

The Politicization of Abortion and Hippocratic Disobedience in Islamist Sudan

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Abstract

In Sudan's Islamist state, abortion is politicized through its association with illegal pregnancy. Fornication is a crime against God punishable with 100 lashes, and pregnancy outside a marriage contract constitutes sufficient evidence of a woman's immorality. This enables a strong link between the crime of fornication and the crime of illegal abortion, to the extent that our interviewees often conflate the two in the term "illegal pregnancy." While abortion does not appear in the domestic political debate on women's reproductive and maternal health and is not on the agenda of the national women's movement, it has become politicized in the implementation of the law. A number of bureaucratic barriers, in addition to a strong police presence outside maternity wards in public hospitals, make it difficult for unmarried women to access emergency care after complications of an illegal abortion. These women put themselves at risk of arrest for fornication and illegal abortion. However, many doctors, honoring the Hippocratic oath, disobey state policy and refrain from reporting such crimes to the police to protect unmarried and vulnerable women from prosecution.

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Introduction

Unsafe abortion is one of the leading causes of maternal mortality, and abortion-related maternal deaths are generally higher in countries that restrict women's access to induced abortion.¹ In the Middle East and Northern Africa (MENA) region, only Tunisia and Turkey have legalized abortion on demand during the first trimester.² Most abortion laws in the region are punitive, and legal services are restricted.³ In Sudan's Islamist state, induced abortion is a crime except when performed to save the pregnant woman's life, if the fetus has died in the woman's womb, and in cases of rape.⁴

In this article, we explore the political dynamics driving the criminalization of abortion in Sudan and its effects on women's access to abortion-related care in Khartoum. The criminalization of abortion forms an important part of the Islamist government's restrictive ideological stance on women's sexual and reproductive rights generally. Sudan has not ratified any international or regional conventions protecting women's human rights. Abortion is a particularly sensitive area within maternal health and reproductive rights because it is mediated through the crime of *zina* (sexual intercourse before and outside of marriage). Sudan is unique in the MENA region, for pregnancy among unmarried women is considered sufficient evidence for the crime of *zina* as outlined in the 1991 Criminal Code.⁵ This enables a strong link between the crime of fornication and the crime of illegal abortion, which shapes politicization in peculiar ways. The prevailing sentiment among Sudan's Islamist officials is that the primary purpose of women is to marry and to produce children—and as long as reproduction takes place within marriage, there is no need for abortion except under special circumstances. According to this view, only unmarried women who get pregnant illegally would seek abortion in order to “hide” the evidence of fornication.⁶

The scarce available research on abortion in Sudan suggests that the high rate of unintended pregnancy, combined with the country's restrictive abortion law and social stigma, forces women to seek illegal and unsafe abortion, often in secrecy

from their families.⁷ While women who can afford it are able to access safe illegal abortions in the private market (where they may purchase misoprostol), women with lower socioeconomic status must resort to unsafe illegal abortions, which can often lead to complications and the need to seek emergency care at public hospitals.⁸

Based on original data collected through fieldwork between 2011 and 2019, we have found that although abortion does not appear in the domestic political debate on women's reproductive and maternal health and is not on the agenda of the Sudanese women's movement, it is politicized in the implementation of the law. We understand politicization as the politically contested implementation of a law. Our findings indicate that bureaucratic barriers and policies prevent and deter illegal abortion, which is politically and socially viewed as intrinsically linked to illegal pregnancy. These barriers, which contravene women's human rights to health, dignity, and security, are found primarily in public hospitals, where there is an increased police presence outside maternity and emergency wards. Thus, unmarried women in search of lifesaving treatment find themselves under surveillance the minute they enter a hospital building unaccompanied by a male guardian.

The women who seek emergency medical care because of complications after an illegal abortion are at the mercy of doctors in terms of whether they will be reported to the police. We coined the term “Hippocratic disobedience” to capture the subtle and often hidden ways in which Sudanese doctors disobey state policies to protect a vulnerable group of unmarried women from prosecution. They do so at great personal risk, and often against their own personal beliefs that abortion is *haram* (forbidden) in Islam and that fornication is morally wrong.

Data collection and methods

We conducted a qualitative interview-based study in Sudan's capital. In total, we conducted 37 semi-structured interviews with a variety of stakeholders in 2011, 2013, 2015, 2017, 2018, and 2019. We

selected the initial groups of interviewees based on their stake in sexual and reproductive health and rights. From there, we carefully snowballed by using central gatekeepers with whom we have gained trust. We interviewed international donors, medical doctors and midwives in public and private hospitals and medical universities, women's rights activists, politicians, family and child protection units, journalists, and religious scholars. Thirty-three of the interviews were conducted in person in Khartoum, and four were conducted by email. Twenty-eight of these interviews were conducted in English, and five were conducted in Arabic and later translated into English. We personally conducted all interviews. The interviews varied from half an hour to one and a half hours. Because of the sensitivity of the topic, we did not record the interviews, instead taking elaborate notes. All interviewees gave their oral consent to be interviewed. All interviewees remain anonymous.

The majority of those interviewed are medical doctors who are currently working or have recently worked in public hospitals. The sample of medical doctors is somewhat skewed, as we have been unable to reach the outliers, whether those who perform abortions illegally or those who are adamant about reporting illegal pregnancies to the police.

Most of the data collected for this article was gathered in 2018 and 2019 as part of the project "Political Determinants of Sexual and Reproductive Health: Criminalization, Health Impacts and Game Changers." The project investigates the health effects of criminalizing sexual and reproductive behavior and health services, and analyzes the political dynamics that drive, hamper, and shape the uses of such criminal law in nine African countries, including predominantly Christian sub-Saharan countries (Uganda, Malawi, Ethiopia, Kenya, Mozambique, Zambia, and South Africa) and North African Muslim countries (Sudan and Tunisia). Ethical approval for this research was obtained from the Norwegian Center for Research Data (approval number 60055). All interviews were conducted before the fall of President Omar al-Bashir in April 2019. A peaceful popular uprising,

which started in December 2018 with doctors and other professionals going on strike, ousted Bashir, who had ruled Sudan since a military coup d'état in 1989. Some of his key supporters within the military remain in central positions as Sudan now navigates a transition to civilian government.

The study relies heavily on interview data, but we also triangulate our analysis with other data sources, such as legal texts, government health plans and policies, and media reports.

Women's reproductive rights and policy in Sudan

There has been an intensified focus by Sudan's Islamist government on reducing the country's maternal mortality rate, which is currently estimated at 295 maternal deaths per 100,000 live births.⁹ However, huge urban-rural disparities exist. The emergency obstetric and neonatal care needed to save lives is weak, and the Sudanese health system is persistently underfunded.¹⁰ Sudan experienced a significant reduction in its maternal mortality rate in 2011, when South Sudan separated from the north and became the country with the world's highest maternal mortality rate. Direct obstetric causes contribute to 60% of maternal deaths in Sudan. This high prevalence is associated with many risk factors, including female genital mutilation/cutting (FGM/C), early childbearing, high fertility, and barriers to accessing maternal health services.¹¹

In recent years, women's reproductive health and rights have received heightened attention in government health strategies and action plans as the government struggles to attain the Millennium Development Goal—and the later Sustainable Development Goal—to reduce maternal mortality.¹² In particular, FGM/C (with a prevalence rate of 89%) and child marriage (with a prevalence rate of 34%) have been at the forefront of international aid efforts and the national government's and civil society's reproductive health and rights agendas.¹³

Nonetheless, unsafe abortions and the country's restrictive abortion law have not been part of the public debate on reducing maternal mortality.

Article 135 of the 1991 Criminal Code restricts legal abortion to cases where it is needed to save the woman's life, in cases where the fetus has died in the woman's womb, and in cases of rape occurring fewer than 90 days before the pregnant woman obtains the abortion. The punishment increases from three to five years of imprisonment if the induced abortion takes place after ensoulment.¹⁴ Ensoulment is an Islamic concept whereby the fetus attains personhood, interpreted as 90 days in Sudan's Criminal Code.¹⁵

According to one of the few studies conducted in Khartoum, the majority of the women seeking abortion services (96.7%) come for the treatment of post-abortion complications or after incomplete abortions.¹⁶ The actual extent of unsafe abortions is unknown in Sudan, due in part to the illegality of abortion.¹⁷ However, considering that contraceptive prevalence is low and the unmet need for family planning is high, it is reasonable to conclude that there is a high number of illegal and unsafe abortions.¹⁸ Family planning has been perceived by conservative political and religious actors as undermining women's natural and primary role in reproduction.¹⁹ Traditional methods for self-inducing abortion include drinking herbs, ingesting various drugs and poisons, and inserting objects into the uterus.²⁰ Misoprostol has recently emerged as a safe alternative, but only in selected private hospitals and on the black market (of course at a much higher cost).²¹

The available research suggests that only a small minority of women seek legal abortions, doing so primarily to save the pregnant woman's life.²² Legal abortion after rape is almost impossible to obtain, but emergency contraceptives are distributed by international organizations in conflict areas.²³ Contraceptives (including emergency contraceptives), abortion, and post-abortion care must be administered by a senior doctor, which is a challenge considering the dearth of doctors, especially in conflict-affected and rural areas.²⁴

Sudan's legal restrictions on abortion stem from a set of laws codified by the Islamist regime that are discriminatory toward women. Based on conservative interpretations of Islam, Islamists

have restricted rather than expanded women's reproductive and sexual rights. Sudan is one of the handful of countries in the world that has not ratified the Convention on the Elimination of All Forms of Discrimination against Women, as government officials believe that it fundamentally contradicts with Sharia law. Nor has Sudan ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, which recommends the legalization of abortion. Internationally, the Islamist government has taken an actively restrictive stance on women's right to abortion. Sudan boycotted the International Conference on Population and Development in Cairo in 1994, stating that family planning and abortion are against Sharia law. It harassed Sudanese civil society organizations that participated in the Cairo conference and demanded the closing of UNFPA's Sudan office, which it saw as an agency conspiring against Sudan's population. In the domestic arena, family planning is seldom part of public debates. However, there has been a slight shift since Cairo in the Sudanese government's policy on abortion. The 2010 Reproductive Health Policy addresses the prevention of abortion and unwanted pregnancies, as well as post-abortion care, for the first time. Further, the 2010–2015 *Roadmap for Reducing Maternal and Newborn Death and Mortality in Sudan* acknowledges unsafe abortion as one of the causes of maternal morbidity and mortality. A potentially revolutionary new inclusion in the roadmap was that mid-level providers could administer misoprostol. In a country with a dearth of doctors—particularly in rural areas, where maternal mortality is the highest—this provision could make a huge difference in reducing the number of hemorrhage-related maternal deaths.

Politicization of abortion through *zina*

Abortion is politicized through its association with the crime of *zina*, a concept within Islamic criminal justice that makes sexual intercourse between individuals who are not married to each other punishable. Such sexual intercourse is criminalized in Sudan's 1991 Criminal Code with 100 lashes for

non-married offenders (fornication) and stoning to death for married offenders (adultery). *Zina* is a *hadd* crime (plural *hudud*), meaning that it is regarded as an ordinance of Allah and has fixed punishments derived from Islamic sources. *Hudud* offenses assume a central place in the call for Sharia by Sudanese Islamists, who consider these to be crimes against Islam itself.

Sudan's Criminal Code follows the Maliki school of Islamic jurisprudence, in which the pregnancy of an unmarried woman is considered sufficient evidence of fornication. However, in the other three Sunni schools of law, pregnancy does not constitute proof of *zina*.²⁵ Sudan is thus one of the few Islamic countries (along with Iran, Saudi Arabia, Pakistan, and Afghanistan) to have criminalized *zina* and the only one to consider pregnancy as sufficient proof of the crime by unmarried women.

In Sudan, the introduction of *hudud* was embedded in a larger call for Islamization by the Islamists, who came to power through a military coup in 1989. President Omar al-Bashir and his circle of supporters instigated a process of the comprehensive Islamization of Sudanese law. The criminalization of *zina* was an important symbolic component of building an Islamic nation in which the Muslim family is the building block. The Sudanese regime has made control of women's dress and behavior in public spaces a cornerstone of its 30-year rule. For example, women are legally mandated to wear hijab and to dress and behave "decently" and "morally" in public spaces. According to the regime, these laws and regulations are needed to prevent society from descending into *fitna* (sexual chaos). If women dress or behave inappropriately, they will tempt men into premarital sex. Therefore, ensuring that sexual intercourse takes place only within marriage and imposing a strict legal and social control of women's dress and behavior is the Islamists' recipe for a moral and Islamic society.²⁶

Against this backdrop, abortion has become a means through which to hide the evidence of the crime of fornication or "illegal pregnancy," as this item was labeled by our interviewees. In fact, when asked about illegal abortion, our informants

systematically referred to it as illegal pregnancy. As seen in the testimony below, which was from an interview with an Islamist, the fear of premarital sex is what drives the politicization of abortion:

Although Islam gives more freedom than Christianity on abortion, it cannot be put into the law. If this is put into the law, people will take the decision every day. There is fear that girls will have premarital sex and get pregnant every month. Free abortion is legalization of zina. (interview, 2017)

Illegal pregnancy is a sign of legal and social misconduct; therefore, it is unthinkable that a married woman would seek an abortion, as her main duty is a reproductive one. In the Sudanese context, it is thought that only an unmarried, immoral woman would want an abortion. In the words of Sudanese women's rights activist:

Abortion is a clear indication of misconduct. Added to that, in Muslim communities, having children is regarded as the most noble thing to do, so even the feeling of not wanting a child is a huge mistake. Part of women's value, and in fact the most important part for women, is to be fertile and give birth to as many possible children, and women who even think of having space between deliveries is questioned. A woman's femininity is measured by her ability to give birth to children. (interview, 2017)

According to conservative political and religious elites, if abortion becomes readily available, it would be an incentive for unmarried women to commit immoral crimes ("illegal pregnancies"), and Sudan would descend into moral chaos. This position was demonstrated in a rare public debate on the topic when DKT International and the United Nations Population Fund were allowed to provide training to health care workers on post-abortion care. During 2005–2011, DKT International was the largest nongovernmental provider of reproductive health products and services in Sudan.²⁷ Sudanese medical schools offer little to no training on post-abortion care. Religious conservatives fear that such training and the availability of equipment would encourage "illegal" pregnancies and that abortion would be the means by which women and girls could get away with immorality. A religious scholar at Africa

International University, who has been working as a religious and health advisor to the National Council for Child welfare, summarized it thus:

Islam is clear on abortion, it is haram, but there is legal abortion in case three obstetricians and gynecologists confirmed harm to mother from presence of baby or if the baby is 100% deformed. But abortion outside marriage is not allowed. We cannot solve a crime with a crime. The unmarried girls do not keep moral and get pregnant and many of them just throw their babies in Maigoma orphanage. They do not take responsibility for their mistakes. Any opening to abortion means giving girls the opportunity to have sex as they want ... We are a conservative society, and there should be discipline. (interview, 2019)

The fear that unmarried women will fornicate and use illegal abortion to hide the evidence of their crime therefore drives the government to impose bureaucratic barriers. For example, in Sudan, it is not possible to give birth in a public hospital without first providing a marriage certificate.²⁸ Barriers such as these violate women's right to health.

Bureaucratic barriers

According to the *Roadmap for Reducing Maternal and Newborn Death and Mortality in Sudan*, misoprostol can and should be administered by mid-level health providers. However, this has not been implemented out of fear that midwives would use it for illegal abortion. Strict procedures are in place in order to prevent misuse. Misoprostol is available only in pharmacies in maternity hospitals and must be prescribed by a senior obstetrician-gynecologist with a signature and hospital stamp. Midwives can use it only under supervision. "Why the bureaucratic hurdle? Because midwives help in illegal abortion. So that is why they keep it from them" (interview with obstetrician-gynecologist, 2018).

According to a women's rights activist, misoprostol has not been made available to mid-level health providers because there is a fear it could be used to carry out illegal abortions:

The Roadmap is not implemented. Decision makers are influenced by religious ideas and think that

if midwives accessed the drugs they can use it for aborting unmarried girls and that would spread immorality. They are more concerned with morality than lives of women. (interview, 2019)

Another bureaucratic barrier is Form 8, a one-page reporting document produced by the Ministry of Justice in 1991 to record physical injuries related to criminal acts. The 1991 Criminal Procedure Act requires that victims of violence-related crimes (including illegal abortion) file a police report involving Form 8, which patients must bring in order to receive health care at a public hospital. Without this form, health care providers cannot legally treat the patient, regardless of how critical the patient's condition is.²⁹ In other words, if a woman has sought an illegal abortion and suffers life-threatening complications, she must first retrieve Form 8 at a police station before seeking treatment at a public hospital. Once the health care provider is given the form, the provider proceeds to describe the injury and possible causes, which can later be used in a criminal prosecution of the case.

Although the minister of justice declared in 2016 that health care providers should provide treatment in emergency cases, even if a patient has not obtained Form 8, this directive has not been disseminated to health institutions, and many health care providers and police are unaware of the policy change. This was confirmed in several of our interviews with medical doctors. As a young woman obstetrician said, "I have been working for two years in several hospitals in Khartoum. We have not heard of the announcement from the Ministry of Justice" (interview, 2019). Thus, withholding treatment until the patient presents Form 8 is still common practice.³⁰ Sometimes it is the police officers patrolling maternity wards who insist on it.

One obstetrician-gynecologist recalled a case where the police arrived at a maternity ward in a public hospital in Khartoum and insisted on receiving Form 8 before medical care could be given in an emergency case:

The security said to the doctor that she needed to get Form 8 before she is seen at the emergency room, but the doctor said that this can wait. However, he

threatened the doctor and said that if she escapes then this is his responsibility. So the doctor said to the police that if she died then this is his responsibility because he delayed her treatment. (interview, 2018)

According to the health workers we interviewed, however, women are more likely to be arrested for illegal pregnancy than for illegal abortion. One doctor who also teaches at a medical school told us, “Punishment for illegal abortion is not so common for women. However, for midwives and doctors there is a high risk of arrest” (interview, 2018). Although abortion is not part of the public political discourse, the arrest of doctors and midwives for performing illegal abortion sometimes spills out into the media. One well-known case is that of Abdulhadi Ibrahim, who was jailed for providing illegal abortions. The court found him guilty of failing to report to authorities that he was treating unmarried pregnant women.³¹ In a more recent case, the Sudanese media reported that the police uncovered an illegal abortion clinic after arresting a group of prostitutes, one of whom was in critical condition due to complications after an illegal abortion. After the police interrogated the woman, she led them to the illegal clinic.³²

Policing maternity wards

To enter a maternity ward, one must go through a gate guarded by police officers; once inside the facility, police officers operate in plain clothes. According to our interviewees, the police presence at public hospitals is higher than at other health clinics and hospitals. Any woman who comes to the hospital alone is suspected of an illegal pregnancy. One obstetrician-gynecologist at a public hospital in Khartoum described it thus: “Are you married? Where is your husband? If you enter a maternity ward alone, you are a suspect” (interview, 2018).

If a woman is suspected of an illegal pregnancy, the police question her while at the hospital, sometimes even while she receives medical care: “One time during an emergency C-section, the police showed up in the operating hall, asking where her husband is, because they thought it was an illegal pregnancy” (interview with an obstetrician-gyne-

cologist, 2018). Another obstetrician-gynecologist recalled a case where the police were so eager to arrest a woman for an illegal pregnancy that they handcuffed her during childbirth:

Security staff and police treat women badly, as if they are the judges, even before presenting her case to the legal system. One time, a woman pregnant with twins was kept handcuffed the whole time, and she was discharged directly to the prison because of illegal pregnancy. (interview, 2018)

This intrusive police presence at public hospitals can make it difficult for doctors to provide medical care with dignity and integrity to patients suffering complications after an illegal abortion.

Abortion, while not frequent in the public discourse, is politicized through its association with illegal pregnancy, a crime against God under Sharia law. Therefore, illegal abortion—a means through which women who have committed the crime of *zina* can be discovered—is strictly policed.

Hippocratic disobedience

Whether a woman with an illegal pregnancy is reported to the police depends on the ideological view of the doctor. In other words, it is a matter of luck. A women’s rights activist put it like this:

The treatment of the women seeking this care is highly dependent on the medical practitioner’s morals. Some adhere to the professional ethics and provide the care without violating the privacy and secrecy principle, and some work like informers to the police because of their obligation to the religion and society. (interview, 2015)

Most of our interviewees stated that they would not report a woman to the police. In other words, they would disregard Form 8 and treat the case as a miscarriage, without disclosing that the woman is unmarried.

However, our sample is skewed toward younger female obstetrician-gynecologists—we were unable to reach either the most conservative doctors likely to report to the police or the most liberal who would perform illegal safe abortions. The

doctors we interviewed find the strong police presence and control at hospitals highly inappropriate, as it encourages the disproportionate punishment of vulnerable patients. In our interviews, they described how they subvert this police presence because they feel that reporting patients to authorities contradicts their Hippocratic oath. Moreover, the medical ethics guidelines issued by Sudan's Medical Council in 2013 stipulate that doctors are not legally obliged to report illegal pregnancy, concealed birth, or illegal abortion unless it results in death.

We identified two ways that doctors disobeyed the Islamist government policy toward medical care of patients with illegal pregnancy/ illegal abortion: not filling out Form 8 and advising patients to lie or lying on their behalf to distract the police

Not filling out Form 8

In criminal cases, doctors are supposed to fill out Form 8 and report the case to the police. However, most of the doctors we interviewed reported that they did not comply with this policy. One of the crucial questions in determining whether a pregnancy is illegal is assessing whether the patient is married. As stated previously, pregnancy outside marriage is evidence of the crime of fornication. In the words of one obstetrician-gynecologist, "Most doctors take a neutral position to whether the patient is married or not married. They will do their duty and save her life regardless. I had a case, but I did not report it to the police" (interview, 2018). Another doctor and lecturer at a medical university in Khartoum said in a similar vein:

I have never reported ... I teach students that if they discover an illegal abortion that they should take absolute care and not report it ... Ethically you have to treat people without stigma ... I tell my students to ignore Form 8. (interview, 2018)

This means that the case is registered in hospital files as a complication due to miscarriage rather than a complication due to unsafe abortion.

Advising patients to lie or lying on their behalf

When women enter maternal wards alone, they are

a suspect in the eyes of the police. In such cases, as described above, the police sometimes interfere with the patient's medical treatment by questioning or handcuffing the woman. According to our interviewees, one of the strategies used by doctors to evade the attention of the police is to lie on the patient's behalf or encourage her to lie when asked about her marital status, such as by saying that her husband is working abroad. One obstetrician-gynecologist recalled a case:

A young lady came in. She was illegally pregnant. The police came and said she was illegally pregnant. I lied and said her husband was in Saudi Arabia. I stayed with her until morning to make sure they did not come back to arrest her ... I never reported to the police. Most doctors do not report. They do not want to feel guilty for the girl. I do not believe in killing a baby, but ... there is strong agreement among doctors that abortion is haram. (interview, 2018)

In protecting these women from prosecution for illegal pregnancies, doctors run their own risk of being arrested. In the words of one general physician, "It is illegal and it can end your career" (interview, 2018). They do this despite their own personal beliefs that illegal pregnancy is morally wrong. This is well illustrated by the observation of one obstetrician-gynecologist we interviewed:

I personally will not induce abortion for a case of adultery because of moral reasons, but if she came with incomplete abortion I can complete it ... I remember that a 23-year-old girl came to the maternity hospital to buy misoprostol at whatever cost but we said that we can't give it to her. And then she came with incomplete abortion because she went to a midwife ... This is not my business to judge the patients, quite the opposite, those cases need counseling. Even the legal system shouldn't punish her for that. The patient who came to me to get misoprostol and she came later with incomplete abortion, my feeling at that time was that I was sorry for her and I never felt that she should be punished. That was because she will be punished enough by the psychological impact of her doings and the stigma of losing her virginity. (interview, 2018)

The belief that illegal pregnancy is morally wrong and illegal abortion is against Islam was prominent

among the doctors we interviewed. But through their actions, the doctors object to the Islamist state's disproportionate and unfair punishment of predominantly young, unmarried, and vulnerable women and the state's obstruction of dignified care without prejudice. In the words of an obstetrician-gynecologist, "the role of health workers is not to judge the patient" (interview, 2018). Doctors are bound by the medical oath, which states that they must provide equal medical care for everyone, whether virtuous or a sinner, a friend or an enemy, rich or poor, and regardless of race or religion.³³ When treating an unmarried woman suffering complications after an illegal abortion, doctors' ethical commitment toward the patient trumps compliance with what is perceived as unjust and disproportionate punishment.

The stigma of losing one's virginity before marriage is regarded as a sufficient punishment that carries "implications for the rest of the girl's life" (interview with obstetrician-gynecologist, 2018), especially because it reduces the possibility of a good marriage, which in the Sudanese context is an important symbol of a family's good reputation and honor. Therefore, the punishment of 100 lashes for the crime of fornication is often viewed as disproportionate. It is also considered unfair that the punishment applies only to women, not men. As one doctor stated, "The blame is put on the women only. Nobody is talking about the man" (interview, 2018).

We have coined the term "Hippocratic disobedience" to capture the way in which Sudanese doctors disobey state policies to protect patients from prosecution. Inspired by Ronald Dworkin's different types of civil disobedience and Robert Macauley's notion of "Hippocratic underground," the concept of Hippocratic disobedience consists of refusing to do something that the law requires a person to do on political-moral grounds and with the aim of protecting a vulnerable group.³⁴ We base this idea on two streams of literature.

The first of these is the literature on conscientious objection, which defines such objection as "the refusal to participate in an activity that an individual considers incompatible with his/her religious, moral, philosophical, or ethical beliefs."³⁵

The literature focuses on whether conscientious objection hinders women's rights and access to abortion in both liberal and restrictive legal contexts.³⁶ What we have described in Sudan cannot be captured by this concept, as doctors are providing care *despite* their personal religious-moral belief that abortion is wrong. However, the acts of the doctors interviewed for this study do share some traits with conscientious objectors in that they do not necessarily try to publicize their actions or their reasons for breaking the law. In other words, the disobedience of the doctors we interviewed is hidden to the public. It also consists of individual acts in a doctor's everyday professional life rather than a collective or organized effort. As such, the disobedience is not necessarily linked to a resistance against the system as a whole or to the cause to liberalize the abortion law.

The second stream of literature that influences our idea is that regarding civil disobedience, given that the acts described above go beyond "objection": doctors refuse to follow policies and protocols to report women to the police, an act better described as disobedience. Like conscientious objection, civil disobedience is motivated by sincere views about what is morally right. Civil disobedience is defined by John Rawls as "a public, nonviolent, conscientious, yet political act contrary to law usually done with the aim of bringing about the change in the law or policies of the government."³⁷ According to James Childress, it is driven by moral-political grounds, in contrast to conscientious objection, which is driven by personal-moral or religious-moral grounds.³⁸ The concept of civil disobedience is restricted to acts that are political—and in the field of medicine, it has historically related to support for vulnerable groups.³⁹ In this case, the disobedience is related to the state's disproportionate and unfair punishment for women who are already in a vulnerable position. Against the backdrop of an authoritarian and Islamist state, the disobedience displayed by Sudanese doctors is, however, not public.

Transformative potential?

There has been no legal mobilization, whether by

health workers or the women's movement, to liberalize the right to abortion in Sudan. Unsafe abortion is at the bottom of the list of priorities in terms of reducing the country's maternal mortality rate.

There are several reasons for this lack of mobilization. The first relates to the *fear of double backlash*, from both the authoritarian Islamic state and from the country's conservative society.

Abortion (except to save the woman's life) is widely recognized as going against Islamic doctrine. However, there are multiple interpretations in Islamic jurisprudence as to under what circumstances women can induce abortion and as to when ensoulment occurs.⁴⁰ It is the association with *zina* and pregnancy outside marriage that makes it almost impossible to mobilize for legalization in Sudan, for questioning the religious doctrine upon which the *hadd* crime of *zina* is based means risking being accused of challenging Islam itself, which could lead to accusations of being an apostate (a crime punishable with death in Sudan). In addition, the state goes to great lengths to make sure that interest groups do not work on sensitive topics such as abortion. Empowered by the 2006 Voluntary and Humanitarian Work Act, the government can (and does) impose severe restrictions on the work of national and international nongovernmental organizations. The political space for advocacy on abortion is therefore largely non-existent, and as far as we know, there are only two groups that work on sexual and reproductive rights beyond a focus on FGM/C and child marriage—and they do this work under a low profile. In the words of a women's rights activist, "The security may not allow NGOs to work on reproductive rights issues" (interview, 2019).

The women's rights activists we interviewed pointed to a fear of stigma and backlash from the community if they mobilize for the liberalization of abortion. Abortion is a taboo topic and popularly believed to be equivalent to infanticide, which is also the terminology often used by pro-life movements in the West. As noted by one activist:

People do not feel sympathetic to a decision that they perceive as killing a child. They blame the woman ... They refer to a Quranic verse that condemns and

prohibits infanticide and that you should rely on God to take care of the child. (interview, 2017)

The victim is therefore the fetus, and not the woman or girl who has become pregnant unintentionally. Although FGM/C was an equally taboo topic a decade ago, women's rights activists interviewed claim that it is easier to put this violent and harmful act in which the girl child has no say on the agenda because "in FGM/C, the girls are victims" (interview, 2017). Therefore, advocacy against FGM/C is related to children's rights. Abortion, on the other hand, relates to a woman's right to make decisions concerning her body, including how many children she wants—if any—and when she wants them.

In sum, were the women's movement to advocate for abortion liberalization, it would face backlash not only from the Islamist state but also from the community at large. One activist summed it up thus:

It is a very sensitive subject and linked to religion in a state like Sudan. Sudan boycotted the Population Conference of 1994 for reasons linked to religion. Family planning and abortion is among these reasons. Therefore, it was difficult for the feminist movement to address the issue of abortion; even the community itself would not accept it. (interview, 2019)

The second reason relates to *conservative attitudes among women's rights activists and doctors*. Younger women's rights activists support a liberalization of the abortion law and place it within the context of sexual rights and freedoms. However, the extent to which the topic is debated is in closed groups on social media, like Whatsapp. The majority of our interviewees (including doctors and activists alike) regard it as morally and religiously wrong. The women's movement is therefore divided on whether the liberalization of abortion is a just cause. Conservative attitudes are predominantly framed within religion and social values connected to the institution of marriage. One activist said:

Extending the circumstances for legal abortion is a problem. Allowing for abortion means approving

socially immoral and un-Islamic relations and this affects young women opportunities for marriage. (interview, 2019)

It is interesting to note that conservative attitudes go across Islamic-secular divides. In the words of an activist:

I know that abortion is made illegal by Islamic laws ... Some progressive young activists are for sexual freedoms and rights, but as a Marxist I think that we must be careful so that freedoms may not lead to commoditization of our bodies, or to prostitution. (interview, 2019)

While most of those interviewed oppose a complete decriminalization of abortion, they are open to expanding the circumstances under which abortion is permitted, such as in cases of fetal deformity. It was also clear from our interviews that rape is often regarded as a circumstance in which abortion is allowed. However, interviewees also expressed that this right is limited to emergency contraception in conflict zones. Surprisingly, most of the women's rights activists and obstetrician-gynecologists we interviewed did not know that abortion after rape is allowed within 90 days. One women's rights activist who works at a trauma center for victims of sexual violence said:

This is the first time I know of such a law giving the right of abortion after rape. The question that came to my mind is why there are ... thousands of children with unknown fathers [as a result of rape]. (interview, 2019)

This is despite the fact that sexual violence has emerged as a top priority in the legal reform agenda of the women's movement. The focus of women's rights activists has been to provide better legal protection for rape victims, something that culminated in a legal reform in February 2015.⁴¹

It is clear that in their aims to reduce maternal mortality and strengthen women's reproductive rights, interest groups prefer not to address the issue of unsafe abortion. Maybe they are justified in their focus on abandoning FGM/C and child mar-

riage, as these harmful practices are widespread in Sudan. The perhaps unintended consequence of Hippocratic disobedience is that we do not know the magnitude of unsafe abortion and the negative effect that it has on the country's maternal mortality rate. Given that doctors' Hippocratic disobedience means that unsafe abortions are not officially registered, they remain hidden in official statistics.

Conclusion

Women's access to abortion in Sudan is politicized due to its association with *zina*. When treating unmarried women suffering complications after illegal and unsafe abortions, doctors are forced to maneuver between their commitment to medical ethics and their compliance with government laws and policies. Our findings suggest that these practitioners, in various ways, are subverting state law and policy through what we term "Hippocratic disobedience": protecting a vulnerable group of women from prosecution to give them dignified care without prejudice. Although these doctors personally believe that abortion is forbidden in Islam, they object to the Islamist state's disproportionate and unfair punishment of predominantly young, unmarried, and socioeconomically vulnerable women.

Meanwhile, women's rights activists have not been mobilizing for the legalization of abortion due to the restrictive context of an Islamist state that exercises strict control over and suspicion of women's sexuality. As Sudan transitions from the Islamist-military regime of Omar al-Bashir to a civilian government, there may be new political space for a public debate and greater potential for the advancement of women's reproductive and sexual rights. A sovereign council consisting of both military and civilian actors will rule Sudan for three years, after which free and fair elections will be held. The military council and the coalition representing peaceful protesters have agreed on a new constitutional declaration that enables reform of Sudan's gender discriminatory laws. According to the constitutional declaration, one of the pri-

mary aims of the transitional government will be to “conduct legal reforms that guarantee women’s rights, by repealing all laws that discriminate against women, and protect the rights.”⁴²

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