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**Siri Lamoureaux**

**REGISTERS OF JUSTICE AND FEMININE  
AGENCIES IN SEXUAL VIOLENCE IN SUDAN**

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**Siri Lamoureaux**  
**REGISTERS OF JUSTICE AND FEMININE AGENCIES**  
**IN SEXUAL VIOLENCE IN SUDAN**

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# Registers of justice and feminine agencies in sexual violence in Sudan

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# 1 Introduction

This paper explores the factors that underlie the silencing of rape among ordinary women and girls in Sudan. The international community has played a large role in promoting the visibility and criminality of rape in Sudan, particularly in the Darfur conflict of the early 2000s, when humanitarian gender violence programming increased. Rape has been described as an aspect of warfare, a disciplinary mechanism as well as an index of social and cultural (dis)empowerment among marginalized populations. Sudanese activists also drew attention to rape as an institutionalized and violent form of aggression by agents of the state against its population. But aside from exceptional cases and mediatized mass rape, it remains rarely if ever reported and even more rarely prosecuted. In fact, with the increased national and international visibility, one can observe a silencing and controlling of rape discourse by the ruling National Congress Party (NCP) as well as in Sudanese public discourse. This research contributes to understanding the deadlock in rape awareness and dialogue, and the exacerbation of polarized positions by suggesting that opposing understandings of gendered agency are at work which exclude victims from access to justice.

The research was carried out in the context of a five-month consultancy that I carried out in 2015 for JWNA (Justice for Women in Northeast Africa), a Sudanese NGO which aligns itself with Western notions of women's empowerment in development discourse and international rights. JWNA was conducting a program on sexual violence awareness-raising in marginal communities in El Fasher in Darfur and among Nuba migrants in Khartoum. While the NGO promoted a neoliberal model of a self-governing, choice-making feminine subject, the victims, perpetrators and communities adhered to a discourse about consent consonant with that of the Sudanese criminal justice system.

I argue that two registers of justice are in circulation in which ideals of feminine agency are made explicit—that of the “resistor” and the “victim”. The international community defines the ideal feminine agent as “self-fashioning” (Merry 2009a, 1) equipped with “capabilities” (Nussbaum 1997, 273) or “empowered” in development discourse, as a “resistor”. Conversely, the Sudanese legal system, political discourse, health institutions and traditional authorities overwhelmingly subscribe to an ideal vision of a woman through her decorous self-control and childlike need for protection, a “victim”, where displays of agency are negatively equated with the stigma of provocation. Agency is perceived as a capacity for “resistance” and speaking out in the former case, but as a “lack of control” in the latter. This impasse carries critical consequences for a woman who does not silence herself. Were she to take up the role of “resistor”, she would risk incrimination within the Sudanese justice system. Rape with impunity is perpetuated not only by the legal system, but by a widespread bias against women as capable of making moral decisions—thus women are often blamed for having invited a rape attack. The very act of reporting such an attack is, paradoxically, an agentic act which requires demonstration of victimhood. Thus, most women simply cannot risk taking up the register of resistance.

As the basis of this article I draw on ethnographic data, which illustrates how neither register can account for the range of gendered agencies women perform in cases of rape. This finding contributes to the seeming impasse between international conceptions of women's rights and the legal framework in Sudan. It helps account for why neither register of justice is useful to the majority of Sudanese women, and the culture of sexual violence is perpetuated and silenced. These respective biases, which form part of the totalization (Hale 2015) and fetishization (Meger

2016) of rape in Sudan, generate specific gendered stereotypes from both sets of actors, who, were they to account for the actual range of agencies, might encourage greater reporting and trust.

I first present JWNA, which illustrates the interaction of the two registers of justice. I then explicate in more detail the neoliberal position governing humanitarian and human right's interventions, and a great number of local NGOs in Sudan's gender sector. Thereafter, I describe the model of feminism instituted in Sudan's legal codes and normalized in Sudanese health care and government institutions. In the final part I present cases which complicate the feminist agencies that are promoted by either register.

## 2 Justice for Women in Northeast Africa <sup>1</sup>

The consultancy was carried out and funded under a program that looked specifically at causes and deterrents of rape<sup>2</sup>. The project included everything from the mass rapes in Darfur up to the urban middle class in downtown Khartoum and looked at institutions, communities, and individual cases. Rape is not an easy topic to research. Discussing it evokes devastating memories among victims, but also horror and shock for the researcher, as the stories unfold<sup>3</sup>. This research uncovers the ugly underbelly of society that refuses to acknowledge it and makes it visible. It is hoped that however painful the process of confronting these realities is, the findings contribute to a better understanding of why and how rape occurs. The research, however, resulted in a report that was never published due to a disagreement between myself and the director over how to present and analyze the data. As I will elaborate below, I found JWNA's practices and discourses problematic. Rather than adopting the NGO narrative, I examined its practices as one of the objects of research, along with the interviews and ethnography that I and my research

1 This is a pseudonym to protect the activities of the NGO.

2 This study did *not* look at other forms of sexual violence: sexual slavery, forced pregnancy, sex trafficking, or forced prostitution. It only focused on women and not look closely at male rape or child rape.

3 Close to 100 interviews were conducted. A broad range of actors were targeted in the collection of data from focus groups and interviews: victims and persecutors of rape, victims' families, communities, community service providers: police, hospitals, health practitioners, lawyers, judges, media, local leaders in religious groups, child protection units and youth. Most of these interviewees were obtained through JWNA's formal and informal networks. My research assistant and I also used our own resources and networks to broaden the data set. Most interviews were conducted by my research assistant, as my own presence as a foreign researcher could have drawn undue attention to interviewees, and possibly influenced the quality of the interviews. I was, however, present at all the interviews with victims which were held in closed rooms at JWNA's office. The interviews were recorded, transcribed and translated into English, the names changed and measures were taken to ensure anonymity and security. In Khartoum, interviews which could not be conducted at the JWNA offices were carried out in the field in specific communities. Fieldwork was carried out in Mayo (Jebel Awliya), Wad el Bashir (Umbedda) and Daressalaam (Umbedda). These sites are areas where large numbers of displaced people arrived during the civil war in the 1980s and 1990s. They are now resettled communities connected with city services. Also, various institutions were interviewed in downtown Khartoum and Omdurman. In Darfur, fieldwork was carried out in the city of El Fasher and the nearby IDP camps (Abushouk, Alsalam and Zamzam) which people fled to during the 2000s period of conflict. These camps are still heavily populated. Also, several interviews were held in the town of Tawila, which has recently seen the arrival of thousands of new IDPs, but has also been claimed as a military zone by the government's Rapid Support Forces.

assistant, a young educated Sudanese woman<sup>4</sup>, carried out. I thus present this broader analysis here, in the form of a critique rather than an NGO report.

Western-oriented feminist NGOs such as JWNA focus on two fronts primarily: reforming Sudanese law in accord with international human rights' standards and transforming women's behavior, encouraging empowerment and capacity building. In its outspoken advocacy it confronts the former, but in its own practices, rather sustains the status quo, failing to recognize both the dangers of introducing a neoliberal subjectivity and practice a transformative model of gender empowerment in a context where such feminist subjectivities would not easily ensure justice for a rape crime.

JWNA's Khartoum staff was predominantly young Sudanese women, graduates of the English-speaking Ahfad University for Women or even returnees, having grown up in the United States or Europe. Unlike other work settings in Sudan, the employees comfortably wore jeans and t-shirts and many did not wear a veil, a marked opposition to norms of public presentation. JWNA was firmly situated in the transnational discourse of women's rights, preferring to use the word "survivors" rather than rape "victims". In the concept note they stated: "The research should adopt feminist perspectives as much as possible and carry messages of empowerment that challenge the 'simple victim' narrative". One of their stated goals was to provide platforms for the most vulnerable groups to speak out against violence and abuse.

Within the NGO, "resistance" was the form of agency that has been the pivotal factor in discussions on sexual violence and prevention, and the capacity for resistance is something that is thought can be gained through training (see e.g. Rozee and Koss 2001). In this overt sense, Hollander and Einwohner (2004) have classified it as "apparent resistance"; Jaji (2015) calls it "rebellious femininity", which "subtly or dramatically" challenges cultural dictates (504)<sup>5</sup>. And yet, such discourse seems to get no farther than the JWNA's project proposal. In sexual violence awareness raising sessions, the NGO staff asked the participants to discuss and debate how they would react in several specific instances of rape. The questions they asked centered on the person who was attacked, and the main point discussed concerned who was at fault and why the person in question did or did not resist. The JWNA staff did little to steer the discussion towards concepts of self-empowerment and rather validated the community responses which centered almost entirely on the failure of the girl's family and community in "protecting" her: "She should have stayed at home"; "She couldn't resist or they might kill her"; "She should have been more careful"; "Her brother should have been watching over her"; "Storekeepers and police should be more vigilant"; "Her mother shouldn't have left her alone"<sup>6</sup>. In spite of their discourse of empowerment, and their critical view of Sudanese patriarchy, legal institutions and government, my impression was that the JWNA nonetheless operated well within the pattern of this paternal culture that they rejected.

The emphasis on "resistance" in women's agency is erased by the focus on a woman's family and community which supposedly failed to protect her. Saba Mahmood (2005, 5) has taken issue with the trope of resistance, seeing it as too often evoked by anthropologists and feminists as an essential feature of human agency, which needs only to be nourished. I too find it troubling

4 The assistant researcher had done Gender Studies at Ahfad University for Women. She was very competent in English, and her own language of Sudanese Arabic, as well as extremely sensitive to the need for discretion and do-no-harm in interviewing.

5 It is important to note that more tacit resistance practices exist, such as dressing modestly, limiting time spent in public space, not looking unknown men in the eye and so on.

6 Focus groups, Umbadda and Mayo neighborhoods, Khartoum, March 1-2, 2015.

to understand resistance as an innate reaction to oppression. Resistance exists, but it is socio-culturally fashioned; it is available when it makes sense and does not mean too great a risk. In the described context, resistance most often means such a risk. Were the international human rights' interventions to succeed in enabling resistance to sexual violence in Sudan, they would have to neutralize all the demands of cultural and social cohesion. While a great many women do resist the physical attack, many do not, or at least not in a physical or formal way. Physical safety is one reason, and so too are cultural norms, not for lack of recognizing resistance as an option, but for taking up other forms of agency.

I asked the NGO to re-interview a number of their rape cases in order to explore the circumstances of each event in greater detail. I compared the narrated stories summarized by caseworkers with the versions that I documented. In the NGO documentation process, the 1st person subject was translated into a 3rd person voice, and quite often a passive syntax, a style oriented towards casework, which lists the events and meetings arranged between a woman and her lawyer, doctor, family, the rapist or the NGO. But much is lost in this rendering, where a simplified skeleton of a victim and her aggressor is packaged into a standardized case format with date, health status, psychological status, and how much money she was given for doctor and lawyer fees, if any. The packaging of rape into this format erases the narrator's own self-positioning and agency.

Although JWNA's caseworkers were sympathetic and concerned for victims' well-being, they were cautious about encouraging women to seek justice and instead entrenched a paternal relation with the women being represented. In the way the caseworkers dealt with women, they exercised a fatherly and protective relationship, provoking expectations of monetary support. For example, in several of my interviews, women asked me why money had not been given to them after all, although it was promised. One young woman said that she asked for support for returning to school, after a long period away due to depression, but since the NGO did not enroll her in school, she did not continue. The caseworkers, very often, did not work directly with the rape victims but with their guardians, usually aunts or cousins who could "represent" and speak for the victim. When I met with these older representatives, I heard long narratives of social and economic problems, of violent husbands, of money needed for school fees and health care. Whatever resistance or lack thereof that may have been exercised by the woman who was raped is lost in the translation of the event through her guardians, her community and the NGO.

Women are rather positioned as "victims", protected by and dependent on the NGO. These observations suggest that the discourse of paternal protection is hard to extricate from that of empowerment, meaning that the NGO, while preaching women's rights, does not exercise reflexivity towards its own practice. This means that women, while exposed to a discourse of resistance, will not likely identify their experience as such. While this may be due to the interference of Sudanese norms in a Sudanese NGO, as Merry (2009a) suggested, paternalism is embedded in the very human rights discourse itself. Gender empowerment promoted by human rights is undermined by its own efforts at implementation. In fact, I observed that local community representatives hired by JWNA to conduct meetings were especially unconcerned with translating human rights, while advantageously pocketing the NGOs funds, in an opportunity for self-advancement. As for rape victims, those whose agency is best supported in this system, must already be free-choice-making subjects, those who have autonomously transcended obligations of kinship and livelihood. Such women are the upper class who can afford private services and do not risk social exclusion and/or incrimination because of pre-existing connections to international networks and support.

Among the interviewees, elite educated women were more likely to seek representation through one of the legal programs and healthcare in one of the private clinics. The case of Safiya Ishag illustrates this: she was raped after participating in a protest by three national intelligence and security personnel (No to Women Oppression Coalition 2011). She circulated her testimony in a widely viewed YouTube video, and she is now a political asylee living abroad. A victim's access to medical and psychosocial care is contingent on her socio-economic class. If a woman can afford it, she can seek both treatment and confidentiality, and in some cases, preventative pregnancy medication (the morning after pill) in private clinics. While government hospitals are legally obliged to report all rapes, a doctor interviewed in a private health clinic that treats private paying patients says that he does not report rape to the police and operates according to the code of doctor-patient confidentiality. Thus, healthcare in private clinics can protect victims from the police, but this is a luxury for families with money.

### **3 Transnational feminist activism and the register of resistance**

Violence against Women (VAW) and Sexual and Gender-Based Violence (SGBV) are firmly part of universal humanitarian and human rights, having solidified as normative agendas which circulate and translate into local contexts (Merry 2009b), at least since the 1990s (Basu 2000). Transnational norms have been central to activists and their international partners in Sudan since the mid-2000s given the mediatization of sexual violence in Darfur (Fadlalla 2008; Tønnessen and Nagar 2015) as well as the Comprehensive Peace Agreement (CPA) which opened the door to a constitutional reform. Following the International Commission of Inquiry for Darfur and the indictment of President Omar al Bashir, an arrest warrant was issued for violations of international law by the International Criminal Court (ICC) in 2008.<sup>7</sup> The ICC and the United States considered mass rape an act of genocide due to the systematic nature of the attacks.<sup>8</sup> Humanitarian and human rights responses included increased SGBV protection programs, research and advocacy. The gender protection and empowerment sector is comprised of several local CBOs and NGOs, transnational women's NGOs, as well as the private Ahfad University for Women (and the Ahfad Trauma Center) which produces much of the gender and development-oriented research in Sudan. NGOs, largely funded by Western donors as well as international institutions such as UNWOMEN and UNFPA, produced a wealth of reports and analyses throughout the 2000s on the topic of VAW and SGBV, both to draw attention and to lobby for constitutional reform.<sup>9</sup> These efforts saw some results.

In response to the attention on Darfur and mass rape as a breach of international humanitarian law, the government Unit for Combating Violence against Women and Children was formed and units were set up in all states in 2005.<sup>10</sup> In 2007, UNMIS and a new unit in the

7 [www.icc-cpi.int/iccdocs/doc/doc639078.pdf](http://www.icc-cpi.int/iccdocs/doc/doc639078.pdf) – accessed April 29, 2015. The Rome Statute of the International Criminal Court (ICC) prohibits rape and sexual violence as war crimes and crimes against humanity.

8 [www.nytimes.com/2004/09/09/international/africa/09CND-SUDA.html?hp](http://www.nytimes.com/2004/09/09/international/africa/09CND-SUDA.html?hp) – accessed April 29, 2015.

9 See e.g. REDRESS and KCHRED 2008; Fricke and Khair 2007; Eltayeb 2014.

10 Report, Unit for Combating Violence against Women and Children, December 2008 – March 2010.



Ministry of Justice introduced a new plan and legal amendments<sup>11</sup> for Darfur drawing on UNSCR 1325.<sup>12</sup> The new plan focused on training police on humanitarian and human rights law and the legal system and introducing women police officers. Legal counsels were recruited in Darfur to prosecute crimes against women, although these courts have been deemed ineffective due to a lack of trained staff and unqualified judiciary, sometimes recruited from the military.<sup>13</sup> Following a broad campaign known as the Article 149 Alliance,<sup>14</sup> an amendment was passed distinguishing the definition of rape in the 1991 Criminal Code from adultery, but the definition remains problematic and open to wide interpretation. Thus, while some progress has been made, the 1991 Criminal Law continues to challenge efforts made towards aligning Sudanese legal practice with international standards. This also triggered ongoing tensions within the government. Questions of sexual violence became public issues, and the topic of morality, guilt, and blame came to the fore. The reforms that feminist NGOs promoted were linked with distrust and negative stereotypes that accompanied Western interventions, and specifically, the empowered feminine subjectivity that seemed to threaten Islamic and Sudanese values. As Tønnessen and Nagar (2013) and Tønnessen (2013; 2014; 2012) observe, Sudanese system does not value individual rights but rather distributed rights within a social relationship. According to Merry (2009a, 385) individuality “is the subjectivity of modernity: the self-fashioning subject who is responsible for herself and who makes a self through choices based on utility and preference rather than kinship obligations or the demands of customs [...] free to choose and is able to manage and control herself and her feelings”. Merry (2009b) says that adopting human rights allows for political space at the expense of other norms. Individual autonomy, equality, choice and secular values challenge other ideas of social justice not oriented towards the individual.

But this is not the only problem. In spite of promoting an ideology of individuality, there is a point at which some abuses become intolerable to international rights discourses, even cases in which women give their consent (Merry 2009a). This is where women require protection, paradoxically, which are protective measures to ensure autonomy. Such paradoxes accompany any humanitarian or development intervention because of the inherently unequal relationship between the rescuing party and the recipient of aid (Fassin 2012; Redfield 2005). Such is the contradiction inherent in universal conceptions of gendered justice, such as Martha Nussbaum’s (1997) “Capabilities Approach” which sees women as autonomous agents equipped with universal freedoms, but these freedoms can only be ensured by so-called “just” societies. If a government fails to ensure these rights and freedoms, it can be held morally accountable under the rubric of human rights and humanitarianism.

11 Workshop Report, “Women, Peace and Security” with special focus on Violence against Women in conflict and post-conflict situations and to enhance the implementation of NAP for combating violence against women in Darfur, 14, June 2007.

12 In 2000, UNSC Resolution 1325 was passed which included protection of the rights of girls and women, especially concerning rape and other forms of sexual abuse.

13 In 2005, the Chief Justice set up a Special Criminal Court for the Events in Darfur (SCCED) which has jurisdiction over the Sudanese penal code as well as international humanitarian law. However, victims of rape reportedly suffer from confusion over which court to take their case to. The SCCED, the so-called “Special Courts” were established by the Chief Justice in 2001, replaced by “Specialized Courts” in 2003 or the regular statutory courts.

14 *Campaign on Rape Law Reform in Sudan*. This initiative was a collaboration between Refugees International and a Sudanese national coalition of organizations and individuals, based at the Salmah center, as well as Pakistani women’s activists who succeeded in reforming Pakistan’s Hudud Ordinance.

The consequences of positioning women's bodies as needing protection for empowerment as the justification for large-scale humanitarian interventions are vast, reproducing colonial images of "backward" cultures (Fadlalla and Adunbi 2016, 3), that need civilizing. As Abu-Lughod (2002) observed for the positioning of women in justifying the US invasion of Afghanistan, in Sudan, mass rape along with genocide and the "right to protect" and "compassion" discourses have been instrumentalized by both the US and Sudan in large political and moral battles with ulterior motives (Mamdani 2008; Fadlalla 2008; Fadlalla and Adunbi 2016). In Sudan, "Black" and "Arab" racial categories have been utilized by both sides: the Sudanese government famously armed Arab Janjaweed militias, and in Western media representations "Black" women and children have been depicted as "victims" of "Arab" aggressors (Fadlalla 2008; Hale 2010). If the intervening party needs to "save" women from their own men, then necessarily, these same men can respond by "protecting" their own women from foreign and presumably immoral intervention.

This means rejecting international conventions which are seen not as universal freedoms but as political instruments, such as the Child Act<sup>15</sup> which is ambiguously enforced by judges. Another example is how in reaction to the ICC arrest warrant of Al Bashir, the latter's government expelled thirteen international NGOs and three local NGOs in 2009 seriously reducing SGBV services such as rape kits, trainings for police and hospital staff (PHR 2010). Crackdowns on civil society activists working on rape reform have increased (see Tønnessen and Nagar 2015, 8–12 for summary). In addition, there is a lack of adequate funding for ongoing programming. In 2013, 4% of all SGBV programs assessed for the UN Common Humanitarian Fund (CHF) annual plan were funded. Funding commitments have further declined in recent years because of a lack of government accountability and blocking of funds<sup>16</sup>. The CHF funded only two SGBV programs in 2015, 1% of the total estimated need. The 2015 Humanitarian Response Plan of 44 million \$US was on hold by the government at the time of writing.

In spite of the massive effort to advocate for legal reform in the 2000s, Sudan has not ratified the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) nor committed to UNSC Resolution 1325. CEDAW requires member states to enable women's choice-making by protecting them from inequalities. Ensuring equality, freedom and choice means eliminating obstacles which impede agency (Merry 2009a). The legal process of CEDAW centers on the "cultural work of altering the meanings of gender" and modernity based in secularity and equality (Merry 2011, 52), an outcome which shari'a-based legal systems such as Sudan's find problematic. Sudan does not have a clear policy framework towards SGBV, nor recognizes it as a public health issue. The discourse on sexual violence in particular has no political will, and is considered extremely sensitive in this highly factionalized and politicized context (Tønnessen 2014).

The register of resistance and empowerment is an ethical and mobilizing discourse. It comes with contradictions: the rights' concept of "bodily integrity" under a liberal ideology of autonomy, individuality on the one hand and on the other hand the need to protect by exclusion and control in order to maintain boundaries, which figures strongly in the larger

15 Under the Child Act (2010), anyone under age 18, is considered a child. Sudan signed the Convention of the Rights of the Child in 1991, which provided the framework for the Sudan 2010 National Child Act. However, there remain problems implementing the Act.

16 According to the Humanitarian and Voluntary Work Act of 2006, the Sudanese Humanitarian Aid Commission (HAC) must issue permissions for a number of the operations of NGOs, hiring, funding, programming, information about staff etc.

politics of race and power in colonial and contemporary neoliberal projects of governance. Sudan recognizes the West's interests behind humanitarian interventions and rejects its model of women's empowerment. On both sides, these interests are enacted in a damaging way on women's bodies. Sudan's rejection of SGBV discourse does not mean that rape (*ighiSaab*) is a socially permissible practice. The practice is illegal, however poorly defined. And yet, for Sudanese political and legal actors, the solution is not that of CEDAW or UNSC 1325, but a different model of feminine agency, one which stresses and even demands self-representation as a victim. I elaborate on the register of victimization here below.

## **4 The Sudanese justice system and the register of victimization**

The second register of justice is available to those that can qualify as "victims", employed to distinguish them from "provocateurs". The Sudanese legal system, political discourse, health institutions and traditional authorities overwhelmingly subscribe to a vision of women who have experienced sexual violence as provocateurs, a norm attributing a great amount of control to women, which must be reined in through self-discipline. There is a focus, even an obsession, with identifying and separating the "victims" from the "provocateurs", and only a minority of rape cases will unambiguously fall into the former category. Based on information from a wide range of actors in rape servicing, I learned that specific types of women earn the sympathy of these providers as "victims", namely children, handicapped women, those with physical proof of violence, women past menopause and sometimes virgins. These categories are considered exempt from responsibility since there is purported evidence of a lack of agency, e.g. too young to make a sound decision, too old to desire sex, or evident signs of physical injury. Other adult women have to demonstrate their innocence by appealing to one of these criteria or the model of passivity that the "victim" indexes, or otherwise risk accusation of provocation.

The model of a passive feminine victim features in fundamentalist patriarchal societies, in which women are considered incapable of moral decision-making, and thus thought to require protection or punishment, and subjugation (Hawley and Proudfoot 1994) for having endangered themselves in the outside world. Rape, following this analysis, "regulates power through sexual means" (Ruby Reid-Cunningham 2008, 280). The patriarchal frame makes rape within the family a matter of masculine paternal power, such as in marital or child rape cases. When the attacker comes from outside the family, the would-be protector himself may be angry, blaming the victim for having undermined his power as patriarch, by having naively made herself available to men.

One community member in Khartoum said, "Rape happens when the victim doesn't defend herself or she likes that to happen", highlighting how even the word "rape" is not necessarily associated with lack of consent. Thus, women are caught in-between protection and punishment and seem to have no control over their own circumstances. One sheikh from Darfur said that a rapist: "[...] must pay the family a compensation because the young girl who is raped is like the shop that is full of goods, and everyone sees this shop praises it; when you come and destroy these goods or burn it you must pay the price." Women are thought of as a commodity to be protected, sold or bought, as items of negotiation between men. Most Nuba and Darfuri

Native Administration (traditional authorities) interviewed sought to solve the social consequences of rape by arranging for the girl and the attacker to marry one another, conflating rape with sex before marriage.

Furthermore, this paternal model is cemented into law. Since 1991, Article 149 of the constitution confuses *zina* ‘adultery’ with rape, which is defined as “sexual intercourse by way of adultery or homosexuality” with any person without consent<sup>17</sup>. If a woman reports the rape, this is evidence of her confession that penetration had happened making her guilty of extramarital intercourse. For married women this is punishable by stoning to death,<sup>18</sup> and for unmarried by 100 lashes. Thus, rape is, unless lack of consent can be proven with four male witnesses, by default, considered an act of *zina*. Rape is only regarded as an extramarital act according to the Muslim Family Law (1991), which stipulates that a wife must obey her husband. It is a crime against the state and public morality, where anyone can accuse another of *zina*.

Proving consent is the legal issue that lawyers focus on. There are a number of poorly defined legal arguments for consent, including the age at which consent is possible vis-à-vis legal marriage age.<sup>19</sup> A good example of ambiguous wording around agency is found in the definition of sexual harassment added in 2015 to Article 151 on indecent behavior on Public Order Law, which is meant to maintain morality in the public sphere. Sexual harassment is defined as an act that is a temptation or invitation for someone to practice illegitimate sex, making unclear who is the harasser or the harassee—the one who invites or who tempts. Gender activists are concerned that women will be criminalized for their clothing as a “temptation” according to this poorly-worded amendment. Most of the criteria invoked in court cases are subjective and situational, judges exercising wide interpretive liberty. According to lawyers that we interviewed, in evaluating the evidence concerning a woman’s claim of having been raped, judges invariably consider a woman’s social status, her ethnicity, her livelihood, and how she dresses in making a determination of her victimhood.

The health industry too is influenced by prejudice, especially government hospitals. With some exceptions, doctors generally asserted the same moral discourse against women and brought it into their practice in the form of hunting for evidence of her guilt. In hospitals, women are subject to tight surveillance, where the omnipresence of police affects the quality of the treatment. Before a rape victim can be treated she obligatorily fills out a police Form 8, meaning that in seeking treatment she makes her case visible to the justice system, putting her at risk of being accused. The questions on Form 8 are oriented to looking for evidence of

17 In February 2015, a new amendment to Article 149 was passed by Parliament. The amendment rewords the definition of rape disambiguating *zina* from rape. However, it did not disambiguate the punishment for the respective crimes of rape, adultery and sodomy, therefore rape punishment is still that of adultery and sodomy. The evidentiary requirements also remained unchanged.

18 To date, however, while women have been incriminated, no woman has been stoned.

19 The 2015 amendment broadened the definition of consent to forms of power which could render someone unable to “express their consent due to natural or temptation reasons or related to age”. That the age of consent is not fixed renders this clause open to interpretation. A victim must be considered an “adult” for consent to be possible. “Adulthood” in the constitution is defined as fifteen years *and* evidence of puberty, or eighteen years with no evidence (Article 3), meaning that psychological maturity is given no weight, and also makes for arbitrary determinations of maturity. For girls under fifteen and under the age of marriage, this is unproblematic and consent is not possible. For girls of marriageable age and adult women, consent (or rather lack thereof) must be proven. However, the age for marriage in Sudan according to the Personal Act for Muslims (1991) is ten years, thus entirely contradicting the Child Law. The child is no longer protected by the Child Law, so if a married girl under age fifteen is accused of adultery for a rape that she reports, it is unclear whether she has to prove consent or not.

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virginity, as if virginity had any bearing on whether she was or wasn't raped. Form 8 is used in criminal prosecutions instead of any complete medical evaluation.

Gathering evidence from victims is not designed to discover whether a rape happened, but whether there was sex. There is a lack of discretion altogether for rape victims, an obsession with extramarital relations and a prejudice against non-virgins. As a result, victims who need medical treatment are afraid to speak plainly about what happened to them and will often cover up a rape with other explanations for their injuries. One case was described where a woman came in beaten and raped, refused to meet the police officer, and even escaped unseen following treatment before the police could come and interrogate her. In another, which took place in El Fasher, a sheikh found a rape victim left in the street, and returned her to her family, who took her to the hospital. Both the police and the doctors in the hospital told them not to talk about this attack as a rape case, showing their complicity with the policy of silencing.

The Sudanese government and legal system which has the power and authority to support and protect women from attackers, builds its model of justice on that of a patriarchal Sudanese family. In fact, the constitution grants immunity from accusations of rape to all government law enforcement personnel: security, police, military, militias and guards,<sup>20</sup> essentially legitimizing rape as a patriarchal mechanism of punishment. This somewhat radical perversion of patriarchy as a paranoid obsession with sexuality, combined with increasingly brutal forms of rape, suggests that other forces are at work. I link this trend with ideological reforms taking place since the implementation of shari'a law in 1983 and again in 1991 with the Islamic Civilization Project, and with specific features of the Criminal Code, including Public Order Law, and Muslim Family Law. These reforms and the discourse of *inqaaz* (or 'salvation') located public morality on the bodies and behaviors of women (Hale 1996). Willemse (2005, 170) wrote about the discursive strategy of the present Islamist government in targeting women as objects of reform since 1991: "Women in general were constructed as a threat to social stability and the moral order if they did not keep to their symbolic role as mothers and wives, as propagated by the male members of their own class". In the contemporary Sudanese context, misogyny has been used as part of the government's political strategy to exercise control over public morality. It is also linked with women's increased movement in society, working outside the home, greater income and education. Political manipulations formally inscribe but also exacerbate longstanding cultural patterns of patriarchy, and bring high level politics into local gender relations, where ordinary women can be victimized, not only by attackers but by the larger socio-political order.

A woman's presence in public space is seen as troublemaking when she does not abide by the self-presentation of a modest Muslim, exacerbating the justification of increased control over and/or protection of women. Caseworkers, lawyers and health practitioners who work in Mayo and Wad el Bashir areas confirmed that most rape cases come from trusted and known persons who are supposed to be acting in a protective capacity towards the victim. The interviews revealed that victims' guardians did not believe or support them and blamed them for mingling with men. One uncle blamed his niece for getting pregnant from a neighbor, first beating her, then calling her "fragile" and "weak", placing the blame on her lack of morality and capacity to avoid sex since "every woman is fragile".<sup>21</sup> According to one member of the popular

20 Article 33 of 1998 Security Forces Act; Article 46 of Police Forces Act; Article 8 of People's Armed Forces Act and 2005 presidential decree.

21 Interview, uncle, Khartoum, March 15, 2015.

committee in Wad al Bashir, rape happens because women work most of the day outside the house and come home late. Another sheikh saw women's presence in public as a sign of her immoral intentions: "Yes there are some cases and it exists, but some young girls go and look for men, then they claim that they get raped, but girls who stay at home cannot get raped"<sup>22</sup>. Another sheikh blamed women who walk outside during the Azan. Women who work in the informal sector are stigmatized as sexually promiscuous, e.g. domestic labor in urban neighborhoods, local alcohol vendors, and tea ladies because they sit out in the public and talk to predominantly male clientele.

In another pattern with a similar logic, educated, politically-active or working women, need to be "put in their place". Interviews with youth gangs from marginalized migrant communities from South Sudan or Nuba Mountains who identify as Black Africans and call themselves *Awlad Niggers* (or 'Nigger Boys') revealed that they specifically target young, educated women who act pretentiously towards them. "We rape them as a group together. Sometimes the girl, she is proud and does not like us—that's why we rape, because we want her to lose her virginity"<sup>23</sup>. In interviews, two university women attending a political rally at the University of Khartoum reported that they were picked up, raped and beaten by members of national security. While one woman was being assaulted, security called her a *khaddim* (or 'slave') and a *sharmuta* ('prostitute'). These rapes also made other hierarchies visible—that of racial/ethnic power dynamics—where not only social and economic factors are relevant but racial oppositions are mapped onto these differences. "Slave" is a racial insult used for Sudanese who do not come from one of the so-called Arab ethnic groups.

Women who have been raped have frequently narrated their own responsibility in having provoked the attack: "It's my fault. I trusted people I shouldn't trust". "I work outside"; "I was working in the market"; "I was coming home late". By the same token, mothers of girls who've been raped are blamed for having left the girl at home alone in the house while they were out working. Women in an El Fasher IDP camp, in fact, systematically link work with the almost guaranteed likelihood of being raped. As one IDP camp resident said, rape is so common it is just taken as something normal, *kalaam ighiSaab da hina raagid!*

Most rape is in part legitimized or justified in terms of patriarchal norms, which frame people's perceptions of men's rights over women and women's own potential for consent to sexual intercourse and possible culpability. This register finds little in common with a civic model of justice, in which all persons, including women, have an equal right to legal justice, based in an egalitarian rather than a hierarchal model. It is infused with a widespread perception of women as incapable of making moral decisions. This thinking permeates all levels of support networks that could be available to victims: families, neighbors and local leaders, police, lawyers and judges. Women must overcome great social prejudice to be validated as victims who did not give their consent.

Girls and women experiencing situations which do not fit the prototype of victimhood, will not often identify their experience of rape as being a criminal issue at all. The negative association of resistance, which demands reporting with agency, would dissuade the few who come into contact with international rights' discourse. The vast majority remains silent. For those rare cases which arrive in a setting of formal complaint, I identified a common moral plot following "the victim" narrative, outlined above. Regardless of whether a victim succeeds in getting recog-

22 Interview, Native Administration, May 24, 2015.

23 Interview, Awlad Niggers, Khartoum, March 25, 2015.

nized as such in court, she will invariably shape her narrative toward that end—that her plight was inevitable. I have classified them into her being childlike, being virginal and undesiring, or due to her material insecurity which I illustrate in the next section.

## 5 Intersecting feminine agencies

While “the victim” narrative frames the claim of injustice, there are a multitude of other experiences elided by the polarized norms of victimhood and resistance in negotiating sexual violence. The concept of intersectionality (Crenshaw 1991) helps to explain the silencing of rape and cases of prolonged sexual abuse, as it accounts for the multiple influences of gendered agency with race, ethnicity and class—multivalent practices when events entail elements of resistance, submission to domination or complicity with it, but also even opportunism, and involve a range of emotional experiences. These details emerged in the interviews.

### The childlike or handicapped victim

This first story is representative of a frequent type of domestic rape in Sudan. I repeatedly heard a narrative where a woman or girl is forced or coerced into sex, in a back room or an empty lot, but does not fight back or cry out. It characterizes the majority of cases that never get reported, that never get beyond the family home, if that far.

Sawsen, living in Khartoum with her mother, step-father and three half-siblings, grew up thinking her step-father was her father. She only discovered that he was not her father at age fourteen, during her court case against him for rape:

*He would send my brothers to my grandmother’s house, and then call me. He would beat me, take off my clothes, have sex with me and leave. When my mother came back, he would lie to her, saying that I don’t listen to him and that I beat the kids. I wanted to tell my mother the truth, but she blames me and I’m scared of him, because he’s always there, and will come and make up another story.<sup>24</sup>*

This went on for two years, until her aunt walked in on the act. Her court case was successful, although her mother and grandmother did not support her case, indicating how difficult it is to be heard and believed in cases of prolonged abuse. Her fear and lack of social support curbed any intention of resisting. Since it went on for two years, her lawyer had to demonstrate this vulnerability, selecting aspects of the case to situate Sawsen as a “victim”—the fact that she was an “illegitimate” child of a Nuba father and that her mother did not care for her. She was now remarried to an Arab, a point that supports a known normative power difference in Sudan—that Nuba are the *abeed* ‘slaves’ to Arabs. Had she been 18, this case would likely have never made it to court, if reported at all. This case only made it to trial because Sawsen was still legally a

24 Interview, Sawsen, March 15, 2015.

“child” according to the Child Act, which was applied in this specific case, but is not always supported in Sudan.<sup>25</sup>

In a similar case, a 22-year-old Nuba woman brought a claim against her neighbor for rape after a pregnancy by him. Maysoon was reportedly mildly mentally handicapped, as told to me by her aunt and caseworker who came to tell this story. They recounted that on discovering her pregnancy, she was unwilling to explain who did this to her. With some pressure, she revealed that it was a neighbor whose shop she visited near their house. Both Maysoon and her aunt were slow to disclose the real nature of their relationship. Knowing that her case would not be classified as rape given her pregnancy, the mental handicap was emphasized and Maysoon’s ongoing relationship downplayed. In her aunt’s words, “We met the lawyer who told us that to carry on with this case in court, we’d need a psychiatric report due to Maysoon’s situation in order to support her case in court”.<sup>26</sup>

### The undesiring victim

In another type of event, a woman demonstrates physical resistance but also acceptance. Gaffar is a perpetrator who was being prosecuted for one of his so-called “relationships” and agreed to meet with my research assistant. He narrates raping his house cleaner who was from the Nuba Mountains: “When she started to clean the floor, I couldn’t stop myself; I just jumped on her. She is beautiful. When I finished she started crying, I realized.” When asked why she cried, he replied, “to make me feel guilty and give her more money, and so I did. I gave her 100 pounds”.<sup>27</sup> Gaffar expressed no remorse, shame or guilt, claiming that he is very weak in front of beauty. He said, “She is Nuba and it is ok according to their culture. This kind of people, they have no problem with these things. They do it and accept it as normal.” His explanation was that she implicitly agreed since she didn’t cry at first. She tried to stop him but then gave up the fight. This to him was *harakaat* (or ‘overreaction’) in the way Sudanese women often feign resistance, even with their husbands, to give the impression that they do not seek sex.

Gaffar perceived the house cleaner as a working woman who was ready to exchange sex for money as would a prostitute; he also linked his perception of loose morality with her being Nuba to justify raping her. He did not acknowledge the power difference between himself as employer and Arab and her financial dependency. This case illustrates the common perception of women as temptresses, secretly wanting sex, asking for it with their bodies and dress even if they resist. In common discourse, women will not seek sex from their husbands or other men that are courting them but wait to be approached, out of shame, and to submit to their husbands, or other men. But it also suggests a certain ambiguity in the intentions of women, some of whom certainly use this nuance in their relationships, and some who are sorely misunderstood or ignored in justifications for raping them.

25 While Sudan signed the 2010 Child Act which protects children from statutory rape, raising the age of “child” to the international standard age 18, this Act is not enforced and many judges adhere to the 1991 interpretation of “adult” as showing physical signs of puberty.

26 Interview, aunt, Khartoum, March 15, 2015.

27 Interview, Gaffar, Khartoum, April 15, 2015.



## The materially insecure victim

In Darfur, more than Khartoum, there is an utter lack of faith in the justice system, from the family, up through the community, the police and the court. To quote one Darfuri woman who had been raped by three soldiers on the way home from a day of work in the tobacco fields, “I haven’t gone to the police or hospital because nobody cares and they would not listen. They just gossip, so I kept silent.”<sup>28</sup> Young women fear blame and being kicked out of the house, which happens when they get pregnant. Adult married women are afraid of angering their husbands, “You just stay quiet”, “If you get pregnant, it is easiest if you’re already married; it’s just another child”.<sup>29</sup> Families often pressure the victim to avoid pursuing a case. One judge interviewed said that after opening a case against perpetrators, “women come back to the court denying the rape, saying they wanted revenge. She chooses any reason like he promised me for marriage and he didn’t follow through”.<sup>30</sup> He said that in these cases the family and friends sit with the victim and convince her that it is better to have lied in front of the community than to be a rape victim, as in the latter case “no one will marry you”.

Women in IDP camps are stigmatized both by their ethnicity and their status as outsiders to the El Fasher area. IDP women are known as “girls of the camp”, with the general presumption that a girl or a woman from the camp should be available to men. It is assumed that women have experienced rape during the displacement, so they can experience it again, having nothing to lose. This image is compounded when these women must earn money. Instances of rape often evolve into some form of prostitution once the pattern has started. The sense of hopelessness and a devaluation of their gendered identity certainly play a role in propagating the sex trade.

One woman from the Beni Hussein tribe that identifies as Arab and local in the El Fasher area, narrated the stigma that women IDPs must bear:

*[...] the few rape cases started after the IDPs came here, they came with their own problems and we pay the price. IDP women look for men to do this for money; they are a real problem, and they are not poor, they dress well and live in a good situation better than in their [home] village. You know those people (IDPs) like to play the role of the victim and they are not victims, they know what they are doing, they have a lot of money, the men, most of them are merchants. If you go to the camp, yes you will find poor people, but also you will find some of them have good houses and furniture.*

*[...] they have benefited a lot from the displacement, they have electricity, monthly relief allowance, water is near to them and it is better than their water [in the village], and they have studios and a cafeteria in the camp.*<sup>31</sup>

While this perspective is perhaps biased by prejudice, it complicates the notion of IDPs as victims and suggests that there may be an opportunism that residents do not report. Opportunism is connected with the market, the aid industry and, as it concerns women, the sex trade. Indeed, IDP camps are free of taxes, IDP merchants have sidelined the local markets with products from

28 Interview, victim, Alsalam IDP camp, March 27, 2015.

29 Focus group, El Fasher, March 25, 2015.

30 Interview, female lawyer, April 12, 2015.

31 Interview, young woman, El Fasher, March 26, 2015.

the war economy.<sup>32</sup> Takana (2014) reported that results from a recent study on the sex trade in El Fasher counted 300 sex workers, 20% of whom were from IDP camps, 50% were newcomers from rural areas and 30% from El Fasher city. Sex workers said that they felt they had no other options since their parents or husbands had died in the conflict and they had no other marketable skills. IDP camp residents nonetheless say that they have no income “we don’t have work and we don’t know how to deal with urban business”<sup>33</sup>.

It is reported that many girls and women in the IDP camps are subject to sexual abuse from soldiers, police or truck drivers who pay money or buy clothes for them. A woman said “The day before yesterday a girl was raped by the youth around the camp, but for mature women they normally get money either from soldiers or truck drivers, who abuse them,”<sup>34</sup> suggesting that young women are less likely to be coerced into the sex economy than older women. It was reported that local women are also complicit in planned rapes by soldiers and truck drivers.

Locals do not always perceive sexual abuse as a form of rape, especially when a woman takes money in exchange for sex. This highlights the general perception that rape is only a crime if the victim is a virgin. If a woman has already had sex, whether through marriage, rape or otherwise, there is little support in the community for a rape claim. If a woman is not under the supervision of a husband or father, she is more likely perceived as sexually frivolous. In an interview held in Al Salam IDP camp, a widow reported having been raped twice. Her husband was a soldier killed in conflict and she had an arrangement with a policeman who came at night. One time, her neighbor came to the door and saw inside that there was milk, jam, sugar and fruit on the table. Two days after, another man snuck into her house and raped her. And shortly after that episode, it happened again. She cried loudly, but no one went to help her. Her arrangement with the policeman had become known to the community and became a topic of gossip—that this woman exchanged sex for goods. She said:

*I have a relationship with the policeman. He protects me and provides for basic needs for the children. All women who work have to experience sex with men, whether they agreed to have it or not, so it is better to do it with one person and stay at home to take care of my kids. But when men came and saw what was going on, it became an issue of discussion inside the camp. Then some men thought I should be available to them. I can’t ask for help because of what happened, people don’t like me, they don’t visit me. That policeman was taking my kids into account. They never saw me in such a situation, but those men just did it and my kids saw me twice; they just cried. I talked to the policeman but he just left me and doesn’t come back. He doesn’t want to get into any trouble.*<sup>35</sup>

This woman sought to secure the material needs and physical protection for herself and her children by taking up a “relationship”. Can she be classified as a victim in a hopeless economy of despair, where the sex trade is normalized? Without diminishing the insecurity these women live with, which she emphasized in her lack of choices, she made the line clear between choice and abuse. Not all women in her situation sought to tread this thin line by engaging in such a “relationship”, but rather sought to work independently. Such cases challenge the victim / resistor

32 [www.academia.edu/12260858/Zamzam\\_IDP\\_Camp\\_Market\\_Darfur](http://www.academia.edu/12260858/Zamzam_IDP_Camp_Market_Darfur) – accessed May 23, 2015.

33 Focus group, Zamzam IDP camp, March 26, 2015.

34 Focus group, Abushouk IDP camp, March 28, 2015.

35 Interview, El Fasher, March 25, 2015.

dichotomy as well as illustrating the fine line between sexual abuse in exchange for goods and protection vs. sex work for direct cash exchange vs. rape. What was a consensual arrangement, albeit with a clear power differential, was interpreted as prostitution and thus other men felt it legitimate to rape her following the belief that unmarried sexually active women are inherently incapable of choice and resistance.

An even greater degree of sex trade opportunism is institutionalized in El Fasher city at a place called al Mustaba, where women gather looking for work. Men looking for domestic labor come and hire them; according to several interviews, men very often force women into sex. Women rationalize continuing to go to al Mustaba, while knowing full well what the potential implications of this work entails, with the need to feed their children. The following narrative comes from a 45-year-old woman, who cannot work on the tobacco farms because they are too far; she says she needs to be nearer to care for her children:

*I go to al Mustaba to look for work cleaning clothes, twelve pieces for two pounds, then I go to the market and buy food for my children and go home. Once, a man came with his car and picked me up saying he wanted me to clean clothes. I went with him in his car. When I arrived at his house, he gave me soap and some clothes and put me in a room, but no one was in there. He came in behind me and closed the door. I couldn't cry aloud as I was afraid the neighbors would hear me. I tried to stop him but in the end, he laid me on the bed and did it. When he finished, he gave me twenty pounds and told me to go. He didn't even want me to wash clothes. I didn't tell anybody what happened because of the shame. The next time I went to the market, a woman who usually sits at al Mustaba asked me about that. She laughed, she knew; she experienced the same thing.*

*Young ladies go to work at houses, but mostly they don't clean; they sleep with men and take money and they don't talk about it. Nobody knows until the girl gets pregnant, then she speaks. And if she tells the story from the beginning, people say that 'you are the one who went to look for men'. They don't tell what happens because they are afraid they will be kept home and forbidden from going to work. They need money, and they need to help their families.*

*If a woman is married it is not a big problem if she got raped but the problem is those unmarried girls. I didn't go to the hospital. Why should I go? What happened, happened. I'm a married woman and will not bleed. Nothing can happen to me, even if I get pregnant nobody will help me and they will not open a case for me; besides, my husband would never accept that. He would not allow me to go to work, and I need to work to support my children, so I just keep silent. Sometimes you face it [rape] and sometimes you find a wad al halal good man, and sometimes you find those almaael deel 'bad ones'. What we do we have no choice.<sup>36</sup>*

As this latter narrative showed, working women are almost by default considered available to perpetrators. Married women in this sex trade have not only exchanged sex for money, they have exchanged their value as chaste women for their value as mothers, the need to feed their children.

36 Focus group, El Fasher, March 26, 2015.

While this woman narrates a seemingly hopeless situation, emphasizing the lack of choice, she leaves out one aspect of the story—that there is a growing sex trade in El Fasher, where women young and old actively position themselves within this market, knowing full well what it means to go to Al Mustaba. There is, additionally, a blackmarket service for dealing with this sex trade and its consequences, pointing to further ambiguities of gendered agency in the form of opportunism. One woman narrated the following:

*My period didn't come, and I realized I was pregnant. Allah Kashafni! God will show what happened to me. So, I went to a local midwife. People talk about her in the camp, that she helps pregnant girls. I told her that I am pregnant but I have no money to pay. She agreed to help me and told me to come on a certain day to her house. When I arrived, I found a man in the house. The midwife told me to wait there and she would go out for some medicine for the abortion, but she didn't come back for a very long time. When she left the man came closer to me; he wanted to have sex with me. I couldn't say no. I just kept silent looking at him. He said, "What will happen to you? Will you lose your virginity? Will you get pregnant? lie on the bed". I cried a lot, but I said to myself, he is right. I have nothing to lose. So, it is better for me to get rid of the baby and this is the price. Anyway, he had sex with me.<sup>37</sup>*

The midwife, for her part, in another interview, justified this as a way to help women. This was the price of her silence, where the public hospital would incriminate her.

## 6 Conclusion

I have illustrated the ambiguity and complexity that underlie sexual violence—that even in seemingly prototypical moments of victimization, there are agencies that belie such submission and conversely, in moments of overt physical resistance, there may be more nuance than outright rebellious femininity.

These stories complicate both Sudanese Islamic moral discourse and Western human rights ideas about power and agency. Women's rights approaches tend to expect women to resist outwardly, and if they do not resist, they only agree as a form of "false consciousness", meaning they don't fully understand that they are subjugated. Conversely, the local discourse would emphasize that even if a woman fights back, she implicitly consented. What is overlooked by either discourse is that women can negotiate power in subtle and sometimes contradictory ways. Fighting a man before sex empowers her self-respect, her modesty and her femininity in her relationship, whether with her husband or her lover. Letting sexual abuse happen may make other forms of security available to a victim, such as that provided by guardians or those who offer financial protection. This helps to explain why women and girls do not readily scream or later report when rape has happened. They do not dare to risk that others believe they brought this on themselves. Silencing abuse also ensures the stability and coherency of family relationships and community reputations, as well as warding off stigma and shame.

<sup>37</sup> Interview, El Fasher, March 25, 2015.

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Women can become dependent on the financial security that a man can provide, such as the pattern in IDP camps where women exchange sex with soldiers or police in return for goods and money. Not only clear cases of prostitution, but cases of close financial, but also social and psychological security through dependency on male patriarchs, illustrate how women may seek or agree to sexual relationships. It helps to explain cases such as that of Sawsen or Maysoon who were involved in cases of prolonged abuse by trusted and known older men. It also helps to explain why the “victim” narrative does not hold much weight neither in Sudanese hospitals and courts nor with a woman’s private surroundings such as her own mother and father. There is no clear benchmark for women who say “no”. Sex workers are at particularly high risk of rape for this reason. Illicit intentions are always a suspected possibility for anyone but a child.

While some women are strategic in their use of the “victim” narrative, emphasizing the inevitability of their plight, others are decidedly unstrategic, and even incriminate themselves. For example, victims sometimes do not narrate their attack using the Arabic word for rape *ighitiSaab*, but say, “He started having sex with me” or “he was doing sex to me”<sup>38</sup>. These statements indicate that women do not necessarily perceive rape as a violation of their rights and perhaps indexes how many people think about it, not as a criminal act, but an inevitable one. Many victims blame themselves: “It is my fault because my mom told me I should not walk alone outside”; “I will stop going out alone at night and I have to be at home early for the rest of my life. I will never marry because the man would know that I lost my virginity and would never trust me”.

While these ideas about gendered agency are indeed cultural as they now exist as norms among ordinary people, these forms of agency are not rooted in deep essentialisms. I have argued that the recent polarization of positions through Sudanese national and international politics tends to locate agency in opposing terms. This plays out in two ways: Tønnessen (2012) has argued that the present ruling party constructs a neat opposition between the “Islamic model” and the “Western model”, meant to be upheld by the morality of women. “The pious, modern and modest Muslim woman is juxtaposed to the secular, promiscuous and atheist Western woman” (9). Sexual “immorality” in this dichotomy is blamed on Western ideas that influence women, largely introduced through “compassionate” humanitarianism, rather than on a failed Islamic project in creating a moral society.

Both Sudanese institutions and Western-oriented women’s rights’ organizations, who should provide legal deterrents, representation and support services to women operate according to a different register of justice in which norms of feminine agency are defined. As Jaji (2015, 506) has argued for refugee women in Kenya, homogenizing discourses obscure the “continuum of femininities” that are performed. The same argument has been made about development discourse’s narrow view of sexuality (Cornwall, Corrêa, and Jolly 2008). A plurality of agencies does not succeed in getting acknowledged. The consequence of reducing women to resistance or victimization is that the diversity of lived experiences is silenced. Indeed, while the resisting feminine agent may exist in Sudan, such cases were few and limited to an elite minority. An equally limited minority could be classified as “victims”—but the rare case that arrives in court invariably must fit into a “victim” narrative to secure a woman’s access to justice.

38 Interview, victim, Khartoum, March 12, 2015.

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