21 days in advance, unless the couple applies to waive the 21-day waiting period (ibid.). Civil marriages are performed only in a courtroom (ibid.).” (Immigration and Refugee Board of Canada (26 March 2002) *SDN38575.E Do Christians require a state-issued licence to get married; if so, is it arbitrarily withheld*)

Gov.UK has an online questionnaire which outlines the procedures on getting married abroad.

It is available at: <https://www.gov.uk/marriage-abroad>

3. Divorce

A document on the website of the *Embassy of the United States, Khartoum, Sudan* states:

“Under Shari'a Law, a marriage may be terminated when its continuation becomes incompatible with Islamic precepts. Examples of such circumstances include apostasy from Islam by either partner, conversion to Islam by the wife of a non-Muslim, or conversion to Islam by either partner of a couple that practices a religion other than Christianity or Judaism. Talaq. Divorce can be obtained in three ways. The first method, talaq, occurs at the husband's initiative. A talaq divorce is achieved by pronouncing the phrase "I divorce you" three times, and each repudiation should be separated by an iddat period. After talaq is completed, the court prepares the official documents and the Sudanese Government formally recognizes the divorce.” (US Embassy in Sudan (February 2001) *Divorce*)

The report goes on to say:

“Khula. Mutual agreement to dissolve a marriage without court intervention, or khula, is a second method of divorce. The couple agrees in advance to a monetary settlement in which the wife either returns the dowry or relinquishes financial rights or accepts remuneration in exchange for a divorce. The divorce papers are then issued in a court” (Ibid)

A report by *Emory Law* states:

“Judicial Divorce: wife may seek judicial divorce on following grounds: husband's incurable physical or mental illness making it dangerous for the wife to continue to live with him; husband's impotence not curable within one year (established by medical report); husband's cruelty or discord between spouses; husband's inability to pay; husband's absence for one year or more or his being sentenced to two years or more in prison; also, divorce by ransom, i.e., if wife is declared *nashiza* (disobedient) by court order, wife may waive her rights and if the man does not agree to the divorce, arbitrators must be appointed; if she proves that she suffers from remaining with him a *talaq* will be ordered by the court” (Emory Law (Undated) *Sudan, Republic of the*)

The *Social Institutions and Gender index* states:

“The rights of women to divorce vary according to the different types of law in Sudan. Under Sharia law women have the right to file for divorce in certain circumstances. These circumstances include: if the husband fails to fulfil his financial obligation to support her; if her husband has more than one wife and she can prove that her husband does not treat all his wives equally; if the husband has a defect she did not know about before marriage; if the husband suffers from an incurable mental illness; if the husband is impotent; if he

behaves cruelly; if he is abroad for more than one year; and if the husband is sentenced to prison for more than two years. A husband has the right to divorce his wife unilaterally, without turning to the court, by saying “I divorce you”.

Reports suggest that it is more difficult to get a divorce under customary law than Sharia law due to the dowry rules. As the dowry is the property of the wife’s family, a divorce will have economic consequences for the entire family (who will lose the dowry in the event of divorce), thus preventing women from seeking divorce. Christian women and men are only able to obtain a divorce in cases of adultery or extreme domestic abuse.

By law, parental authority is granted solely to fathers and men have the legal status of head of the family. In the event of divorce, under Sharia law, young children usually remain with their mothers, but custody automatically reverts to fathers when sons reach the age of 7 years and daughters reach 9 years. Once these ages have been reached, the courts can order custody arrangements to be altered ‘in the best interests of the child’; however, if a woman remarries, custody automatically reverts to the father. Available literature on customary law suggests that women have no custody rights of their children following divorce, while Christian women have the same rights as Muslim women.

Under Sharia law women have inheritance rights. However, the share of women and daughters is generally half that to which men are entitled.” (Social Institutions and Gender index (2012) *Sudan*)

4. Marriage between Non Nationals and Nationals

A document on the website of the *Embassy of the United States, Khartoum, Sudan* states:

“Sudanese legal provisions governing marriage and divorce do not apply to non-Muslims: in mixed marriages, the marriage contract is drawn up according to the national laws of each spouse.” (US Embassy in Sudan (February 2001) *Marriage*)

Marriage Between Two Non Nationals

No information on the above issue could be found among sources available.

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