

# Beyond Numbers? Women's 25% Parliamentary Quota in Post-Conflict Sudan

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## Abstract

*This article explores the validity of critical mass theory in the context of a 25% women's quota in the national parliament in post-conflict Sudan. It is being argued here that the implementation of a women's parliamentary quota carves out the space necessary to allow more Sudanese women to enter national politics, but several factors have to work together in order to create an enabling political environment necessary for the quota to be successful. The combination of an independent parliament and the critical presence of feminist voices are decisive factors for translating numbers into substantive legislative changes for Sudanese women.*

**Keywords:** post-conflict Sudan, critical mass theory, women's representation.

## Introduction<sup>1</sup>

Research on women's representation in parliaments can roughly be divided between numerical/descriptive and substantive representation. The former has dominated the field and seeks to explain the proportion of women in legislatures. The latter is less developed and is focused on the effect of an increased number of women elected to parliament.<sup>2</sup> The assumption linking numerical/descriptive and substantive representation is that a higher proportion of women in legislatures lead to more substantive representation, that is "performing acts in favour of women [...] that deal with issues of specific importance to

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<sup>1</sup> Funding for this article was provided by the Norwegian research council and the Norwegian ministry of foreign affair (MFA). The article builds especially on fieldwork on the project "women and peacebuilding in Sudan" funded by the MFA. A special thanks to Hilde Kjølsvæd at Chr. Michelsen Institute (CMI) who was working with the author on this project.

<sup>2</sup> Lena Wängnerud, "Women in Parliaments: Descriptive and Substantive Representation", *Annual Review of Political Science*, 12 (2009), pp. 65.

women situated in the private and/or public sphere and/or aiming at feminist goals.”<sup>3</sup> Critical mass theory has been the point of departure for much research on substantive representation and when an increased number of women translate into women-friendly policy outcomes.<sup>4</sup> Electoral quotas have proven to be an effective way to increase the proportion of women elected to parliaments in Sudan and other post-conflict countries. It should be noted that throughout the world, descriptive representation of women has increased considerably the last decade, but nowhere has the increase been as fast as in Africa.<sup>5</sup> But with over two decades of sustained efforts to support parliamentary quotas, it is now timely to empirically examine what kind of women are coming to power under these arrangements. <sup>6</sup> The literature screams out for more empirical research looking beyond numbers and the potential for translating descriptive representation into substantive representation.<sup>7</sup> This article, thus, explores the transformative potential of the women’s parliamentary quota in post-conflict Sudan.

With the signing of the Comprehensive Peace Agreement (CPA) between the ruling Islamist National Congress Party (NCP) and the Sudan People’s Liberation Movement (SPLM), Sudan ended Africa’s longest running civil war.<sup>8</sup> The CPA set the framework for a return to multi-party elections which had eluded the country for nearly two decades. Women activists in northern Sudan saw the CPA and the following post-conflict period as representing a critical moment apt for mobilization for a women’s quota in the national parliament. Their

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<sup>3</sup> Karen Celis and Sarah Childs, “Introduction: The Descriptive and Substantive Representation of Women: New Directions”, *Parliamentary Affairs*, 61 (2008), pp. 101. Feminism is understood as advocacy for gender equality before the law.

<sup>4</sup> The latter involves identifying a threshold number. What exactly constitutes a critical mass in terms of numbers depends on contextual variation (identified as ranging from 10 to 40 % depending on the study). For a discussion of critical mass, see for example Karen Beckwith and Kimberly Cowell-Meyers, “Sheer Numbers: Critical Representation Thresholds and Women’s Political Representation”, *Perspectives on Politics*, 5 (2007), pp. 553-565; Karen Beckwith, “Numbers and Newness: The Descriptive and Substantive Representation of Women”, *Canadian Journal of Political Science*, 40 (2007), pp. 27-49; Kathleen Bratton, “Critical Mass Theory Revisited: The Behavior of and Success of Token Women in State Legislatures”, *Politics and Gender*, 1 (2005), pp. 97-125; Sarah Childs and Mona Lisa Krook, “Should Feminists Give up on Critical Mass? A Contingent “Yes””, *Politics and Gender*, 2 (2006), pp. 522-530; Sarah Childs and Mona Lisa Krook, “Critical Mass Theory and Women’s Political Representation”, *Political Studies*, 56 (2008), pp. 725-736.

<sup>5</sup> Aili Mari Tripp, “The Changing Face of Africa’s Legislatures: Women and Quotas” in Julie Ballington (ed.), *The Implementation of Quotas: African Experiences* (Stockholm: International IDEA, 2004); Drude Dahlerup and Lenita Freidenvall, “Quotas as a Fast Track to Equal Political Representation for Women”, *International Feminist Journal of Politics*, 7 (2005), pp. 26-48.

<sup>6</sup> Mariz Tados, “Introduction: Quotas- Add Women and Stir?”, *IDS bulletin*, 41 (2010), pp. 1-10.

<sup>7</sup> Tados, “Introduction: Quotas- Add Women and Stir?”; Wängnerud, “Women in Parliaments”; Mona Krook, “Quota Laws for Women in Politics: Implications for Feminist Practice”, *Social Politics*, 15 (2008), pp. 345-68. See also the report by IDEA which inspired the title of the article; “Women in Parliament: Beyond Numbers”, <http://www.idea.int/publications/wip2/>, accessed June 5 2011.

<sup>8</sup> The Comprehensive Peace Agreement between The Government of the Republic of Sudan and The Sudan People’s Liberation Movement/Sudan People’s Liberation Army, 2005, <http://www.aec-sudan.org/docs/cpa/cpa-en.pdf>, accessed February 1, 2005.

efforts contributed to the enactment of a 25% quota in the 2008 electoral law. The article argues that the implementation of a women's parliamentary quota carves out the space necessary to allow more Sudanese women to enter national politics, but several factors have to work together in order to create an enabling political environment necessary for women's representation to be substantive.<sup>9</sup> The combination of an independent parliament (democratization) and the critical presence of feminists in parliament who challenge patriarchal and discriminatory laws in post-conflict Sudan are critical for translating numbers into positive policy outcomes for Sudanese women. Thus, women's quota "should not be seen as a proxy for assessing a country's commitment to democratisation or principles of gender equality".<sup>10</sup> Consequently, the terms for assessing a commitment to women's empowerment need to investigate gender agendas advocated in national parliaments, types of legislation enacted and moreover an evaluation of the overall political environment for the propagation of feminist voices.<sup>11</sup> This article claims that feminist agendas<sup>12</sup> advocated by members of parliament do not have the opportunity to be voiced unless there is a wider regime change in the country. Without democratization, the feminists in the country will a) be wrongfully excluded from putting important women's issues on the agenda in the national parliament and b) without an independent parliament; the legislative will continue to be controlled by the executive branch and the whims of the President.

Building on fieldwork conducted in the state of Khartoum in northern Sudan in 2006 (two weeks), 2007 (1 month), 2008 (2.5 month), 2009 (2 months), and 2010 (2 weeks) the article examines the period after the signing of the CPA leading up to the enactment in the 2008 electoral law of a 25 % quota and the following national and presidential elections in 2010. Around 95 interviews of male and female representatives in parliament, government officials, women's governmental and non-governmental organizations, and members of both northern and southern political parties were conducted. The main focus in this article is on the woman's quota in the national parliament and its aftermath and not on the regional (southern Sudan) or state parliaments. An area of deep rivalry and contention with regard to women's rights in Sudan has been *Sharia* (Islamic law) which has ruled the whole country since 1989. There is a range of Islamic laws in Sudan in which women are treated unequal to

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<sup>9</sup> This argument is also put forward in the context of Rwanda. Katengwa writes: "The article argues that the implementation of an electoral gender quota certainly carves the space necessary to allow more women to enter politics, nevertheless, a constellation of factors is needed to work together in order to create the enabling environment necessary for the quota to be effective. Some of these factors include (but are not restricted to) challenging the hierarchical gender relations in post-genocide Rwanda; the political will on the part of the government to engender politics; the role of national machineries in monitoring and pressing for gender-sensitive national policies, as well as the strategic mobilisation of female parliamentarians backed by the progressive new Rwandan constitution". See M. Juliana Kantengwa, "The Will to Political Power: Rwandan Women in Leadership", *IDS bulletin*, 41 (2010), pp. 72.

<sup>10</sup> Tados, "Introduction: Quotas- Add Women and Stir?", pp. 3.

<sup>11</sup> Tados, "Introduction: Quotas- Add Women and Stir?", pp. 3-4.

<sup>12</sup> Iris Marion Young, *Inclusion and Democracy* (Oxford: Oxford University Press, 2000).

men. Citizenship in this post-conflict country is thereby gendered.<sup>13</sup> The CPA and the Interim National Constitution (2005) thus represent a major opportunity for positive change and steps toward gender equality. According to both Sudanese activists and international policy makers, the woman's legislative quota is therefore instrumental in attaining women's equal citizenship rights.

## Women's Quota on the International Radar: Implications for Sudan

The idea of a 'critical mass' has not only served as a theoretical argument, but has been translated into recommended policy for working to increase the presence of women in parliaments. Sixteen years ago, in September 1995, the Beijing Platform for Action called upon governments to "take positive action to build a critical mass of women leaders, executives and managers in strategic decision-making positions".<sup>14</sup> The critical mass for lobbying was established at 30% seats to be occupied by women in parliament. Additionally, one of the UN millennium goals is to "promote gender equality and empower women" and one of the primary indicators for the success of this goal is the "proportion of seats held by women in national parliament".<sup>15</sup> According to Dahlerup, a dramatic global rise has taken place in terms of women's representation in parliaments the last decade. It should be noted that throughout the world the numerical representation of women has increased considerably in the last decade, but nowhere has the increase been as fast as in Africa. <sup>16</sup> Currently Rwanda has the highest percentage of women in parliament in the world at 48.8%. The average proportion of women representatives in the lower or single house of parliament in the world is about 17%.<sup>17</sup> In most of the 14 countries where the 30% target has been reached (namely, Rwanda, Sweden, Denmark, the Netherlands, Norway, Belgium, Costa Rica, Austria, Germany, Argentina, Iceland and Mozambique), some kind of affirmative action measure has been instituted. Sudan is one of many post-conflict countries that have taken steps to increase women's political representation in the national parliament. It is moreover interesting to note that a number of post-conflict countries – Rwanda, Mozambique, South Africa, Namibia, East Timor, Uganda and Eritrea – appear in the top 30 countries with regard to women's participation in legislative bodies. Indeed, the policy and peace building literature

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<sup>13</sup> Liv Tønnessen, "Gendered Citizenship in Sudan: Competing Debates on Family Laws among Northern and Southern Elites in Khartoum", *The Journal of North African Studies* 13 (2008), pp. 455-471.

<sup>14</sup> See Beijing platform for action, <http://www.un.org/womenwatch/osagi/fpexcerpts.htm>, accessed February 5, 2011.

<sup>15</sup> See the UN millennium goals, <http://www.unmillenniumproject.org/goals/index.htm>, accessed February 5, 2011.

<sup>16</sup> Dahlerup and Freidenvall, "Quotas as a Fast Track".

<sup>17</sup> See figures by the Inter-Parliamentary Union, [www.ipu.org/wmn-e/world.htm](http://www.ipu.org/wmn-e/world.htm), accessed February 28, 2011.

encourages increasing representation of women as an important aspect of post-war reconstruction.<sup>18</sup>

Domestic advocacy for women's parliamentary quota in Sudan has been informed by international discourses, policies and programmes on women's political empowerment. Donor-driven programmes aimed at helping countries put international frameworks (CEDAW, Beijing, UNSCRs 1325, 1820, 1888, 1889 and 1960) in action have also both shaped the practical focus of efforts to empower women politically, as well as generated much controversy about their relevance, contextual appropriateness and effects.<sup>19</sup> Despite the fact that Sudan has not made a national action plan on UN Security Council (UNSC) Resolution 1325, the convention has informed the advocacy and debate on the women's quota. UNSC Resolution 1325 (2000) affirms "the important role of women in the prevention and resolution of conflicts and in peace-building", and [stresses] "the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security". It also mandates that states "ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict".<sup>20</sup>

This is not to say that the international discourse and initiatives on women's political empowerment particularly and women's participation in peacebuilding more broadly begins and ends with the United Nations and its resolutions. In fact, Sudan has experimented with women's quotas in parliament before and the women's movement in the country is renowned for being strong and fierce.<sup>21</sup> The first group of politically organized women emerged from the Sudanese Communist Party, which has been active since the end of the Second World War. The party was formed in 1946 and was the first political party in Sudan to open up its membership to both men and women. It also promoted the emancipation of women as one of its primary goals. In 1951 the Sudanese Women's Union (SWU) was formed and became a renowned women's organization propagating women's rights to work, educate and participate in politics on an equal footing with men.<sup>22</sup> Their participation in the popular October revolution in 1964 was heroic and the most concrete result for women was

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<sup>18</sup> Donna Pankhurst, "The 'Sex War' and Other Wars: Towards a Feminist Approach to Peacebuilding" in Haleh Afshar and Deborah Eade (eds.), *Development, Women, and War: Feminist Perspectives* (Oxford: Oxfam GB Donna, 2004), pp. 36; Donna Pankhurst, "Gender Issues in Post-War Contexts: A Review of Analysis and Experience, and Implications for Policies" *Peace Studies Papers*, 9 (2007) Bradford, University of Bradford and United Nations Research Institute for Social Development.

<sup>19</sup> Liv Tønnessen, "Feminist Interlegalities and Gender Justice in Sudan: The Debate on CEDAW and Islam" *Religion and Human Rights: An International Journal*, 6 (2011), pp. 25-39.

<sup>20</sup> UNSC resolution 1325, [http://www.peacewomen.org/themes\\_page.php?id=15&subtheme=true&adhoc=53](http://www.peacewomen.org/themes_page.php?id=15&subtheme=true&adhoc=53), accessed December 7, 2010.

<sup>21</sup> Sara Abbas, "The Sudanese Women's Movements and the Mobilization for the 2008 Legislative Quota and its Aftermath", *IDS bulletin*, 41 (2010), pp.100-108.

<sup>22</sup> Carolyn Fluehr-Lobban, *Islamic Law and Society in the Sudan* (London: Frank Cass, 1987).

the extension of universal suffrage in Sudan, a political right neither the colonial nor the first post-independence regimes had extended to women. Nafisa Ahmed al-Amin and Professor Ahmed M. Magied write on the October revolution:

“Women, together with other sectors of the society, went out of their homes under the leadership of the Sudanese Women Union in a manner that had not been witnessed before. They were exposed like their fellow men to different sorts of harassment and dangers including gunfire from live ammunition. A great number of them were wounded (...). This increased the vigor of the popular revolution [...] the distinguished role played by women in bringing about the downfall of the first military rule, pushed women's issues to the forefront of the agenda [...] Women gained full political rights and took part for the first time in Sudanese history in the general election”<sup>23</sup>

In the period of investigation for this article (2005-2010) international conventions, action plans and goals have provided a powerful framework for Sudanese women's advocacy on the importance of women's representation in a post-conflict context. Guided by UNSC Resolution 1325 (2000), the Beijing Platform for Action, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Millennium Declaration and the Millennium Development Goals, 50 Sudanese women at the Oslo Donor Conference in April 2005 presented a common women's agenda for post-war reconstruction. Among the recommendations and priorities formulated at the conference was a minimum 30% women's representation at all levels and in all sectors, including decision-making positions and constitution-making and -review processes.<sup>24</sup>

There has been a great deal of pressure both from Sudanese feminists and from the international community and donors concerning the importance and significance of a quota for women in parliament.<sup>25</sup> The Sudanese women's activist for the Umma Party and professor at Ahfad University for Women, Balghis Badri, writes, with explicit reference to experiences from other countries, that it is necessary for women to be represented in legislative bodies to

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<sup>23</sup> Nafisa Ahmed Al-Amin and Ahmed M. Magied, “A History of Sudanese Women Organizations and the Strive for Liberation and Empowerment”, *The Ahfad Journal*, 8 (2001), pp. 11-12. Sudan has since independence fluctuated between military and 'democratic' or civil regimes. Democracy was attempted at independence in 1956 (-1958) and again after the October revolution in 1964 (-1969) and in 1985 (-1989). After three experiments with democracy, it has ultimately failed to consolidate.

<sup>24</sup> Kari Karamé (ed.), “Sudanese Women and the Peace Process” (Oslo : Norwegian Institute of International Affairs, 2005). The strong emphasis on political participation and inclusion was reinforced at a workshop organized by the Initiative for Inclusive Security in Khartoum in November 2006, in which I participated. One important objective from this workshop was to fulfill a nationwide 30% quota for women's political participation at all levels of government and “to enhance cooperation among women at all levels, especially in political decision-making”. See *Inclusive Security: Women Waging Peace. Implementing Peace in Sudan*, [http://www.huntalternatives.org/download/290\\_strategizing\\_for\\_peace\\_the\\_critical\\_role\\_of\\_women\\_in\\_sudan.pdf](http://www.huntalternatives.org/download/290_strategizing_for_peace_the_critical_role_of_women_in_sudan.pdf), accessed October 5, 2010.

<sup>25</sup> The organization Initiative for Inclusive Security has been an advocate for this and has been a principal agent in the establishment of the woman's caucus in the Sudanese parliament and in the capacity training of female parliamentarians. For more information about Inclusive Security see the following link [http://www.huntalternatives.org/pages/7\\_the\\_initiative\\_for\\_inclusive\\_security.cfm](http://www.huntalternatives.org/pages/7_the_initiative_for_inclusive_security.cfm), accessed October 5, 2010.

make these bodies pay attention to women's issues. Badri thereby makes a link between descriptive and substantive representation. She argues further that significant questions related to improving women's position in Sudan will be disregarded and marginalized if left to the decisions of an all-male or a male-dominated parliament:

"[T]he hope is that the method to obtain a large number of women in Parliament inspires [a raising of] consciousness concerning the issues of women, contributing to the solution of many of the problems that women suffer from (...) and denying them opportunities, resources, development, capacity building, and self-realization."<sup>26</sup>

The quota is regarded as a key to promote women-friendly policies within other areas of women's civil, social and economic rights.<sup>27</sup> Women activists in northern Sudan saw the CPA and the following period as representing a critical moment apt for mobilization for a woman's quota. The CPA, while paying close attention to other principles of power sharing, has been criticized for being "gender blind". Anne Itto writes:

"Despite the active role women played at various levels to bring peace to Sudan, their role has tended to be underestimated or ignored during negotiations. This may have originated from the misconception that women are passive victims of war, forgetting the very important role they have played in negotiating, keeping and building peace in their communities. The most disappointing aspect of the 2005 Comprehensive Peace Agreement (CPA) (...) was that negotiations for an equitable share of power and resources were premised around political forces and regional interests. Neither mediators nor drafters gave much thought to other constituencies or dimensions, such as gender, along which power and wealth could be shared".<sup>28</sup>

Similarly, the Interim National Constitution of the Republic of Sudan (2005) does not specifically mention a gender quota. According to article 32 the state "shall promote women's rights through affirmative action".<sup>29</sup> One manifestation of such affirmative action is the 2008 election law, where the women's quota is outlined. The election law defines a "Women List" as a "separate closed list relating to women which contains 25% of the total number of any Legislative Assembly and nominated by a political party".<sup>30</sup> In addition to the Council of States, the Sudanese National Legislature consists of a National Assembly of 450 elected members. 15% of these members shall be elected on the basis of proportional representation at the level of the 25 federal states, and 60% shall be elected by majority vote

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<sup>26</sup> Balghis Badri in Liv Tønnessen and Hilde Kjøstvedt, *The Politics of Women's Representation in Sudan: Debating Women's Rights in Islam from the Elites to the Grassroots* (Bergen: Chr. Michelsen Institute, 2010), pp14. The quote is taken from Badri's unpublished article from 2009 "The Women's Electoral Quota in the Forthcoming Election Law in Sudan" and is translated from Arabic into English by the co-author of the report, Hilde Kjøstvedt.

<sup>27</sup> Interview with Sara Nugudallah, Umma Party, October 22, 2009.

<sup>28</sup> Anne Itto, *Guests at the Table? The Role of Women in Peace Processes*, <http://www.c-r.org/our-work/accord/sudan/women.php>, accessed November 26, 2010.

<sup>29</sup> The Sudanese Interim National Constitution, 2005. See [http://www.sudan-embassy.de/c\\_Sudan.pdf](http://www.sudan-embassy.de/c_Sudan.pdf), accessed October 3, 2010.

<sup>30</sup> National Election Act 2008, Article 3. See, <http://www.gurtong.org/ResourceCenter/documents/Reports/Elections-09/nationalelectionsact2008.pdf>, accessed August 1, 2009.

to represent geographical constituencies in the Republic of Sudan as such. The remaining 25% of the seats (112 out of 450) are allocated specifically to women. According to Article 29 of the election law, these seats "shall be elected on the basis of proportional representation at the State level from separate and closed party lists".<sup>31</sup> However, the form the women's quota took was regarded by many women activists in various civil society organizations and oppositional political parties "as isolating women within their political parties, making separate lists for them and that would give parties little incentives to nominate them in 'core' geographical constituencies or even party lists".<sup>32</sup> According to Abbas, the women's list was labeled "*hoesh al-nisa* (the women's yard) referring to the traditional division of space in Sudanese homes where women have their own area in the house that they are meant to stick to"<sup>33</sup>

The quota is nonetheless a milestone and an important victory, and comes as a result of internal demands by women activists and pressure by international NGOs and stakeholders. It is particularly important as women's representation has been lower (not exceeding 2%) during periods with semi-democratic elections in the country compared to periods of authoritarian rule during which women have been appointed.<sup>34</sup> The 2008 quota is thus unique in that it not only targets women's representation specifically, but also seeks to guarantee it under a multi-party democracy.<sup>35</sup> In the following sections, first an exploration will be provided into what extent a feminist agenda is present among the majority party in the parliament who won almost all the women's seats in the 2010 elections. This will be followed by an assessment of the degree of independence and strength of the parliament.

## A Quota for Sudanese Women: a Highway for Whom and To Do What?

This section is heavily inspired by Iris Marion Young's theory of 'feminist awareness'.<sup>36</sup> Young put emphasis on members of parliament (both men and women) who propagate a feminist agenda that can potentially alter society in a women-friendly direction. In her opinion "feminist consciousness" is considered more important than biological gender in

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<sup>31</sup> National Election Act 2008, Article 29. See, <http://www.gurtong.org/ResourceCenter/documents/Reports/Elections-09/nationalelectionsact2008.pdf>, accessed August 1, 2009.

<sup>32</sup> Abbas, "The Sudanese Women's Movements", pp. 105.

<sup>33</sup> Abbas, "The Sudanese Women's Movements", pp. 105.

<sup>34</sup> Sonia Aziz Malik, "Women's Political Rights, Decision-Making, Representation and Good Governance" in Balghis Badri (ed.), *Sudanese Women Profile and Pathways to Empowerment* (Ahfad University for Women, Institute of Women, Gender and Development Studies, 2008), pp. 143.

<sup>35</sup> Abbas, "The Sudanese Women's Movements", pp. 100.

<sup>36</sup> Young, *Inclusion and Democracy*.

determining the outcome of policies dealing with feminist issues.<sup>37</sup> This section will, therefore, explore the feminist agenda of members of parliament on current patriarchal and discriminatory laws codified during the early 1990s at the inception of Islamist-military rule in Sudan. Before parliamentary elections in April 2010, women made up 18% of the parliamentarians. The parliament was not elected, but appointed following the stipulations of the north-south peace agreement from 2005 (CPA). This was considered a transitional parliament awaiting the multiparty elections agreed upon in the CPA. The majority of representatives in the transitional parliament were from the two signatories to the CPA, namely the ruling National Congress Party and the Sudan People's Liberation Movement (SPLM).

After the April 2010 elections, 112 out of 450 parliamentarians were women (25%). The results show that the ruling National Congress Party almost won all of the 112 women seats in parliament and the majority of seats generally.<sup>38</sup> It should be noted that most of the opposition (including SPLM) boycotted the elections to the national parliament which were deemed not free and fair by national and international observers.<sup>39</sup> It is being argued in this section that the members of the majority political party lacks the political will to put feminist goals on the agenda in the parliament. As such the underpinning and patriarchal gender ideology of the majority political party effectively hinders the potential for a reform of current discriminatory *Sharia* laws in the country.

Currently, there is an inherent contradiction between the National Interim Constitution 2005 and *Sharia* laws codified during the last 22 years of Islamist rule in the country. The 2005 National Interim Constitution stipulates in Article 15 on Family, Women and Marriage that "the State shall emancipate women from injustice, promote gender equality and encourage the role of women in family and public life" and in Article 32 on the Equal Rights of Men and Women that "the equal rights of men and women to the enjoyment of all civil and political rights and all social, cultural and economic rights, including the right of equal pay for equal work, shall be ensured".<sup>40</sup> However, there is a range of *Sharia* laws in place in Sudan which contradicts the equality stipulations in The Constitution. Several articles within the Muslim

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<sup>37</sup> Findings from previous research demonstrate that female members of parliament to a higher extent than male members of parliament represent issues of particular concern to women. See for example, Celis and Childs, "Introduction: The Descriptive and Substantive Representation of Women" and Karen Celis, "Studying Women's Substantive Representation in Legislatures: When Representative Acts, Contexts and Women's Interests Become Important", *Representation*, 44 (2008), pp. 111-123. What is seldom pointed out is that these findings are primarily based on empirical data from Western democracies.

<sup>38</sup> Abbas, "The Sudanese Women's Movements", pp. 106.

<sup>39</sup> See for example Atta el-Battahani, "Sudan Votes: The 2010 Elections and Prospects for Democratic Transformation" in K. Maas-Albert and T. Weis. (eds.), *Sudan – No Easy Ways Ahead* (Berlin: Heinrich Böll Foundation, 2010); John Willis and Atta al Battahani, "We changed The Laws" *African Affairs* 109 no. 435 (2010): 191-212.

<sup>40</sup> The Sudanese Interim National Constitution, 2005, [http://www.sudan-embassy.de/c\\_Sudan.pdf](http://www.sudan-embassy.de/c_Sudan.pdf), accessed October 3, 2010.

Family Law (1991) and the Criminal Law (1991) which were codified during the reign of the Islamists (1989-present), discriminate against women and girls when it comes to social and civil rights. These two laws are highly debated in post-war Sudan and regarded by both Sudanese feminists and international observers as obstacles for achieving full gender equality in the country.

The Muslim Family Law (1991) regulates women's civil rights such as marriage, divorce, inheritance, maintenance and custody.<sup>41</sup> The essence of the family law builds on the principle of *qawama* which, according to Barbara Stowasser, links men's "spending of their means" (*nafaqa*) to three other elements of women's inequality. Firstly, it is connected to the male guardian's (*wali*) role in contracting women's marriage. Secondly, it is linked to the wife's duty of obedience to her male guardian (after marriage her husband and before marriage her father, brother or uncle). Thirdly, it is tied to the discriminatory structures of divorce law which give husbands the right to unilaterally dissolve the marriage contract, while it requires wives to establish grounds for judicial divorce.<sup>42</sup> According to Suad Joseph "Family law (is) a benchmark of feminist struggle (...) Family law has been among the highest agenda items of liberal reformist movements (...)".<sup>43</sup> The law is perhaps the most contested and debated in post-conflict Sudan.<sup>44</sup> The ideology underpinning the current Muslim Family Law reinforces *qawama*, the idea of men as male guardians and custodians of women and children.

Further, Criminal Law (1991) does not clearly differentiate between rape and adultery (*zina*). This is problematic as reports state that mass rape figures widely both by the government militias and between warring parties and ethnic groups in Darfur.<sup>45</sup> Islamic law as it is codified in the Criminal Law of Sudan (1991) places the stigma and shame of rape, not on the perpetrator but on the victim. In fact, rape is categorized as a form of *Zina*, namely *Zina bil Jabr*. *Zina bil Jabr* literally translated means "consensual extramarital intercourse by force". The very charge is under a presumption that the victim along with the rapist has been involved in a morally reprehensible act. It also has serious legal implications; it may lead to

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<sup>41</sup> For more information on the history of *Sharia* and Muslim Family Law in Sudan (also termed personal status law), see Fluehr-Lobban, *Islamic Law*.

<sup>42</sup> Barbara Stowasser, "Gender Issues and Contemporary Quran Interpretation" in Yvonne Haddad and John Esposito (eds), *Islam, Gender, and Social Change* (Oxford: Oxford University Press, 1998), pp. 33.

<sup>43</sup> Joseph, *Gender and Citizenship*, pp. 20.

<sup>44</sup> Tønnessen and Kjølsvædt, *The Politics of Women's Representation in Sudan*.

<sup>45</sup> The report of the International Commission of Inquiry on Darfur has documented crimes against humanity in Darfur. The Commission concluded that the Government of the Sudan was responsible for systematic violations of international human rights law and international humanitarian law, which may amount to war crimes and crimes against humanity. The Commission found that throughout Darfur, Government forces and militias conducted rape and other forms of sexual violence in a widespread and systematic manner. "Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General", [http://www.un.org/News/dh/sudan/com\\_inq\\_darfur.pdf](http://www.un.org/News/dh/sudan/com_inq_darfur.pdf), accessed January 14, 2006.

incrimination of the victim of rape instead. Where a woman is unable to prove that they did not consent to sexual intercourse, they risk being charged with the crime of *Zina* because they have confessed to sexual penetration outside of marriage. The punishment for unlawful sexual intercourse in Sudan is 100 lashes if the offender is not married (fornication) and stoning to death if the offender is married (adultery).<sup>46</sup> Moreover, Criminal Law regulates public behavior and dress code under article 152:

"Whoever commits in a public place an act or conducts himself in an indecent manner or a manner contrary to public morality or wears an indecent or immoral uniform which causes annoyance to public feelings, shall be punished with whipping not exceeding 40 lashes or with a fine or with both. The act shall be considered contrary to public morality if it is so considered in the religion of the doer or the custom of the country where such act has occurred".

Although Criminal Law speaks to all citizens, men and women alike, reports indicate that in application this article discriminates against women primarily (Muslim as well as non-Muslim). The popular order courts, popular committees, police and security services are entitled to correct women's conduct according to state regulations. Police women correct girls' and women's public conduct in accordance with these regulations.<sup>47</sup> They are empowered, in the same way as the State Security apparatus, to arrest without charge and to imprison without trial. Within the Khartoum area in 2008, 43 000 arrests were made of women in relation to infringements of the Criminal Law.<sup>48</sup> Images of girls being flogged by the police for indecent dress have also been circulated on youtube.<sup>49</sup> According to the current Criminal Law (article 152), the punishment for breaching public morality is 10-40 lashes.

What is the position of the majority political party, National Congress Party, on the *Sharia* laws? The ruling National Congress Party in and outside of parliament is working to sustain the Muslim Family Law and the Criminal Law of 1991 despite the fact that these laws contradict the Constitution and discriminate against the equal rights of women and girls.<sup>50</sup> Parliamentarians from the National Congress Party interviewed for this study do not deem a reform of these laws in accordance with the constitution as important to discuss and amend. Raga Hassan Khalifa, a Member of Parliament and secretary general from the Sudan

<sup>46</sup> Interviews at Mutawinat benevolent group: Samia al-Hashmi, lawyer and leader of Mutawinat, September 27, 2009, Leila al-Hajji, lawyer, November 9, 2009, Hadiye Ghasim, lawyer, November 9, 2009. Mutawinat is a voluntary group promoting the legal, social and economic rights of women and children. The group was established in 1988 with a number of female lawyers offering legal aid in court. In 1990 the group was registered with the official authorities. In 1994 they established an independent office: the legal aid office and the development office. The legal aid office offers direct aid through representation in courts and various legal awareness programs.

<sup>47</sup> Nagwa Al-Bashir, *Islamist Women's Politics and Gender Activism: A Case Study from Sudan* (Vienna: unpublished PhD in social science, 2003).

<sup>48</sup> Lubna Al-Hussein, *40 Coups de Fouet Pour un Pantalon* (Broché, 2010).

<sup>49</sup> "Sudan Police Arrest Women Protesting at Flogging Video", <http://af.reuters.com/article/topNews/idAFJJOE6BD07U20101214>, accessed December 14, 2010,

<sup>50</sup> Qanun al-' Ahwal al-Shakhsiyya lil-Muslimin (Translated: The Muslim Personal Status Law) (Khartoum, 1991); Qanun al-Jan'a (Translated: Criminal Act) (Khartoum, 1991).

Women's General Union (an Islamist governmental organization) says that "the Muslim Family Law which was codified after the 1990 founding conferences is not considered a big problem".<sup>51</sup> In short, a feminist consciousness understood as the advocacy of complete gender equality before the law is deemed neither necessary nor desirable by Islamists in Sudan.<sup>52</sup> The predominant Islamist position on women's rights among interviewees is gender equity (*insaf*) based on an idea that men and women are created different biologically and therefore should have different rights and responsibilities. They propagate different and unequal rights between men and women when it comes to personal status/family law (concerning marriage, divorce, inheritance, maintenance, custody of children). But they advocate for full equality in rights with regards to education, work, and political participation. Women from the National Congress Party thus have no reservations in supporting a woman's quota in the national parliament. They strongly believe that women can participate in war and in the military; that women can be presidents and ambassadors, doctors and professors, members of parliament and presidential advisors. But at the same time they advocate for the need for the state to impose Islamic dress on its female citizens and the importance of male guardianship. In their opinion, they need the permission of their male guardians to get married and to work outside their homes. They refrain from advocacy on equality between men and women within the "private" sphere of the family and thus uphold a patriarchal view of the family with a male breadwinner. Since of the overwhelming majority of the 112 female representatives to the newly elected parliament are Islamist women, it is thus unlikely that a radical reform of the Muslim Family Law and Criminal Law will take place.

The Sudanese case shows that members of parliament from the National Congress Party do not deem full gender equality within all areas of the law a desirable goal. Interviews suggest that many strong Islamist women are currently in the national parliament like Suad al-Fatih who was the first secretary general of the Islamist-initiated International Muslim Women's Union and is often referred to as "*nimr as-sudan*" the tiger of Sudan. Unfortunately, she stands firm for a conservative Islamic position on gender relations and thereby against reform of the *Sharia* laws in force in the country. She claims that "there is no equality in Islam in the Western sense, but equity (*insaf*). There is balance. The person nearer to Allah is worth more in Islam, this might be the man or the woman". For al-Fatih, *taqwa* matters more than equality in rights. *Taqwa* is the Islamic concept of piety. She goes on to say: "A good Muslim should not fear anything but Allah. This is the essence of Islam [...] I build my whole life on Islam. If I die of

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<sup>51</sup> Interview with Raga Hassan Khalifa, member of parliament for the National Congress Party and Secretary General of the Sudan Women's General Union, October 25, 2009.

<sup>52</sup> Interview with members of parliament for the National Congress Party: Badria Suleiman February 17, 2008, Suad al-Fatih January 31, 2008, Raga Hassan Khalifa November 2, 2009, Fatima Muhammad al-Fadl October 22, 2009; Ghazi Salah al-Din November 1, 2009, Samia Hassan Sidahmed, October 14, 2009.

hunger, this is my destiny. All the life of a believer is good".<sup>53</sup> Islamists differentiate clearly between fighting for gender equality and gender equity and complementarity of roles between men and women. Suad al-Fatih contends that "men and women complete and perfect each other". And the ultimate motivation underlying this stance is on behalf of *taqwa*. Margot Badran's narrations about Suad al-Fatih at a meeting in the International Muslim Women's Union in Khartoum illustrates this further:

"At a press conference, Suad al-Fatih spoke of women's need to communicate with the wider world. When asked if feminism might function as a common language, she gave a firm no. When asked if what had been going on at the Khartoum Forum could be called a kind of Islamic feminism, she gave another no and added that "Islam would push feminism into a corner". She added, "...men historically have been more advanced. Women must be brought to the same level". If her words started to have a feminist sound, she abruptly shifted gears: "we have *taqwa*-piety. If we understand *taqwa*, we will never have feminism in Islam".<sup>54</sup>

It becomes clear from interview material for this paper and Suad al-Fatih's statements above that the gender ideology of the ruling political party is not particularly conducive for the advocacy of equal citizenship rights for Sudanese women. Islamists justify their emphasis on the complementarity of men's and women's roles, that is, the choice of gender equity (*insaf*) rather than gender equality, as a necessary component of Islamic piety. The Islamists reject feminism and deem it a Western paradigm irrelevant to Muslim women generally and Sudanese society particularly.

### *The opposition: Islamic feminism*

It is important to note that there is no lack of advocacy for complete gender equality before the law among women and men in the opposition. Unfortunately, the political parties in northern Sudan propagating gender equality boycotted the national parliamentary elections. Also, SPLM boycotted the elections in northern Sudan. SPLM is probably the only political party with a completely secular agenda that propagates a separation between state and religion. It is also important to note that the opposition in northern Sudan on the other hand does not advocate for a secular position whereby Islamic laws are to be abolished. Rather, they argue that the Islamists have misread and misrepresented Islamic law with regards to women's rights specifically and also more generally. Balghis Badri who is a professor at Ahfad University for Women argue that "there is a chance of re-interpretation within Islam to overcome all inequalities either by a revisiting of the *Quran* by feminist theologians or in the course of comparative law studies and interpretations done in other

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<sup>53</sup> Interview with Suad al-Fatih on January 31, 2008. Suad al-Fatih is currently a member of parliament for the National Congress Party. She has previously been the Secretary General of the International Muslim Women's Union and advisor to the President.

<sup>54</sup> Margot Badran quoted in Sondra Hale, "The Islamic State and Gendered Citizenship in Sudan" in Suad Joseph (ed.) *Gender and Citizenship in the Middle East* (Syracuse: Syracuse University Press, 2000), pp. 101.

Muslim countries".<sup>55</sup> In her and other Islamic feminists' opinion, there is no contradiction between Islamic law and gender equality.<sup>56</sup> This position is described as Islamic feminism signifying efforts to marry *Sharia* and gender equality through a (radical) reinterpretation of the Islamic texts. It is claimed that the culturally conceivable (or rather desirable) is not a completely Western and secular feminist ideology, but an Islamic feminist ideology which relies both on *Sharia* and international human rights norms. Islamic feminism thus refers to a "feminist discourse and practice articulated within an Islamic paradigm".<sup>57</sup> The Islamic feminists interviewed for this study in 2006, 2007, 2008 and 2009 share a commitment to gender equality within the frame of Islam and advocate for a reform of Islamic law as it has been codified during the last 22 years of Islamist rule. They argue that the oppressive practices to which women in the region are subjected are due to the prevalence of patriarchal interpretations of Islam rather than Islam itself.<sup>58</sup> Further, they place the struggle for women's equal rights in the context of a broader struggle for democracy and freedom.

Islamic feminists are producing feminist interpretations of Islamic scriptures that can be utilized for women's emancipation. While acknowledging that the Islamic framework has not been exhausted in Sudan, Islamic feminists point to the need for a radically redefinition and reconfiguration of women's rights and Islamic law. The debate is centered on the reform of the Muslim Family Law and the Criminal law. This position is often linked with regional developments in other Muslim countries such as Morocco, where there has been a reform of Muslim Family Law. Sadiq al-Mahdi who is the leader of the biggest opposition party in northern Sudan states:

"There are two approaches to the family law. The first is secular and the Tunisian way. The second is Islamic and the Moroccan way. I think the second way, the Islamic way, is the best. I want to reform the article concerning *wali* for marriage, the right of a wife

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<sup>55</sup> Balghis Badri, *Feminist Perspectives in the Sudan: An analytical overview*" (Paper presented at the workshop *Feminist Perspectives* at Freie Universität Berlin 2006), pp. 15

<sup>56</sup> Liv Tønnessen, "Is Islam a Threshold for Escape or an Insurmountable Barrier? Women Bargaining with Patriarchy in Post-Islamist Sudan", *Comparative Studies of South Asia, Africa and the Middle East* 30 (2010), pp. 583-594. The reinterpretation of Islamic sources in order to achieve equal rights for women within an Islamic framework is often referred to as Islamic feminism. Islamic feminists challenge traditional interpretations of the Islamic texts and received notions of interpretive authority, both in Muslim majority societies as well as in the diasporic Islamic world. With their new interpretations they have contributed to the transformation of the legal, political and social rights of Muslim women. For an overview on Islamic feminism see for example Amina Wadud, *Inside the Gender Jihad: Women's Reform in Islam* (Oxford: Oneworld Publ., 2006); Ziba Mir-Hosseini, *Islam and Gender: The Religious Debate in Contemporary Iran* (London: Tauris, 2000); Margot Badran, "Toward Islamic Feminisms: A Look at the Middle East" in Asma Afsaruddin (ed.), *Hermeneutics and Honor: Negotiating Female "Public" Space in Islamic Societies* (Cambridge, Massachusetts: Harvard University Press, 1999).

<sup>57</sup> Margot Badran, "Islamic Feminism: What's in a Name?", <http://www.weekly.ahram.org.eg/2002/569/cul.htm>, accessed January 6, 2009.

<sup>58</sup> Leila Ahmed, *Women and Gender in Islam: Historical Roots of a Modern Debate* (New Haven, Conn.: Yale University Press, 1992).

to reject a second wife, the right of divorce; I want to delegitimize child marriages. [...]All of this can be well argued from an Islamic point of view [...]."<sup>59</sup>

Sadiq al-Mahdi argues further that "We have to stop discrimination against the woman and treat her as a human being, a citizen, and a member of the family. I believe in change that would recognize the worth of women, their equal rights as human beings and as citizens."<sup>60</sup>

The main areas of criticism of the current Muslim Family Law are related to the age of consent for marriage, which is currently at the age of 10. Child marriages have devastating health and physiological consequences for the girls, and activists advocate raising the minimum age of marriage. Islamic feminists claim that Sudan ought to follow the Hanafi School of Law, which states that a woman should contract herself in marriage. Judicial circular 35 from 1933 instituted a Maliki law school practice, which is also followed in the present Muslim Family Law, under which a woman needs a *wali* or male guardian to contract the marriage. A judicial circular from 1960 stated a legal preference for the Hanafi School, but this was changed by the Islamists again in 1991. When arguing for their cause, namely full equality, Islamic feminists would often refer to the paradox that a woman has the right to become the president of Sudan in accordance with The Constitution, but not to contract her own marriage in accordance with the Muslim Family Law (1991). The arguments for gender equality are often linked to international law and platforms, especially CEDAW (which Sudan has not yet ratified) and the Beijing Declaration. Particularly article 16 of CEDAW is referred to by Islamic feminists, because it asserts that states should "take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations."<sup>61</sup> In other words, The Convention challenges the underpinnings of *qawama* in the current Muslim Family Law (1991). In contrast to the Islamists, the Islamic feminists interviewed for this article call for ratification of CEDAW based on the argument that there is nothing in Islam that contradicts women's plea for equal rights.

This movement for equality (*musawah*) through a feminist reading of Islamic sources, especially the *Quran*, is also linked to transnational Islamic feminist networks.<sup>62</sup> The Islamic feminists illustrate Islam is open for feminist interpretations. They are heavily present in civil society organizations, the media and academia. On 8 March 2011 they organized a demonstration protesting state violence against women. The state security officers arrested 46 women and six men who protested the state's Criminal Law which allows for public flogging

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<sup>59</sup> Interview with Sadiq al-Mahdi, Leader of the Umma Party and former prime minister of Sudan, October 28, 2009.

<sup>60</sup> Interview with Sadiq al-Mahdi, Leader of the Umma Party Party and former prime minister of Sudan, October 28, 2009.

<sup>61</sup> Article 16 of the Convention of the Elimination of all forms of Discrimination Against Women (CEDAW), <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>, accessed January 2, 2011.

<sup>62</sup> Like Sisters in Islam, [http://www.sistersinislam.org.my/index.php?option=com\\_frontpage&Itemid=1](http://www.sistersinislam.org.my/index.php?option=com_frontpage&Itemid=1), accessed April 2, 2011.

of women who breach codes of public morality.<sup>63</sup> There is an undoubtedly high degree of feminist awareness and activism about women's equal rights in northern Sudan, but unfortunately Islamic feminists boycotted the elections and are currently not represented in parliament. Parliamentary and presidential elections of 2010 reinforced the authoritarian rule of the National Congress Party instead of a return to multiparty politics.

## Women's Quota without Democracy

Who is represented is an important question, especially in Sudan, considering that the ruling party stands for a conservative gender ideology. Regardless of who is represented, parliament's independence, strength and ability to act are also of high significance. Although Sudanese women have a unique historical opportunity to act, it is a fact that parliament is not independent and is relatively weak. Sudan's parliament is relatively weak compared to the executive branch, which seems to amend laws at its own convenience. Yasir Arman, who ran as a candidate for the presidency from SPLM during the 2010 elections, describes the political environment in parliament:

"The political environment in parliament is in transition. It is a transitional parliament, you know; a parliament of one party for 16 years. What we inherited was the legacy of a one party system; one voice; one idea and no tolerance, acceptance of others, their identity, their views and their cultures. They are ready to violate the assembly to preserve the legacy".<sup>64</sup>

When Yasir Arman raised concerns about the Criminal Law in parliament, he immediately faced death threats and accusations of being a "kafir", that is an unbeliever and an apostate.<sup>65</sup> Arman is critical of the Criminal Law particularly article 152 which in his opinion is an Islamic law that wrongfully targets non-Muslim women and girls. The death threats against Arman when he voiced his opinion about the law suggest that there is little political room in parliament for criticizing current discriminatory laws in the country.

The general impression from interviews with parliamentarians is that women's issues are discussed outside parliament within civil society organizations, because they are deemed too

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<sup>63</sup> "Over Forty Women Arrested After Anti-Flogging Protest", <http://www.sudantribune.com/Over-forty-women-arrested-after,37282>, accessed December 14, 2010.

<sup>64</sup> Interview with Yasir Arman, deputy secretary general of the Sudan People's Liberation Movement (SPLM) for the Northern Sector and member of parliament, October 27, 2009.

<sup>65</sup> Article 125-126 in the Criminal Law (1991) stipulates that "There shall be deemed to commit the offence of apostasy every Muslim who propagates for the renunciation of the creed Islam or publicly declares his renouncement thereof by an express statement or conclusive act. Whoever commits apostasy shall be given a chance to repent during a period to be determined by the court; where he insists upon apostasy, and not being a recent convert to Islam, he shall be punished with death". Further; "Whoever by any means publicly abuses or insults any religion, their rights or beliefs or sanctifications or seeks to excite feelings of contempt and disrespect against the believers thereof, shall be punished with imprisonment for a term not exceeding one year or with a fine or with whipping which may not exceed 40 lashes".

sensitive.<sup>66</sup> According to Grace Alex Albery, also a member of parliament from SPLM, "there has not been done anything on women in parliament. There is no legislation on women. You are not free to discuss (...)"<sup>67</sup> The review process of current discriminatory laws and suggestions for amendments in accordance with the Constitution (2005) is taking place in the ministries of justice and social welfare, gender and child affairs (and not the parliament).

In the period of investigation, there has been one women related piece of legislation that has been polemically discussed, namely the issue of female genital mutilation (FGM). Women's activists and organizations were able to successfully lobby the government and the National Council of Child Welfare to insert an article in the draft Child Act to criminalize FGM. Particularly the Babiker Badri Scientific Association at Ahfad University for Women and Sudan National Committee on Traditional Practices are two organizations that have been particularly active within this area.<sup>68</sup> In cooperation with the National Council for Child Affairs, civil society organizations together with the government has been able to develop a national strategy to combat FGM and to insert article 13 in the draft Child Act. They argued for this referring to national (CPA, Interim National Constitution), regional (African Charter on the Rights and Welfare of the Child, Rabat Declaration on Child's Issues in the Islamic World) and international (Millennium Developmental Objectives, Beijing Declaration and Platform for Action, Convention on the Rights of the Child, CEDAW) legal frameworks. Despite the efforts of numerous civil society organizations, opposition parties and government initiatives, article 13 was taken out of the final version of the law by the council of ministers.<sup>69</sup>

The debate centered on whether FGM is an Islamic practice or not. The President's advisor for *Sharia* issued a statement claiming that the Sunna circumcision is justified in Islam. Both infibulation with excision and clitoridectomy are practiced in Sudan and about 89% of northern Sudanese women are circumcised.<sup>70</sup> The first and most invasive form is labeled pharaonic circumcision and there is broad agreement, even among the most religious

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<sup>66</sup> Samia Hassan Sidahmed, MP for NCP and leader of the women's parliamentary caucus, October 14, 2009.

<sup>67</sup> Interview with Grace Alex Albery, member of parliament for SPLM, October 20, 2009.

<sup>68</sup> The Babiker Badri Scientific Association was established in 1979 following a decision made at the Symposium of the Changing Status of the Sudanese Women, held by the Ahfad University for Women in Omdurman. Headquarters are located inside the university campus and leadership and activists are closely related, as employees and (former) students, to the university. The association was named after Sheikh Babiker Badri who was a pioneer in education of women in Sudan. It is described as voluntary, non-political, non-profit NGO "dedicated to enhancing women's status and for achieving equality, empowerment, development and the full realization of their human capacity" To achieve this, the organization takes an academic approach, strengthened by its association with the Ahfad University, and organizes workshops, study groups, lectures, and does research on women's issues. See <http://www.ahfad.org/babiker%20badri.html>, accessed December 8, 2010.

<sup>69</sup> The Child Act (Khartoum, 2010).

<sup>70</sup> Samia Al-Nagar and Liv Tønnessen, *Sudan Country Case Study: Child Rights* (Chr. Michelsen Institute : Bergen, 2010)

conservatives, that this practice is pre-Islamic and traditional and has no reference in Islam. The latter form is named the Sunna circumcision, Sunna referring to Prophet Muhammad's deeds and actions. Among the conservative religious forces in the country, this form of FGM is regarded as Islamically justified and therefore should not be criminalized. The statement from the President's advisor, Ahmad Ali al-Imam, led the president to take out article 13 from the Child Act after it was approved by parliament. This illustrates how a woman-friendly piece of legislation was effectively be blocked by the executive branch. Nahid JbarAllah at the National Council for Child Welfare explains why the lack of democracy is important in explaining the events:

"Regarding the child act a lot of efforts were made [...].It was a great opportunity after the CPA and the bill of rights in the national interim constitution. It is clearly stated that all Sudanese laws should comply with international standards. [...] The review was done for the child act and laws in light of CRC [child rights convention]. [...] After many consultations, the council for child affairs, in which I am a technical advisor, decided to criminalize FGM in article 13. This was a consequence of hard work by civil society in cooperation with governmental bodies. [...] In the same period the national strategy for abolishing FGM was finalized. It is a governmental policy. The first draft of the child act was submitted to the council of ministers in February 2009. The article 13 was dropped. Civil society organizations issued a memo and a campaign to reinsert article 13. It was a strange situation considering the national strategy to abolish FGM, which is a governmental initiative. These documents are signed by the President himself as part of the national empowerment policy. The problem is the political balance and the influence of the Islamic fundamentalists is becoming stronger. [...] It is a matter of political balance. We are not democratic. We are a dictatorship. [...]"<sup>71</sup>

There are many different and challenging interpretations of Islam at stake. The President ultimately opted for the conservative one in this particular case.<sup>72</sup> Many pointed to the fact that the International Criminal Court's (ICC) charges against President Bashir have strengthened his ties with the religious conservatives. Especially after the ICC charges and the escalating conflict in Darfur, the President has increasingly tended to describe international human rights organizations such as the UN as imperialist and human rights as alien, secular and western and thus contrary to Sudanese culture. The human rights strategy propagated by civil society generally and in the FGM debate in particular has thus been counterproductive. Sadiq al-Mahdi, the leader of one of the opposition parties, says:

"Dictators want to smear human rights as alien in order to continue to oppress people. It is not about foreign domination or cultural specificity. This needs to be confronted. They reject the human rights movement because it interferes with their authority".<sup>73</sup>

So although there are forces both within the government itself and within opposition parties and civil society organizations that favor eliminating FGM, the President ultimately opted to listen to or rather compromise with the religious conservative forces within his own

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<sup>71</sup> Interview with Nahid Jbar Allah, advisor at the National Council for Child Welfare and the leader of SEMA Center working with victims of gender based violence, November 8, 2009.

<sup>72</sup> Interview Nahid Muhammad Hassan, medical doctor and Islamic feminist, November 8, 2009.

<sup>73</sup> Interview with Sadiq al-Mahdi, leader of the Umma Party and former prime minister of Sudan, October 28, 2009.

party. This illustrates that despite the pressure from feminists on this important issue, the weak parliament and the political environment were not conducive to criminalizing FGM. This case illustrates the importance of democracy for an enabling and working environment for feminist voices. This paper agrees with Louise Vincent who writes that "(...) Simply to 'include' women or women's voices (and these, it must be remembered, will not be representative in any way of a general category of 'women' since no such thing exists) in a politics that is flawed (...) will have little transformative effect".<sup>74</sup>

## Conclusion

Most of the critical mass literature on women's (descriptive and substantive) representation in parliaments is primarily based on empirical data from Western democracies. In alignment with scholars who warn that numbers do not necessarily translate into substantive representation for women in non-democracies; this paper contributes to the understanding of women's representation in parliament in a post-conflict setting by looking beyond numbers. The article thus warns that the (policy) implication of solely focusing on "getting the numbers right" because we "may end up, inadvertently, legitimising, in some cases, the promotion of agendas antithetical to gender equality under the guise that they have been advanced by women".<sup>75</sup> The literature on women's representation thus seems to have a "feminist" bias as it wrongly presumes that women hold feminist goals. The debate on Muslim Family Law, Criminal Law and the draft Child Act illustrates that not all women deem gender equality desirable and violence against women and girls as harmful practices. In light of recent reports on rapes by government militias in Darfur, security police sexually harassing women and girls on the grounds of immoral dress code and government crack-downs on demonstrations voicing criticism against the current *Sharia* laws<sup>76</sup>, it becomes clear that human rights abuses of this sort will not be dealt with in the current parliament as the feminist opposition is effectively excluded. It seems like the female (and male) representatives of parliament are more concerned about defending the President who is indicted for war crimes in Darfur rather than putting these questions on the parliamentary agenda. Thus, simply to 'include' government women's voices in a politics that is flawed will have little transformative effect for Sudanese women's rights generally. As such a woman's quota in

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<sup>74</sup> Louise Vincent, "Current Discourse on the Role of Women and Conflict Transformation: A Critique", <http://www.iknowpolitics.org/en/node/1120>, accessed January 5, 2009.

<sup>75</sup> Tados, "Introduction: Quotas- Add Women and Stir?", pp. 9.

<sup>76</sup> See for example the following articles and youtube films "Safia Ishag's Rape", [http://www.youtube.com/watch?v=Mb2960uQfg4&feature=player\\_embedded](http://www.youtube.com/watch?v=Mb2960uQfg4&feature=player_embedded), accessed February 23, 2011; "Sudan Arrests, Beats Female Protestors as World Marks International Women's Day", <http://www.sudantribune.com/Sudan-arrests-beats-female,38231>, accessed March 8, 2011; "Woman Flogged in Street", [http://www.bbc.co.uk/arabic/middleeast/2010/12/101214\\_sudan\\_women\\_arrest.shtml](http://www.bbc.co.uk/arabic/middleeast/2010/12/101214_sudan_women_arrest.shtml), accessed December 14, 2010.

Sudan is reinforcing authoritarianism, blocking women friendly policies and even preventing oppositional voices from being heard. The Sudanese case thus illustrate that a woman's quota should not be seen as a proxy for assessing a country's commitment to neither democratization nor feminism.