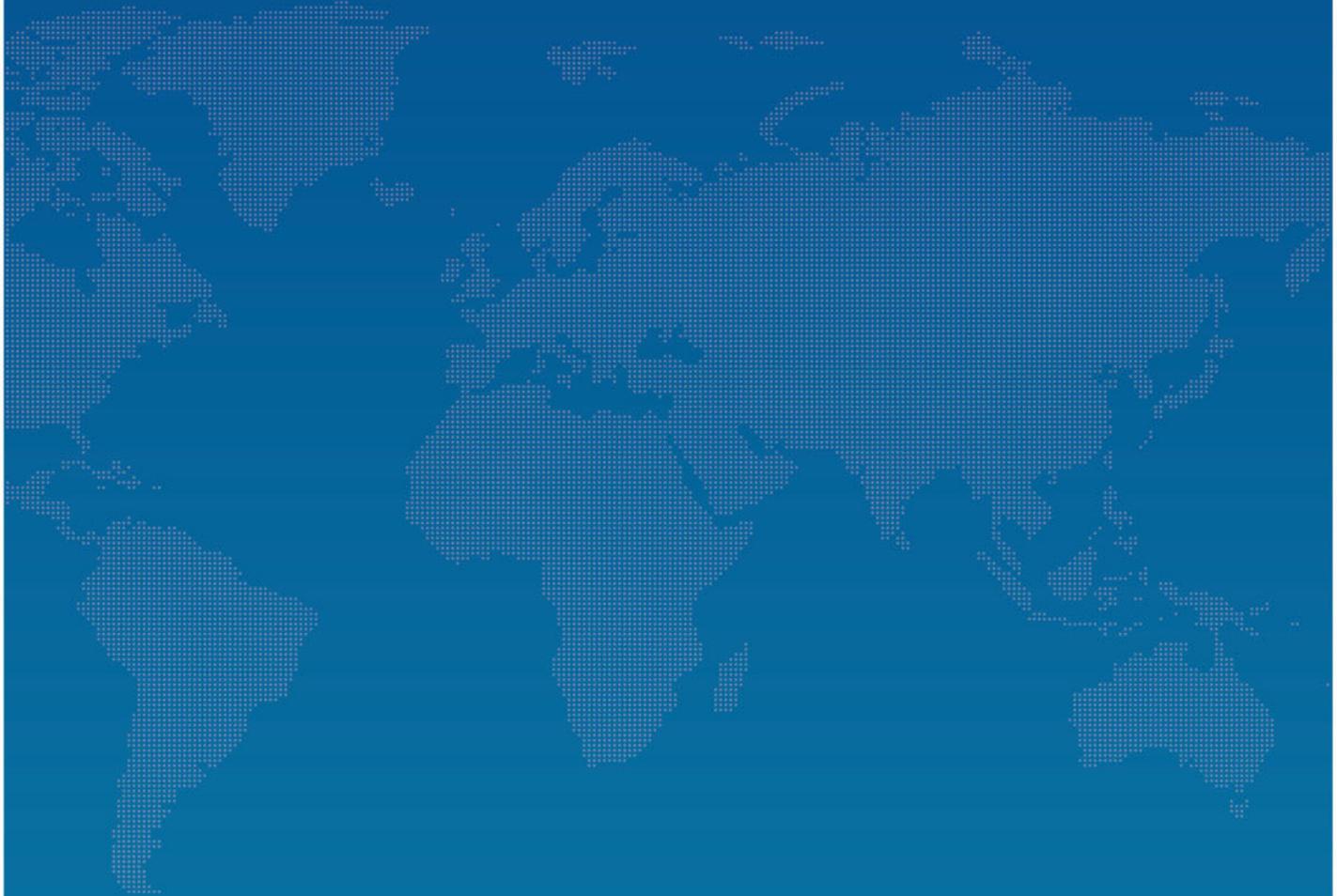




Australian Government  
Department of Foreign Affairs and Trade



# DFAT Country Information Report

Sudan

27 April 2016

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# Acronyms

ACJPS	African Centre for Peace and Justice Studies
CPA	Comprehensive Peace Agreement
FGM	Female Genital Mutilation
HAC	Humanitarian Aid Commission
ICC	International Criminal Court
JEM	Justice and Equality Movement
LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersex
NCP	National Congress Party
NISS	National Intelligence and Security Service
RSF	Rapid Support Forces
SLM	Sudan Liberation Movement
SNHRC	Sudan National Human Rights Commission
SPLA	Sudan People's Liberation Army
SPLM	Sudan People's Liberation Movement
UNAMID	African Union / UN Hybrid Operation in Darfur

# 1. Purpose and Scope

- 1.1 This Country Information Report has been prepared by the Department of Foreign Affairs and Trade (DFAT) for protection status determination purposes only. It provides DFAT's best judgment and assessment at time of writing and is distinct from Australian Government policy with respect to Sudan.
- 1.2 The report provides a general, rather than an exhaustive country overview. It has been prepared with regard to the current caseload for decision makers in Australia without reference to individual protection status determinations. The report does not contain policy guidance for decision makers.
- 1.3 Ministerial Direction Number 56 of 21 June 2013 under s 499 of the *Migration Act 1958* states that:

Where the Department of Foreign Affairs and Trade has prepared a country information assessment expressly for protection status determination processes, and that assessment is available to the decision maker, the decision maker must take into account that assessment, where relevant, in making their decision. The decision maker is not precluded from considering other relevant information about the country.
- 1.4 This report is based on DFAT's on-the-ground knowledge and discussions with a range of sources in Sudan and other parts of Africa, including the UN, civil society organisations and representatives from the international community. It takes into account relevant and credible open source reports from the African Centre for Peace and Justice Studies, Amnesty International, Food and Agricultural Organisation, Human Rights Watch, International Crisis Group, UN Development Programme, UN Office for the Coordination of Humanitarian Affairs, UN Office of the High Commissioner for Human Rights and US Department of State, as well as credible news reports. Where DFAT does not refer to a specific source of a report or allegation, this may be to protect the source.

## 2. Background Information

### Recent History

- 2.1 Since gaining independence from the United Kingdom and Egypt in 1956, Sudan has experienced a number of protracted conflicts. Conflict in Sudan has been exacerbated by the intricacies of hundreds of different ethnic and sub-ethnic groups which are often simplistically categorised as Arabs and non-Arabs (or Africans).
- 2.2 Sudan's First Civil War (1955 – 1972) and Second Civil War (1983 – 2005) were rooted in the North's economic, political and social domination of the South and led to the deaths of more than 1.5 million people. In 1972, the Addis Ababa Agreement on the Problem of South Sudan established the Southern Sudanese Autonomous Region, ending the First Civil War and leading to a period of relative stability. In 1983, the Southern Sudanese Autonomous Region was abolished by the then President of Sudan, Gaafar Nimeiry, sparking the Second Civil War.
- 2.3 The 2002 Machakos Protocol between the Government and its main opposition, the Sudan People's Liberation Movement (SPLM) / Sudan People's Liberation Army (SPLA), outlined the process for negotiations that culminated in the 2005 Comprehensive Peace Agreement (CPA), ending the Second Civil War. The CPA included a commitment to hold a referendum on the sovereignty of the southern provinces, which occurred in 2011. Following the referendum South Sudan seceded from Sudan.
- 2.4 The CPA also included a commitment to hold a referendum on whether the Abyei region should be in Sudan or South Sudan and to conduct popular consultations on the future of Blue Nile and South Kordofan. This commitment has not been implemented. Conflict, particularly in Blue Nile and South Kordofan, continues.
- 2.5 Since the mid-1980s, the Darfur region has experienced a number of armed conflicts. Conflict in Darfur has been influenced by historical factors such as Darfur's relative loss of autonomy following the annexation of Darfur into Sudan by the United Kingdom in 1916, as well as successive Governments' perceived neglect of the region. The International Criminal Court (ICC) has issued two warrants for the arrest of the current President, Omar Hassan Ahmad Al Bashir, after finding that he masterminded and implemented a plan to destroy a substantial part of the Fur, Masalit and Zaghawa people on account of their ethnicity. The ICC has accused al-Bashir of five counts of crimes against humanity, two counts of war crimes and three counts of genocide.
- 2.6 The humanitarian situation remains bleak with over three million internally displaced people in Sudan and over 600,000 Sudanese refugees in neighbouring countries. Compounding the situation, Sudan has an estimated 375,000 refugees from Ethiopia, Eritrea, Chad, the Central African Republic and South Sudan (arrivals of which have grown given the continued instability within South Sudan).

### Demography

- 2.7 Sudan is the third largest country on the African continent, spanning almost 1.9 million square kilometres and sharing borders with Egypt, Eritrea, Ethiopia, the Central African Republic, Chad, Libya and South Sudan, as well as the Red Sea.
- 2.8 Sudan has an estimated population of 35.5 million people, with an annual growth rate of 1.72 per cent. There are over five million people in Khartoum and 66 per cent of people still live in rural areas.

- 2.9 While there has been no accurate demographic data collected since Sudan's independence, Sudan is home to hundreds of ethnic and sub-ethnic groups, speaking a multitude of languages. Arabic is the dominant and official language and sources suggest that Arabs account for 70 per cent of the population. Historically, Arabs have been clustered into two large groupings – the Ja'aliyiin and Juhaynah. The Ja'aliyiin are predominantly agriculturalists located close to the Nile River from Dongola to Khartoum. The current President belongs to the Ja'aliyiin sub-tribe Al-Bedairya Al-Dahmashya. The Juhaynah are nomadic, herding livestock across Sudan. Major sub-tribes associated with the Juhaynah include the Baggara, located mainly in the Darfur and Kordofan regions, and the Kabbabish, located predominantly between Darfur and Dongola.
- 2.10 Prominent non-Arab groups include the Nubians, who live along the Nile River in northern Sudan, the Beja who reside in eastern Sudan, the Fellata located mainly in Gezira, the Nuba (a collective term for the different tribal groups inhabiting the Nuba Mountains) in South Kordofan and the Fur, Massalit and Zaghawa located in the Darfur region.
- 2.11 Ninety-seven per cent of the population are estimated to be Muslim, with the overwhelming majority Sunni. The small Christian population is mainly a mix of Coptic and Greek Orthodox Christians.

## Economic Overview

- 2.12 From the late 1990s until South Sudan's independence in 2011, Sudan's economy boomed on the back of rising oil production, high oil prices and increasing foreign investment. The secession of South Sudan (where approximately 75 per cent of oil production was located) as well as ongoing internal conflict has had a negative impact on Sudan's formal economy, including a significant increase in inflation. The impact on the informal economy, which accounts for 60 per cent of Sudan's GDP, is less clear.
- 2.13 The World Bank reported in April 2014 that half of Sudan's population was living below the poverty line. The Government continues to provide subsidies for wheat, fuel, electricity and water, and attempts to review the provision of these subsidies have at times been met with unrest.
- 2.14 Sudan's economy is showing some signs of improvement, with estimated annual real GDP growth of 2.5 per cent in 2015. Sudan has an estimated GDP of USD84.3 billion and an average per capita income of USD2,194. While susceptible to drought and climatic changes, agriculture remains Sudan's biggest sector. Sudan is also rich in natural resources and, according to Government figures, is now the second largest gold producer in Africa, with gold the largest single source of Sudan's foreign currency.
- 2.15 Sudan is subject to comprehensive international sanctions. These include restrictions imposed by the UN Security Council on the export and supply of goods, services and technical assistance, particularly arms or related materiel, as well as targeted financial sanctions and travel bans. The US has also imposed a range of additional sanctions which have had a negative impact on the Sudanese economy, particularly in the areas of mining, chemical and pharmaceutical production, transportation and engineering. While the US lifted some sanctions in early 2015, the remaining international sanctions and the complexity and difficulty in repatriating profits continue to limit access for foreign investment.
- 2.16 Corruption significantly affects Sudan's economic performance – Sudan ranked 165<sup>th</sup> out of 168 countries on Transparency International's Corruption Perceptions Index in 2015, suggesting an extremely high level of corruption.
- 2.17 Overall, DFAT considers that low levels of economic opportunity may act as a push factor for external migration, particularly for individuals from areas that are considered relatively stable, such as Khartoum. The poor humanitarian situation and the promise of safety outside Sudan may also be a contributing factor, particularly for individuals from conflict-affected areas.

## Health

- 2.18 The 2005 Interim National Constitution states that the Government is responsible for the provision of universal and free-of-charge basic health care. However, a lack of capacity and resources means that Sudanese overall have poor access to health care and poor health outcomes, particularly outside major urban centres.

2.19 Sudan ranks 167<sup>th</sup> out of a total of 187 countries on UNDP's 2015 Human Development Index with an average life expectancy at birth of 61 years for males and 65 years for females. Sudan spent just USD221 per person on health care in 2013 (compared to Australia's expenditure of USD4,191 per person).

2.20 Sudan faces high levels of chronic and acute malnutrition, with an estimated 4.2 million food insecure people in Sudan. Seven of Sudan's 18 states are considered to be subject to acute malnutrition. Malaria is the leading cause of morbidity and mortality, accounting for 11 per cent of hospital admissions. Rates of maternal, infant and child mortality have decreased since the mid-1990s, but remain high with significant discrepancies between urban and rural areas.

## Education

2.21 The 2005 Interim National Constitution states that the Government will promote education at all levels and will ensure free and compulsory education at the primary level. However, individuals are responsible for covering out-of-pocket expenses such as contributions towards text books, examination fees, school uniforms and, in some circumstances, the salaries of teachers.

2.22 According to the UN Development Program, sixty-seven per cent of children aged between six and 13 years old are enrolled in primary school in Sudan, and only 22 per cent of children aged between 14 and 16 years old are enrolled in secondary school. There are significant discrepancies between enrolment rates in urban and rural areas with the highest rates of enrolment in Khartoum, and the lowest rates in Kassala, Western Darfur and South Kordofan.

2.23 Only 62 per cent of individuals above 15 years old are literate and, as with enrolment rates, there are discrepancies between the literacy rates in urban and rural areas. There are also significant variances between men and women, with 73 per cent of the male population being considered literate compared to 52 per cent of the female population.

## Employment

2.24 Sudan's official unemployment rate in 2011 was 12.03 per cent. The International Monetary Fund estimates that the unemployment rate grew to 15.2 per cent in 2013, before dropping to 13.3 per cent in 2015. Women are substantially underrepresented in the formal economy compared to men. Agriculture is the dominant industry, representing a third of the economy and employing 80 per cent of the population. Lack of irrigation and transportation continue to constrain the growth of Sudan's agricultural sector. Employment in the informal sector is common, with the informal sector accounting for an estimated 60 per cent of GDP.

## Political System

2.25 Sudan continues to operate under the 2005 Interim National Constitution of the CPA, which has not been updated to reflect South Sudan's secession. Sudan has a bicameral parliament consisting of a Council of States with two representatives from each State Assembly and a National Assembly with 354 members, including 128 women.

2.26 The Government is dominated by the National Congress Party (NCP) which is an Islamist party and an offshoot of the pan-Arab Muslim Brotherhood. The NCP seized power in 1989 following a successful coup against Sadiq al-Mahdi's coalition government. Bashir was sworn in as President in 1993 and was most recently re-elected in 2015 in the first elections held since South Sudan's secession. The African Union Election Observation Mission found that the legal framework and capacity of the National Electoral Commission were conducive to democratic elections. However, Government figures put turnout at 46 per cent and the African Union Election Observation Mission raised concerns over the increased powers of the National Intelligence and Security Service (NISS), the quality of the voter registration process and the lack of clarity surrounding the delineation of constituency boundaries.

2.27 The Political Parties Advisory Council oversees the registration of political parties, but is not considered independent given its close links to the NCP. The US Department of State's 2015 Human Rights Report states that at the end of 2015, 79 political parties were registered, but that this did not include some high profile political parties (such as the Umma Party and Democratic Unionist Party). In addition, it did not include the armed opposition who are predominantly rebel groups

located in Darfur, South Kordofan and Blue Nile aligned under the banner of the Sudan Revolutionary Front (see 'Armed Opposition).

2.28 In January 2014, Bashir announced that a National Dialogue would be held aimed at engaging all parties in a discussion about democratic reform. The announcement was met with scepticism by the unarmed opposition (a collective term used to refer to opposition parties who are not actively involved in conflict activities) and the armed opposition who claimed that the Government needed to demonstrate its commitment to working with them before a successful National Dialogue could be held. The National Dialogue began on 10 October 2015, with participation from some opposition parties, including the Popular Congress Party. It featured debates on Sudanese identity, human rights, the economy, governance and foreign relations. However, participation by the unarmed opposition and armed opposition has been limited. Informal pre-National Dialogue talks mediated by the African Union between the Government and Sudan Revolutionary Front continue.

## Human Rights Framework

2.29 The 2005 Interim National Constitution states that the State is committed to the respect and promotion of human dignity and is founded on justice, equality and the advancement of human rights and fundamental freedoms. The Sudan National Human Rights Commission (SNHRC) was established in 2012 and, in accordance with the 2005 Interim National Constitution, consists of 15 independent, competent non-partisan and impartial members.

2.30 Sudan has ratified a number of international human rights conventions including the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of People with Disabilities and the Convention on the Rights of the Child. Sudan has also ratified seven of the eight conventions identified as fundamental by the International Labour Organization. Sudan has not ratified the eighth – the Freedom of Association and Protection of the Right to Organise Convention.

2.31 The Government has adopted relevant legislation and policies aimed at improving the human rights situation in Sudan. However, the Independent Expert for the Human Rights Situation in Sudan has assessed that the effective and practical implementation of these commitments has not occurred.

## Security Situation

2.32 Conflict continues in Darfur as well as South Kordofan and Blue Nile (often referred to as the 'Two Areas'). The contested region of Abyei is relatively stable, due to the internal preoccupations of both Sudan and South Sudan and successful interventions by the UN Interim Security Force for Abyei. While other areas of Sudan have historically experienced instability, DFAT assesses that the current situation outside of conflict-affected areas (including Khartoum) is relatively stable. This is despite general lawlessness and possible violence throughout Sudan, likely attributable to the proliferation of weapons and the deteriorating humanitarian situation, including increased food insecurity. A further complicating factor is the current conflict in South Sudan, which has resulted in over 220,000 South Sudanese fleeing to safety in Sudan, including eastern areas of Darfur.

## Darfur

2.33 Beginning in 1987, three successive armed conflicts occurred in Darfur, mainly between the Government (and associated militias, often referred to as the Janjaweed, who were armed by the Government) and rebel groups linked to the Fur, Massalit and Zaghawa tribes such as the Justice and Equality Movement (JEM) and Sudan Liberation Movement (SLM), which has two factions – the SLM-Minnawi and the SLM-al-Nur.

2.34 The most serious conflict, known as the 'Third Rebellion', started in 2003 and led to Bashir's indictment to the ICC caused an estimated 298,000 deaths, 80 per cent due to disease and malnutrition and 20 per cent as a direct result of violence. In response, the African Union / UN Hybrid Operation in Darfur (UNAMID), the largest peacekeeping mission in the world, was established on 31 July 2007 with the protection of civilians as its core mandate.

- 2.35 The intensity of the formal conflict in Darfur has diminished since its peak from late-2003 to mid-2004. However, conflict continues in the region, with counter-insurgency military operations led by the Government, aimed at decreasing the capability of the armed opposition. In mid-2013, the Rapid Support Forces (RSF) were formed, reportedly under the command of the NISS in order to defeat the armed opposition in Darfur. Human Rights Watch reports that the RSF led two counter-insurgency campaigns in 2014 and 2015 during which time its forces repeatedly attacked villages, burned and looted homes and beat, raped and executed civilians. The RSF received both aerial and ground support from the Sudanese Armed Forces and other Government-linked militias, such as the Janjaweed. The Report of the Secretary-General to the UN Security Council on Conflict-Related Sexual Violence notes that conflict-related sexual violence remains a dominant feature of the conflict in Darfur.
- 2.36 DFAT contacts report that the current conflict is most acute in Jebel Marra located in central Darfur, with significant ongoing displacement as a result. The SLM-al-Nur has controlled areas of Jebel Marra since the outbreak of the Third Rebellion. The UN Office for the Coordination of Humanitarian Affairs estimates that between mid-January 2016 and mid-February 2016, more than 100,000 people in the Jebel Marra area were displaced as a result of the increased hostilities between the SLM-al-Nur and the Government. Outside Jebel Marra, DFAT contacts report that armed conflict between the Government and armed opposition has dissipated but there has been an increase in incidents of violence between competing Arab tribes, exacerbated by the proliferation of weapons in Darfur. The humanitarian situation remains dire, with an estimated 2.5 million internally displaced people in Darfur, including 200,000 people who have been displaced since January 2015.

### 'Two Areas' – South Kordofan and Blue Nile

- 2.37 The CPA included vague references to holding consultations on both South Kordofan and Blue Nile which never eventuated. As the secession of South Sudan approached and the Government pressured the SPLM-North to either disarm or join the SPLM in South Sudan, tensions between the Government and the SPLM-North increased, particularly in South Kordofan. After the SPLM-North rejected the election of an NCP Governor in South Kordofan, conflict erupted between the Government and the SPLM-North and quickly spread to Blue Nile. Despite ten rounds of negotiations between the Government and SPLM-North, negotiations have largely stalled. Fresh talks on a cessation of hostilities are ongoing.
- 2.38 The current conflict in the 'Two Areas' (South Kordofan and Blue Nile) has been described as being of the intensity of the conflict in Darfur in the mid-2000s, and has led to the displacement of an estimated 538,000 people. Between January and October 2015 alone, an estimated 36,000 people have been displaced in South Kordofan and a further 56,000 people in Blue Nile.
- 2.39 In South Kordofan and Blue Nile the Government and SPLM-North have been accused of using excessive force and targeting civilians. The Government's artillery and aerial bombing campaigns have resulted in significant damage to infrastructure as well as civilian casualties. The situation is considered most severe in South Kordofan, particularly in the Nuba Mountains, where the SPLM-North has a strong presence.
- 2.40 The humanitarian situation in both Blue Nile and South Kordofan is acute, with the Government preventing humanitarian organisations from accessing and providing support to civilians in controlled by the SPLM-North.

### Abyei

- 2.41 The CPA included the Abyei Protocol, which outlined the process for further consultations on the status of Abyei. However, the status of Abyei remains contested and efforts to resolve this have been resisted by both the Government of Sudan and Government of South Sudan. Both wish to maintain the support of their constituents in Abyei, as well as control of the lucrative Diffra Oil Field.
- 2.42 Approximately 81,000 people are displaced in southern areas of Abyei and an estimated 15,000 are displaced in northern areas. Statistics on the number of people displaced in northern areas are disputed, given the lack of humanitarian access in these areas.
- 2.43 DFAT contacts report that the UN Interim Security Force for Abyei has been successful in facilitating dialogue between the Ngok-Dinka and Misseriya communities and maintaining relative stability in

Abyei, which has been buoyed by the current domestic preoccupations of Sudan and South Sudan. However, there have been reports of minor incidents of violence during cattle migration seasons.

# 3. Refugee Convention Claims

## Race/Nationality

- 3.1 Although there is no accurate demographic data on Sudan, the US Department of State's 2015 Human Rights Report states that the population includes more than 500 different ethnic and sub-ethnic groups. While many linguistically and culturally identify as Arab, others identify as African, although there is no reliable data on this breakdown.
- 3.2 The 2005 Interim National Constitution states that the cultural and social diversity of the Sudanese people is the foundation of national cohesion and will not be used for causing division. Further, it states that ethnic and cultural communities will have the right to freely enjoy and develop their particular cultures and that members of such communities shall have the right to practice their beliefs, use their languages, observe their religions and raise their children within the framework of their respective cultures and customs. While the 2005 Interim National Constitution provides a number of protections, ethnically-motivated discrimination and violence continues, particularly in conflict-affected areas in Darfur, Blue Nile and South Kordofan.
- 3.3 Ethnically-motivated inter-tribal discrimination and violence has been historically common in Sudan due to disputes over land, access to resources, migration and tribal rivalries. In-country contacts suggest that this has been exacerbated by the proliferation of weapons in Sudan. DFAT is unable to prescribe a particular risk but acknowledges that inter-tribal discrimination and violence continues, and is more acute in the conflict-affected areas.
- 3.4 Minority Rights Group International ranks Sudan third on its 2015 Peoples Under Threat Ranking, identifying the Fur, Zaghawa, Massalit and others in Darfur, along with the Ngok Dinka, Nuba and Beja, as the most at risk ethnic groups in Sudan. Based on discussions with in-country contacts, DFAT assesses that this is broadly accurate and that non-Arab ethnic groups including the Fur, Zaghawa and Massalit from Darfur and Nuba from South Kordofan face the greatest risk of being deliberately persecuted or discriminated against on the basis of their ethnicity, as detailed below.

## Fur, Zaghawa and Massalit

- 3.5 The Fur, Zaghawa and Massalit are the most prominent ethnic groups in Darfur. Darfur, which means 'Home of the Fur' in Arabic, is the largest. The Massalit are the second largest and are located mainly in the West. The Zaghawa are a smaller ethnic group located mainly in the North and West.
- 3.6 Historically, the Fur, Zaghawa and Massalit have relied heavily on agriculture and clashed with the pastoralist Arab ethnic groups in Darfur. From 1987 onwards, the traditional inter-tribal conflict morphed into three successive formal armed conflicts between the Government (and associated militias) and rebel groups linked to the Fur, Massalit and Zaghawa ethnic groups (see 2.33 – 2.36).
- 3.7 In-country contacts suggest that incidents of formal armed conflict between the Sudanese Armed Forces and rebel-linked groups have decreased. However, DFAT assesses that there are recent credible examples of the Government and associated militias targeting Fur, Zaghawa and Massalit in Darfur on the basis of their ethnicity. The US Department of State's 2015 Human Rights Report states that fighting in Darfur was often along ethnic lines and that Government-linked groups killed and injured civilians, raped women and children, looted properties, targeted camps for internally displaced people and burned villages. The UN Panel of Experts on Sudan characterised the current Government strategy in Darfur as one of collective punishment of villages and communities from which the armed opposition are believed to come from or operate. Complicating the situation in Darfur is the significant long-term displacement and the impact this has had on changes to land distribution

patterns. In-country contacts suggest that the ability of displaced populations in Darfur (including the Fur, Zaghawa or Massalit) to return to their former land and agriculturalist lifestyle is limited. Overall, DFAT assesses that Fur, Zaghawa or Massalit located in Darfur face a high risk of discrimination and violence on the basis of their ethnicity and their actual or perceived support for or association with rebel groups.

- 3.8 There are also examples of individuals from Darfur being targeted outside of Darfur, particularly in Khartoum. There are a number of factors that influence the treatment of Darfuris in Khartoum, including their actual or perceived support for or association with rebel groups, or the criticism, particularly from students, of the implementation of the Doha Document for Peace in Darfur (which guaranteed free university education for Darfuris). For example, between late April and early July 2015 over 200 Darfuri students and their families were detained in Khartoum following protests.
- 3.9 Overall, DFAT assesses that Darfuris in Khartoum face a moderate risk of discrimination and violence on the basis of their ethnicity and their actual or perceived support for or association with rebel groups. DFAT assesses that Darfuris who actively criticise the Government, such as through participating in protests, face a higher risk.

## Nuba

- 3.10 Nuba is a term used to describe over 50 ethnic groups that inhabit the Nuba Mountains in South Kordofan and Blue Nile and number an estimated 3.7 million people. The Nuba have traditionally clashed with the pastoralist Arab ethnic group, the Baggara. In the mid-1980s, clashes intensified and became increasingly political with the Government supporting the Baggara-linked militia, the Murahaliin. In the early 1990s, the Government intensified its efforts to limit the authority of the Nuba, including through forcibly converting some of the Christian population to Islam. The prominence of Christianity in the Nuba Mountains has added another layer of complexity given the religious divide between the mainly Islamic Sudan and mainly Christian South Sudan. Despite commitments in the CPA, the Nuba population has not been provided with an opportunity to decide whether they identify as being from Sudan or South Sudan and conflict between the Government and SPLM-North has continued to intensify.
- 3.11 DFAT assesses that the conflict in South Kordofan and Blue Nile has political, ethnic and religious motivations. In the absence of a negotiated ceasefire with the SPLM-N, the Government has continued to intensify ground and aerial bombardments on rebel-held areas of South Kordofan and Blue Nile which has led to significant harm to the Nuba population. The US Department of State's 2015 Human Rights Report states that between April and May 2015, Government-linked forces burned at least three villages displacing as many as 50,000 people. Those fleeing also reported numerous unverified civilian executions. In addition, DFAT understands that the Government has prevented Nuba from fleeing to safety.
- 3.12 Overall, DFAT assesses that Nuba currently face a high risk of discrimination and violence. Given the actual or perceived association of Nuba with the armed opposition, Nuba are likely to face a high risk of discrimination and violence outside of the Nuba Mountains, including in Khartoum.

## Religion

- 3.13 The 2005 Interim National Constitution provides for freedom of religion, including the right to worship or assemble in connection with religious practice or belief. It also states that sources of legislation are based on Islamic law and the consensus of the people. Given an estimated 97 per cent of the Sudanese population is Muslim (mainly Sunnis) and the ruling NCP strongly favours Islam, the influence of Islam is pervasive.
- 3.14 Legislation prohibits apostasy, blasphemy and conversion to religions other than Islam. The Criminal Act 1991 specifies that individuals who convert from Islam to another religion risk being sentenced to imprisonment or death. While legislation does not explicitly ban proselytizing, it does criminalise both apostasy and acts that encourage apostasy. The definition of apostasy is expansive and includes questioning the credibility of the Quran, the companions of the Prophet or the wives of the Prophet. DFAT understands that atheism is considered a form of apostasy. Apostates who repent can still face up to five years imprisonment. In addition, insulting religions is criminalised and any Muslim or non-Muslim who curses or offends Islam, the Prophet or companions of the Prophet can be sentenced to up to five years imprisonment. The Public Order Law prohibits offences of honour,

reputation and public morality in line with Islamic law. There are separate Family Courts for Muslims, Christians and non-Muslims to address personal status affairs and child custody issues according to religious norms. DFAT understands that while this legislation is applied in practice, severe punishments such as lengthy prison terms or death sentences are very unlikely.

- 3.15 Islamic beliefs and practice are also prominent in the policies of the Government. For example, the state-mandated curriculum requires all schools, including international schools and schools operated by Christians, to teach Islamic classes. Public schools are also required to provide religious education to non-Muslims. In practice, DFAT understands that some non-Muslims are able to be excused from such classes.
- 3.16 Sudan is also home to other religious minorities (such as Jews), outside of Muslim and Christian minorities. DFAT is not aware of any examples of official discrimination or violence against religious minorities, outside of Muslim and Christian minorities. DFAT is aware of reports of low-level societal discrimination against religious minorities, but is not aware of any examples of societal violence. DFAT assesses that members of religious minorities, outside of Muslim and Christian minorities, may experience low-levels of societal discrimination, particularly in terms of employment.
- 3.17 Religious minorities hold seats in the National Assembly and work in the Government. According to the US Department of State's 2015 Human Rights Report, there are prominent Coptic Christians within the National Assembly as well as the Khartoum City Government and Khartoum State Assembly. A female Anglican also served as the Minister for Water Recourses and Electricity.
- 3.18 While DFAT assesses that there is space for religious practice in Sudan outside of Sunni Islam, there is limited official and societal tolerance for religious practice outside Sunni Islam. Given this, there are constraints to religious practice and, if these constraints are not respected, an individual may attract overt attention, as outlined below.

## Muslims

- 3.19 The Ministry for Culture and Information estimates that 97 per cent of the Sudanese population is Muslim, belonging overwhelmingly to different Sufi orders within the Sunni branch of Islam. In addition, there are some small Muslim minorities, including Shias, Republican Brothers and Salafists present in Sudan. DFAT understands that both official and societal anti-Shia rhetoric is common.
- 3.20 Individuals who convert from Islam face a high risk of official discrimination and violence, particularly given the provisions of the Criminal Act 1991 (see 3.14) and the negative societal attitudes towards apostates. In May 2014, Mariam Yahya Ibrahim was sentenced to 100 lashes for adultery and death for apostasy. The court argued that Ibrahim was a Muslim because her father was a Muslim, despite Ibrahim's life-long faith as a Christian (her mother was also a Christian). Since Ibrahim had married a Christian, and interfaith-marriage is not permitted, she was charged with adultery and then apostasy. After significant international pressure, Ibrahim was released in June 2014.
- 3.21 DFAT assesses that some examples of potential discrimination or violence towards Muslim minorities are likely to have political rather than religious undertones. For example, DFAT understands that authorities have been known to monitor mosques and sanction individuals who make anti-Government statements, incite hatred or, in line with Salafism, accuse non-Salafists of being an apostate. In 2012, an individual linked to the Association of Islamic Scholars was arrested and subsequently released for accusing the President of being an apostate.

## Christians

- 3.22 Approximately three per cent of the population is Christian. Christians are mainly located in Khartoum, the Nuba Mountains and northern areas of Sudan. There are small groups of Coptic Orthodox and Greek Orthodox Christians, who have significant historical links with Sudan, located mainly in metropolitan areas. There are also Ethiopian and Eritrean Orthodox Christians in Khartoum and eastern areas of Sudan. Other smaller Christian groups present include the Africa Inland Church, Armenian (Apostolic) Church, Sudan Church of Christ, Sudan Interior Church, Sudan Pentecostal Church, Sudan Evangelical Presbyterian Church, Presbyterian Church of the Sudan, the Seventh Day Adventist Church, the Roman Catholic Church, Anglicans and Jehovah's Witnesses.
- 3.23 DFAT is unaware of any illustrative examples of Christians experiencing official or societal violence on the basis of their religious identity alone and therefore assesses it as unlikely. However, different

Christian denominations face varying levels of societal and official discrimination linked to their religious identity, as outlined below.

## Copts

- 3.24 The Coptic Church has a relatively strong relationship with the Government given its historic links with Egypt, and subsequently Sudan. DFAT understands that authorities allow the Coptic Church to run its own legal proceedings in relation to issues such as alcohol sale and consumption, which would normally attract harsh penalties under the Islamic-centric laws.
- 3.25 Despite this, there are some examples of Copts experiencing official discrimination. In December 2012, authorities arrested two Coptic priests and briefly detained a Coptic bishop for reportedly converting a Muslim woman to Christianity. The Coptic Church issued an apology for the incident, distancing itself from the two Coptic priests in question who were later released without charge in June 2013.
- 3.26 Overall, DFAT assesses that the Coptic Church generally respects the parameters in which it is able to operate without attracting negative attention from the authorities. Within this context, the Government tolerates the operations of the Coptic Church and individual Copts are able to freely practice their faith without interference from authorities. DFAT contacts suggest that individual Copts may face low-levels of societal discrimination, particularly with respect to employment.

## Roman Catholics

- 3.27 The situation for Roman Catholics is similar to the situation for Copts. DFAT contacts report that the Government tolerates the operations of the Roman Catholic Church, which broadly understand the limits in which it can operate.
- 3.28 As with Copts, there are some examples of Roman Catholics facing official discrimination. For example, in April 2013 the Secretary General of the Sudan Catholic Bishop's Office was expelled, allegedly because of his irregular visa status.
- 3.29 Overall, DFAT assesses that the Catholic Church generally respects the parameters in which it is able to operate. DFAT contacts suggest that Roman Catholics may face low-levels of societal discrimination, particularly with respect to employment.

## Other Denominations

- 3.30 Outside of Copts and Roman Catholics, individuals from other Christian denominations who actively proselytise face a higher risk of official discrimination, due to the perceived threat these other Christian denominations pose to Islam, and consequently to the Government's moral authority. Given the strong influence of Islam in Sudan, the Government tends to resist actions that are perceived to diminish the central role of Islam. In practice, this has led to the authorities limiting the actions of individuals who attempt to proselytise as well as preventing and, in some instances, destroying places of worship.
- 3.31 Despite protections in the 2005 Interim National Constitution allowing for the establishment and maintenance of places of worship, the Government has affirmed its long-held practice of denying licences for the construction of new churches, on the grounds that the existing number of churches could accommodate the Christian population in Sudan. Open-source reporting suggests that authorities continue to demolish places of worship (particularly those constructed without permits), although some open-source reporting suggests that this is linked to community disputes over land. For example, an Evangelical Lutheran Church was burned down by unknown people in Gaderif State in mid-October 2015. The Evangelical Lutheran Church was reportedly demolished so that the well-situated piece of land could be sold, the profits of which were directed to local authorities.
- 3.32 DFAT assesses that an ordinary member of one of these Christian Churches who practices their faith but does not actively proselytise would be unlikely to attract negative attention by authorities. However, authorities have consistently demonstrated a lack of tolerance for proselytising and have continued to limit the operations of proselytising Christian Churches and prosecuted suspected proselytisers. The Government has attempted to limit proselytising through refusing visas and residency permits to those suspected of proselytising, requiring particular churches to pay taxes

(despite policies stating that religious organisations are tax-exempt) and monitoring and editing the content of religious publications. DFAT assesses that individuals who actively proselytise and thereby come to the attention of authorities face a high risk of discrimination, which may include violence. High-level leaders of Christian Churches who are perceived to threaten the authority of the Government through proselytising would likely face a higher level of discrimination.

- 3.33 DFAT understands that individuals associated with Christian Churches, outside of the Coptic Church and Roman Catholic Church, would likely face societal discrimination, particularly with respect to employment. DFAT assesses that this societal discrimination is likely to be slightly higher than the levels experienced by Copts and Roman Catholics, due to the Government's vocal disapproval of the activities of these Christian Churches.

## Political Opinion (Actual or Imputed)

- 3.34 The 2005 Interim National Constitution provides for freedom of assembly and association, including the right to vote, peaceful assembly, freedom of association with others and to form or join political parties. It states that the registration of political parties will be regulated by law and that no association may function as a political party unless it has a membership that is open to any Sudanese, does not contradict the 2005 Interim National Constitution, has a democratically elected leadership and disclosed and transparent sources of funding.
- 3.35 Despite the provisions included in the 2005 Interim National Constitution, Sudan's political landscape restricts opportunities for individuals to express their opinions, particularly if this expression is deemed to threaten the authority of the State. The US Department of State's 2015 Human Rights Report states that the Government maintains significant control over the activities of the opposition, including through the Political Parties Advisory Council (see 2.27). DFAT understands that the Political Parties Advisory Council has refused to register some political parties, including the Republican (Jamhuri) Party which opposes Islamic fundamentalism and promotes secularism.
- 3.36 Overall, DFAT assesses that while there is a space for political activity in Sudan, it is under the close control of the Government, thereby limiting the ability of the opposition to effectively operate. The situation for unarmed opposition and the armed opposition differs, as detailed below.

## Unarmed Opposition

- 3.37 The main unarmed opposition include the Democratic Unionist Party (of which there are two factions, one led by Mohamed Osman al-Mirghani and the other led by Jalal al-Digair), National Umma Party, Popular Congress Party, Sudanese Congress Party, Reform Now Party, Sudanese Communist Party, Unionist Movement Party and Muslim Brotherhood. The unarmed opposition hold some seats in the National Assembly. The SPLM-Peace Wing hold eight seats, the Popular Congress Party and Democratic Unionist Party each hold four seats.
- 3.38 Some members of the unarmed opposition, including the National Umma Party, Popular Congress Party and Sudanese Communist Party, created an unofficial umbrella organisation in 2010 called the National Consensus Forces to advocate for political transition in Sudan. The National Consensus Forces joined with the armed opposition in Addis Ababa December 2014 to sign the 'Sudan Call' which called for a peaceful and democratic transformation.
- 3.39 Some unarmed opposition parties and figures have face discrimination at the hands of the Government, including detention and torture. Members of the unarmed opposition have also been prevented from traveling outside Sudan. Following the signing of the 'Sudan Call', Chair of the National Consensus Forces, Farouk Abou Issa, was arrested on his return to Sudan and imprisoned until April 2015. The Government has also prevented members of the unarmed opposition from holding public discussions (gatherings of more than five people require a license, which the Government often denies), including the Sudanese Congress Party who advocated for a boycott of the recent elections.
- 3.40 DFAT contacts suggest that being a high-profile individual involved with the unarmed opposition may provide some protection from violence at the hands of Government. However, there are examples of individuals linked with the unarmed opposition experiencing violence. Sandra Kadoda, a member of the Sudanese Communist Party went missing in April 2015 with her family accusing the

NISS of detaining her. The NISS denied that they had detained her. Kadoda was subsequently found badly beaten and made a public apology for the accusations directed at the NISS.

- 3.41 Overall, DFAT assesses that low-profile members of the unarmed opposition are at a low risk of official discrimination and violence. Supporters of the unarmed opposition who present a direct threat to the Government's authority by speaking openly about political transition or overthrowing Bashir and the NCP face a moderate risk of discrimination and low risk of violence.

## Armed Opposition

- 3.42 The main armed opposition include the Darfur-based JEM, SLM-Minnawi and SLM-al-Nur and the SPLM-North, based mainly in Blue Nile and South Kordofan. In 2011, the armed opposition formed an alliance called the Sudan Revolutionary Front with the common objective of removing the ruling NCP.
- 3.43 The Government is attempting to militarily defeat the armed opposition in areas of Darfur, South Kordofan and Blue Nile, putting individuals in these areas at high risk. There are credible reports of individuals being detained by the Government due to their actual or perceived support for the armed opposition, including reports of women being detained due to their association with men who were perceived to be supporters. DFAT understands that the Government has been responsible for carrying out violent interrogations of individuals who are in detention due to their perceived links to the armed opposition. The Government has prosecuted supporters of the armed opposition with individuals being sentenced to imprisonment or death, although DFAT is unaware of whether or not individuals were actually executed.
- 3.44 Overall, DFAT assesses that individuals who are associated with, or are perceived to be associated with, the armed opposition face a high risk of discrimination and violence by the Government, particularly in areas that are controlled by the Government. DFAT further assesses that this risk is faced by both individuals who are actively involved with the armed opposition, as well as individuals who are simply located in areas controlled by the armed opposition. Some DFAT contacts suggest that men who are perceived to be associated with the armed opposition face a higher risk of being actively targeted by the Government than women. Within areas under the control of the armed opposition, DFAT assesses that individuals are at risk of being caught up in the conflict between the Government and armed opposition, including through indiscriminate bombings, armed attacks and extrajudicial killings.

## Groups of Interest

### Civil Society

- 3.45 The Government maintains strict control over the activities of civil society. NGOs are required to register with the Government's Humanitarian Aid Commission (HAC). The HAC, and the Government more broadly, use bureaucratic impediments to limit the activities of civil society (including UNAMID). This includes restricting or denying permission for humanitarian assessments, refusing to approve technical agreements, changing operational procedures, delaying the issuance of visas and travel permits and restricted travel. The US Department of State's 2015 Human Rights Report also stated that the HAC prevented NGOs from interviewing or selecting staff in Darfur unless they used a five-person Government selection panel. International and local organisations that are seen as resisting or criticising the Government are further limited in their ability to operate. For example, the former UN Resident Coordinator who had allegedly made critical comments about the Government to a Norwegian publication was expelled.
- 3.46 In addition to its use of bureaucratic impediments, the Government monitors, threatens and prosecutes individuals linked with particular civil society organisations. Amin Mekki Medani, President of the Confederation of Civil Society Organisations, was arrested along with a number of other politically-linked individuals in December 2014 after signing the 'Sudan Call' (see 3.38). Organisations that are perceived to threaten the authority of the Government are particularly at risk. For example, the Centre for Civil Society Development which advocates for democratic reform has been raided without reason and authorities have prevented the organisation from holding meetings.

3.47 Overall, DFAT assesses that individuals who are closely linked to civil society organisations that actively criticise the Government or work on issues such as human rights, the provision of humanitarian assistance or political activism are likely to attract negative attention from authorities. This is likely to be in the form of harassment and intimidation and may escalate to an individual being detained or experiencing violence.

## Media

3.48 The Bill of Rights states that every citizen will have an unrestricted right to freedom of expression, reception and dissemination of information, publication, and access to the press without prejudice to order, safety and public morals as determined by law. Further, it states that the State shall guarantee freedom of the press and other media. However, it also states that media shall abide by professional ethics, refrain from inciting religious, ethnic, racial or cultural hatred and not agitate for violence or war.

3.49 Sudan ranked 174<sup>th</sup> out of 180 countries in the 2015 World Press Freedom Index. The Government has sought to control the media through the National Council for Press and Publications which oversees the selection of editors and administers mandatory professional examinations for journalists. Reporting on particular issues including corruption, the activities of the NISS and other security-linked authorities as well as information on the Government's actions in conflict-affected areas can attract penalties.

3.50 The Government practices wide-scale censorship of publications that report on issues considered sensitive and practices internet censorship, including blocking access to sites deemed to be offensive to public morality. Authorities confiscated publications throughout 2015, including on 47 occasions in January and June 2015. DFAT contacts suggest that the Government has also closed publications perceived to be anti-Government and continues to limit the operations of independent outlets by preventing them from accepting advertising revenue.

3.51 Reporters without Borders reports that in September 2015, a journalist was arrested and questioned regarding an article about potential conflicts of interest of some politicians. The journalist was subjected to the 'Reception Detention Method', where authorities summon the individual for questioning each day and require them to then spend more than 12 hours waiting in a reception area. In December 2015, the editors of two newspapers were arrested and charged with abusing their positions as journalists, publishing false news and undermining the constitutional system after publishing articles about electricity cuts that were critical of the Government. While both were subsequently released on bail, the NISS suspended one of the newspapers licences and the editor of the other newspaper had resigned.

3.52 There are also some examples of journalists being exposed to violence, although the identity of the perpetrators is sometimes unclear. In July 2014, armed assailants attacked the Editor-in-Chief of Al-Tayyar newspaper and looted the newspaper's headquarters. The Editor-in-Chief was left unconscious and required hospitalisation. The Government's attempts to prosecute the individuals reportedly responsible for this incident were criticised.

3.53 Overall, DFAT assesses that the Government maintains substantial control over the media which has led to wide-scale self-censorship. Individuals who criticise the Government or are perceived to threaten its authority through the media are likely to come to the attention of authorities. In practice, an individual is likely to be arrested, harassed and/or intimidated by authorities trying to prevent the publication of material that was perceived to be disparaging towards the Government. DFAT contacts suggest that, in rare cases, the individual may be exposed to violence, although contacts were unable to point to any examples of this occurring overtly at the hands of authorities.

## Women

3.54 The Bill of Rights states that the Government will guarantee the equal rights of men and women to the enjoyment of all civil, political, social, cultural and economic rights, including the right to equal pay for equal work. Further, it states that the Government will promote women's rights through affirmative action, combat harmful customs and practices which undermine the dignity and status of women and provide pre-natal and post-natal care and child care. Sudan has not signed the Convention on the Elimination of All Forms of Discrimination against Women and despite the active role Sudanese women have in society, particularly in politics, women face a high risk of discrimination and violence.

- 3.55 Legislation discriminates against women. Under the 1991 Personal Status Law the minimum age for marriage is defined as both parties having reached puberty. The legal age for marriage is 10 for girls and 15 for boys. While accurate data on rates of child marriage is difficult to obtain, surveys carried out prior to South Sudan's independence indicated that 36 per cent of women were married before the age of 18, and 12 per cent were married before the age of 15. Women require the consent of a male guardian in order to validate their marriage and Article 52 of the Personal Status Law states that women must obey their husbands. Laws treat any sexual contact outside of a legally recognised marriage as a crime, with a penalty of 100 lashes if the offender is not married or stoning to death if the offender is married. There is no legal age for consensual sex and spousal rape is not recognised. Despite both men and women being prosecuted for such crimes, DFAT understands the majority of accused offenders and those found guilty are women. Legislation relating to nationality and citizenship also favours men, with citizenship being passed through the father and women and children requiring their male guardians' permission in order to travel outside of Sudan. DFAT understands that legislation prohibiting indecent dress is applied more frequently to women than men, the punishment for which includes 40 lashes or a fine or both.
- 3.56 Accurate data on the prevalence of violence against women does not exist, but it is widely acknowledged that it is common and accepted – including the widespread use of rape as a tactic in conflict-affected areas. DFAT is also aware of some reports of honour killings in Sudan (for which there are no legislative protections for) and understands that honour killings are more likely to be carried out in rural areas. The Social Institutions and Gender Index states that acts of violence are primarily dealt with under the 1991 Criminal Law which does not criminalise domestic violence or include protections for women experiencing sexual harassment. DFAT contacts suggest that women may be fearful of formally reporting instances of physical or sexual violence due to the conservative legislation that could lead to a woman who experienced sexual violence being charged with adultery. DFAT understands that some instances of physical or sexual violence are dealt with through the informal justice system, which has at times resulted in women being forced to marry the accused. DFAT is aware of credible reports of sexual violence in conflict-affected areas. The Report of the Secretary-General to the UN Security Council on Conflict-Related Sexual Violence found that rape, attempted rape, abduction for the purposes of exploitation, indecent assault, sexual humiliation and serious injuries or killings following rape remains a dominant feature of the conflict in Darfur, particularly for women and girls carrying out livelihood activities.
- 3.57 Both men and women are entitled to vote, and a quota ensures that women account for 28 per cent of representatives in the National Assembly, 35 per cent of representatives in Council of States and nine per cent of representatives in Cabinet. The 2005 Interim National Constitution provides for the right to equal pay, although there are some restrictions to women's right to work. This includes the potential for married Muslim women to be denied the right to work outside the home by the husbands in accordance with the Personal Status Law for Muslims.
- 3.58 Female Genital Mutilation (FGM) is prevalent and legal, with contacts reporting that up to 88 per cent of women have undergone FGM. However, research by the UN Children's Fund and UN Population Fund indicates that negative attitudes towards FGM are increasing and the rate of FGM is slowly decreasing. The Government has also launched a strategy to abolish FGM in partnership with the UN Children's Fund.
- 3.59 Overall, DFAT assesses that women in Sudan, particularly in rural and conflict areas face a high risk of societal and official discrimination and violence.

## Sexual Orientation and Gender Identity

- 3.60 The 1991 Criminal Act prohibits sodomy. If an individual is convicted for the first or second time, the punishment is defined as flogging by 100 lashes and up to five years imprisonment. If an individual is convicted for a third time, the individual can be punished with death or life imprisonment. The 1991 Criminal Act also includes punishments of flogging or fines for individuals who carry out acts which are considered indecent or inappropriate to the public morals.
- 3.61 As in the Arab and African world in general, significant official and societal stigma is associated with sexual orientation and gender identity in Sudan. DFAT understands that societal discrimination is pervasive, leading many lesbian, gay, bisexual, transgender and intersex (LGBTI) people to not identify publicly. Given this, DFAT is unable to comment on the likelihood or provide specific examples of the enforcement of legislation, or LGBTI people experiencing official or societal discrimination or violence. DFAT contacts report that there is a limited number of NGOs who, among

other things, support the LGBTI community, but that these organisations are forced to act carefully so as not to draw unwanted attention to their activities.

3.62 Overall, DFAT assesses that LGBTI people face a high risk of official and societal discrimination on the basis of their sexual orientation and gender identity. DFAT further assesses that an individual would be unlikely to be able to lead an open life, including in Khartoum, given the acute lack of support for the LGBTI community. Individuals identifying as or perceived to be LGBTI are at high risk of violence.

# 4. Complementary Protection Claims

## Arbitrary Deprivation of Life

### Extra-Judicial Killings

- 4.1 Reports to the UN Security Council indicate that the authorities have been responsible for extra-judicial killings, including as recently as 2015. Human Rights Watch highlighted witnesses' accounts of extra-judicial killings against civilians between January and May 2015 in Jebel Marra and East Jebel Marra. The African Centre for Justice and Peace Studies (ACJPS) reported that in May 2014 a group of Sudanese Armed Forces soldiers opened fire on two women and a child in Jebel Marra while they were on their way to a local water source. The African Commission for Human and Peoples' Rights reported that on 10 January 2016, seven people including one child were killed when security forces fired live ammunition at a crowd of protestors outside the residence of the West Darfur Governor. The Commission said three more people were killed when security forces opened fire at the funeral of the deceased.
- 4.2 While it is difficult to obtain accurate data on such killings in Sudan, DFAT assesses that extra-judicial killings are continuing to occur, particularly in conflict-affected areas. Reports suggest that extra-judicial killings are often indiscriminate, and exist due to the pervasive culture of impunity that protects the authorities.

### Enforced or Involuntary Disappearances

- 4.3 Both the Government and armed opposition have been responsible for the disappearance of civilians in both conflict-affected areas and non-conflict-affected areas. According to the Government of Sudan, the NISS maintains offices in order to receive enquiries about missing or detained individuals, but DFAT understands that these enquiries often go unanswered.
- 4.4 In 2014, the Human Rights Council's Working Group on Enforced or Involuntary Disappearances reported at least 173 outstanding cases of enforced or involuntary disappearances, all of which remain active and of concern to the Working Group. The US Department of State's 2015 Human Rights Report states that Government forces, the armed opposition and armed criminal elements were responsible for the disappearance of civilians, humanitarian workers and other international personnel in conflict areas.
- 4.5 DFAT assesses that abductions and enforced disappearances by both the Government and armed opposition remain possible for individuals who are perceived threaten the authority of the Government or armed opposition.

### Deaths in Custody

- 4.6 The ACJPS reported that three detainees died in August 2014 in Port Sudan after being arrested under the Public Order Law. The detainees had been sentenced to forty lashes and one month in prison for consuming alcohol. ACPJS speculated that the deaths may have been due to the poor conditions in the Port Sudan prison rather than the direct action of the authorities (however, other human rights advocates have questioned this). The US Department of State's 2015 Human Rights Report states that there were five reported deaths in Port Sudan prisons between July and August 2015. DFAT understands that deaths in custody are more likely to be attributable to negligence, rather than intentional mistreatment by authorities.

4.7 Deaths in facilities controlled by the Sudanese Armed Forces, NISS and RSF have a higher likelihood of being attributable to the intentional mistreatment by authorities. The US Department of State's 2014 Human Rights Report states that that between April and May 2014, three detainees died in the custody of military intelligence units in conflict-affected areas and a further detainee died after being transported from a military intelligence unit to a hospital.

## Death Penalty

4.8 Sudan maintains the death penalty for a number of crimes including murder, adultery, sodomy and alleged political crimes. The 2011 Criminal Act states that the means of execution include hanging, stoning, or death in the same manner in which the accused caused death. In cases of theft, the means of execution may include crucifixion. The 2011 Criminal Act also allows for the death penalty to be used as *hudud* (punishments based on the text of the Quran). With the exception of *hudud*, the 2011 Criminal Act states that the death penalty cannot be used on those under the age of 18 or over the age of 70.

4.9 Amnesty International reports that three people were executed in 2015, with the most common means of execution being hanging. Eighteen people were sentenced to death in 2015. Open-source reporting suggests that at one person has been executed in 2016 so far. In-country contacts report that while the death sentences are handed down, executions sometimes do not actually take place.

## Torture

4.10 The 2005 Interim National Constitution states that no person shall be subjected to torture or to cruel, inhuman or degrading treatment. However, the 2014 Report of the Independent Expert on the Situation of Human Rights in the Sudan stated that the use of torture by authorities is widespread and reinforced by the 2010 National Security Act which provides immunity to authorities for all acts committed in the course of their work. DFAT assesses reports of the use of torture by authorities as credible. DFAT further assesses as credible reports of the use of torture by other actors, including those aligned with the Government and the armed opposition.

4.11 Former detainees have reported physical and psychological torture by authorities, including prolonged isolation, exposure to extreme temperature variations, electric shock, use of stress positions and, in the case of female detainees, harassment and sexual assault.

4.12 Human Rights Watch reports that political detainees are often tortured in the wake of protests, and are only released after agreeing to not participate in future protests. In addition, local media reported that in May 2014 two individuals from the Darfuri Students Association were abducted by authorities from inside the Omdurman Islamic University and subsequently subjected to beatings with electric sticks and batons, and were sodomised. The US Department of State's 2015 Human Rights Report states that on July 17, authorities in West Darfur arrested three men accused of providing information to JEM, one of whom allegedly died from torture.

4.13 DFAT assesses that those who are perceived to directly threaten the authority of the Government may face risk of torture. This is likely to affect those who are outspoken. DFAT is also aware of some examples of civilians who are not outspoken being exposed to torture. DFAT is unable to prescribe a particular risk to an individual's potential to experience torture or comment on the general incidence of torture.

## Cruel, Inhuman or Degrading Treatment or Punishment

### Arbitrary Arrest and Detention

4.14 The 2005 Interim National Constitution prohibits arbitrary arrest and detention and includes a requirement that individuals be informed of relevant charges at the time of arrest. Despite this, the US Department of State's 2015 Human Rights Report notes that arbitrary arrest and detention remains common, with Sudan's legal system allowing arrest without a warrant and detention for up

to 4.5 months. Detainees are often released after 4.5 months and re-arrested and detained for an additional period.

4.15 The NISS and other arms of the Sudanese security apparatus continue to arbitrarily arrest and detain individuals, particularly political opponents and activists. High-profile political opponents have been arbitrarily arrested and detained by the NISS and denied access to legal representation or visitors. For example, in June 2015 Amnesty International called for the release of 171 detainees including college students, political activists and civil society activists.

4.16 Overall, DFAT assesses that arbitrary arrest and detention are commonly used by the Government, particularly against individuals that are or are perceived to be outspokenly critical of the Government.

## Corporal Punishment

4.17 Under the 1991 Criminal Act, whipping can be used as *hudud* for adultery, wrongful accusation of adultery and drinking alcohol. In addition, the 1991 Criminal Act allows for whipping to be used as a sentence for rioting, breach of public peace, intoxication, gambling, habitual dealing in alcohol, insulting religious beliefs, sodomy, rape, gross indecency, indecent and immoral acts, materials and displays contrary to public morality, practicing or running places of prostitution, seduction, false accusations of unchastity, insult and abuse and theft. While the 1991 Criminal Act provides for other forms of corporal punishment, DFAT understands that whipping is the most common form of corporal punishment. The number of lashes range from 20 to 100, depending on the offence. The 1991 Criminal Act states that outside of retributive justice, an individual over the age of 60, an individual who is deemed to be sick, or whose life may be endangered will not be sentenced to corporal punishment.

## 5. Other Considerations

### State Protection

- 5.1 Several areas in Sudan are not under effective state control, owing to the security situation. The armed opposition controls some areas in Darfur (particularly Jebel Marra), South Kordofan and Blue Nile. DFAT is unable to comment on the ability of the armed opposition to provide effective protection, but anecdotally understands that the armed opposition's capacity, outside of its involvement in direct conflict activities, is limited.
- 5.2 Despite these challenges, DFAT understands that the Government maintains effective control in other areas of Sudan (excluding the contested area of Abyei) and individuals in these areas are generally afforded adequate state protection, pending capacity constraints. The Government exercises clear authority over the Sudanese Armed Forces, NISS and RSF who have been accused of substantial abuses of power, particularly against individuals in areas controlled by the armed opposition or individuals who are perceived to threaten to the Government's authority.

### Sudanese Armed Forces (SAF)

- 5.3 The Sudanese Armed Forces is overseen by the Ministry of Defence and, according to the International Institute for Strategic Studies, has approximately 244,000 members and an additional 20,000 paramilitary members.
- 5.4 Currently, the Sudanese Armed Forces is participating in conflicts in Darfur, South Kordofan and Blue Nile. The Sudanese Armed Forces has led aerial and artillery bombardments, targeting both the armed opposition and civilians located in areas controlled by the armed opposition. Within these areas, the Sudanese Armed Forces has also been accused of indiscriminate and targeted attacks against civilians, including the burning and looting of villages and destruction of churches, farmland and hospitals, including a Mediciens Sans Frontiers hospital located in South Kordofan in January 2015.
- 5.5 In non-conflict affected areas, the Sudanese Armed Forces has been accused of abducting and detaining civilians. Former detainees have reported experiencing physical and psychological torture at the hands of the Sudanese Armed Forces.
- 5.6 There are some examples of soldiers being sanctioned – including one soldier who was found guilty of abducting and raping a young girl in November 2014 and who was sentenced to 10 years imprisonment and fined. DFAT notes that there are reports of Sudanese Armed Forces soldiers acting with impunity in conflict-affected areas.

### National Intelligence and Security Services (NISS)

- 5.7 The NISS is responsible for internal security and intelligence and is independent from any other Ministry. The 2010 National Security Act provides the NISS with broad powers, particularly in relation to arrest and detention – the NISS can detain someone for up to 4.5 months without any judicial authority.
- 5.8 While detailed information regarding the operations of the NISS is difficult to obtain, former detainees who had been held by the NISS reported experiencing torture, including prolonged isolation, beatings and deprivation of food, water and toilets. Visitors are generally prevented from visiting individuals detained by the NISS and the NISS often denies holding individuals in their custody, or refuses to confirm where individuals are being held.

- 5.9 Overall, DFAT assesses that the NISS targets and detains individuals associated with the armed opposition, unarmed opposition, NGOs (particularly those who work on sensitive issues such as human rights), journalists, and individuals associated with particular religious organisations. DFAT further assesses that individuals located in areas controlled by the armed opposition may have some level of protection from the NISS, owing to the Government's lack of access in these areas.
- 5.10 Amnesty International has highlighted that the 2010 National Security Act provides immunity to members of the NISS from prosecution and disciplinary action for all acts committed in the course of their work. The Independent Expert on the Situation of Human Rights in the Sudan has called on the Government to address this. Constitutional amendments passed in January 2015 expanded NISS's mandate to include immunities and authorities traditionally reserved for the military and judiciary. DFAT understands that the NISS has an internal system to address violations of the 2010 National Security Act and that penalties for violations include up to 10 years imprisonment, a fine, or both. Despite this, DFAT assesses that the NISS often acts with impunity and that it would be unusual for a member of the NISS to be investigated and prosecuted.

### Rapid Support Forces (RSF)

- 5.11 In late-2013, the Government announced the establishment of the RSF, with the aim of militarily defeating the armed opposition throughout Sudan. The RSF has links to both the Sudanese Armed Forces and the NISS, with a former Sudanese Armed Forces General commanding the RSF and the NISS overseeing its operations. In early 2014, it was reported that the RSF consisted of between 5,000 and 6,000 troops. However, it is widely believed that this number has continued to grow since.
- 5.12 Reports suggest that the RSF draws largely from Arab militias, often referred to as the Janjaweed, as well as other paramilitary forces. Human Rights Watch suggests that the RSF potentially has some international support from Chad and Nigeria (with witnesses reporting hearing some RSF members speaking in Chadian and Nigerian dialects). Members of the RSF have been issued with NISS 'Identity Cards', which provide them with immunity under the National Security Services Act of 2010.
- 5.13 As with the NISS, and owing to the more informal nature of the RSF, information on the exact operations of the RSF is difficult to obtain. Human Rights Watch reported that in 2014 and 2015, the RSF launched two counter-insurgency campaigns in Darfur, with witnesses reporting instances of the RSF forcibly displacing whole communities, damaging wells, food stores and other infrastructure necessary for sustaining life, plundering of livestock and instances of torture, extrajudicial killings and mass rapes.
- 5.14 Overall, DFAT assesses that individuals in areas of Darfur (particularly Jebel Marra), South Kordofan and Blue Nile are at risk of being indiscriminately targeted by the RSF.

### National Police

- 5.15 The Ministry of Interior oversees the National Police, including security, special forces and traffic police as well as the Central Reserve Police.
- 5.16 DFAT is aware of reports of the National Police using excessive force against demonstrators, particularly during university protests in March 2014 (where live ammunition was used to disperse students) and during the 'petrol riots' of 2013 where at least 85 people died (according to government figures; NGOs put the number at nearly 200).
- 5.17 Open-source reporting suggests that corruption within the National Police is problematic. Due to reports of corruption and a lack of capacity, DFAT assesses that police clearances issues by the Sudanese authorities are not reliable.

### Judiciary

- 5.18 The 2005 Interim National Constitution provides for independent judicial organs, including a Constitutional Court, National Supreme Court and National Court of Appeals. The Interim National Constitution states that judicial organs will be free from interference, fear or favour and independent of the Legislature and Executive.

- 5.19 Trials are open to the public at the discretion of the judge. In cases of alleged crimes against the state, trials are often closed. Juries are often not used, exacerbating the potential for external interference. Lawyers are required to register with the Sudanese Bar Association which is under the control of the Government. DFAT understands that lawyers who are perceived as being associated with the unarmed opposition have been arrested and harassed.
- 5.20 The 1991 Criminal Act states that a Sudanese citizen who commits a crime outside of Sudan will not be punished on return to Sudan if the citizen was tried outside of Sudan before a competent court and has served any associated sentence or has been found not guilty.
- 5.21 Local mediation is common, particularly in issues relating to personal status. Some DFAT contacts suggest that local mediation is particularly common in cases of sexual assault against women, given risks associated with women being charged with adultery in the formal justice system. DFAT assesses that while local mediation may be preferable in some circumstances, it is still open to discriminatory practices and cannot be considered an adequate alternative for a functioning formal justice system.
- 5.22 Overall, DFAT assesses that Sudan's judiciary is subject to substantial political influence, particularly in cases of alleged crimes against the State and that an individual's political or social standing can influence proceedings. DFAT assesses that an individual cannot be guaranteed a free and fair trial in Sudan, due to both the influence of authorities and the lack of capacity within judicial organs.

## Detention and Prison

- 5.23 Conditions in detention and prison are harsh and can be life-threatening. There is a high level of over-crowding. In 2013, the Ministry of Interior reported that 19,101 individuals were in prison, with 3,537 awaiting trial, 356 awaiting transfer to juvenile facilities or mental health care facilities and 15,208 who had already been sentenced. Statistics regarding the number of individuals held in detention or prison by the NISS are unknown. DFAT understands that conditions for individuals detained or imprisoned by the NISS are worse than those in mainstream facilities.
- 5.24 Healthcare in detention and prison is often inadequate, with some prisoners being unable to access necessary medication or physical examinations. Authorities generally provide food, water and sanitation although it is often of poor quality and prisoners regularly rely on family and friends for food. Prisoners are able to practice their religious beliefs and some facilities have dedicated areas for Christian observance. Prisons are significantly overcrowded, which is exacerbated by poor infrastructure, ventilation and lighting.
- 5.25 Women and men are held in separate prisons or segregated areas of prisons. In general, living conditions for women are superior to equivalent facilities for men. In Khartoum, juveniles are not held in the same facilities as adults, but are sometimes held with adults outside of Khartoum. Prisoners convicted of specific crimes, such as political crimes, are often held separately from other prisoners.
- 5.26 Officials allow some visitors, including lawyers and family members. However, individuals held in NISS facilities are generally not allowed visitors. The Government has allowed a few restricted visits by international observers. International observers were unable to access NISS facilities.

## National Human Rights Institution

- 5.27 The 2005 Interim National Constitution stipulated that an independent Human Rights Commission would be established consisting of 15 independent, competent, non-partisan and impartial representatives. The 2005 Interim National Constitution stated that representatives of the Government would take part in the deliberations of the Human Rights Commission in an advisory capacity and that the Human Rights Commission would be responsible for monitoring the application of the Bill of Rights (which is included in the 2005 Interim National Constitution).
- 5.28 In 2012, the SNHRC was established and in 2014, it launched its first Strategic Plan. DFAT understands that the ability of the SNHRC to implement its Strategic Plan, including addressing complaints from individuals and advising on the Government's compliance and implementation of international human rights treaties has been limited by a lack of funding. The Independent Expert on the Situation of Human Rights in the Sudan also noted that the SNHRC lacked capacity and

representation outside of Khartoum. DFAT contacts have suggested that the SNHRC remains closely linked to the Government and question its ability to act independently.

- 5.29 The Government has also set up an Advisory Council on Human Rights that is responsible for advising Government on necessary reforms to ensure its international obligations are met. The US Department of State's 2015 Human Rights Report stated that the Advisory Council on Human Rights failed to respond to specific requests from the international community.

## Internal Relocation

- 5.30 The 2005 Interim National Constitution states that every citizen shall have the right to freedom of movement and the liberty to choose their residence, except for reasons of public health and safety as regulated by law. According to UNHCR, there are over three million internally displaced people within Sudan - 2.5 million in Darfur, 538,000 in South Kordofan, West Kordofan and Blue Nile and 20,000 in Abyei.
- 5.31 While movement is generally unhindered outside of conflict-affected areas, individuals in conflict-affected areas face significant constraints to relocation. Individuals who are located in conflict-affected areas controlled by the armed opposition face significant limitations to relocation.
- 5.32 DFAT assesses that individuals located in areas controlled by the armed opposition in Blue Nile and South Kordofan are unlikely to be able to relocate to other areas of Sudan, including Khartoum, due to their perceived association with the armed opposition. DFAT contacts said individuals located in areas controlled by the armed opposition in South Kordofan and Blue Nile are being prevented from leaving which severely limited their ability to internally relocate in Sudan.
- 5.33 DFAT assesses that individuals from Darfur, including individuals from the Fur, Massalit and Zaghawa groups could safely relocate to Khartoum, pending individual circumstances (such as whether or not the individual was associated with the armed opposition). There are some examples of individuals from Darfur being targeted in Khartoum (see 3.8). DFAT further assesses that individuals in areas controlled by the armed opposition in Jebel Marra may face difficulty in relocating owing to ongoing conflict in this area.
- 5.34 Livelihood challenges would likely hamper opportunities for internal relocation in Sudan. The informal nature of the economy (particularly outside of Khartoum), the significant reliance on humanitarian assistance in conflict-affected areas and reduction in informal and low-skilled employment opportunities due to the influx of refugees from neighbouring countries means that individuals would likely face economic hardship if relocating. In addition, the Government does not recognise internally displaced people in Khartoum, meaning that individuals relocating from conflict-affected areas do not have access to humanitarian assistance in Khartoum.

## Treatment of Returnees

### Exit and Entry Procedures

- 5.35 The NISS has a significant presence at Khartoum International Airport and reviews the documentation of all individuals exiting or entering Sudan.
- 5.36 Individuals are required to obtain an 'Exit Visa' in order to leave the country. This requirement has been used to restrict the travel of some high-profile individuals, especially those who were of political or security interest. DFAT understands that if a failed asylum seeker who did not obtain an Exit Visa prior to leaving Sudan was to be returned, they would likely be questioned by the NISS. If an individual was of interest to the Government they would likely be questioned by the NISS in detail, including potentially being taken to NISS Headquarters for further questioning.
- 5.37 Overall, DFAT assesses that an individual would come to the attention of the authorities if they did not leave Sudan with a valid 'Exit Visa' or were of specific interest to the authorities. Given the porous borders and significant overland movement between Sudan and surrounding countries, DFAT assesses that an individual would be able to leave Sudan without a valid 'Exit Visa'.

## Conditions for Returnees

- 5.38 DFAT is not aware of any evidence that suggests an asylum seeker returning to Sudan would be distinguishable to the broader community or susceptible to any form of discrimination or violence, unless they presented a threat to the Government. In reality, this is likely to affect vocal opponents of the Government.
- 5.39 DFAT understands that the main issue facing returnees is the perceived lack of financial support provided for effective reintegration into Sudanese society, particularly in Khartoum.

## Documentation

- 5.40 Long-term instability in Sudan has had a detrimental impact on reliable identification documentation. In addition, DFAT understands that high levels of corruption have led to fraudulent identification documents being easy to obtain.
- 5.41 Identification documents can be verified by the Ministry of Foreign Affairs or, if outside of Sudan, by the nearest consulate. Identification documentation verified outside of Sudan by Sudanese consulates must have already been verified by the Ministry of Foreign Affairs in Sudan.

## Certificate of Nationality

- 5.42 Individuals are required to hold a certificate of nationality in order to sit exams and obtain passports. Certificates of nationality are issued by the Ministry of Interior. They have a green coloured cover and include the individual's personal data, father's name, fingerprints as well as details of the individual's ethnic grouping. An individual is required to provide a birth certificate in order to obtain a certificate of nationality and, where this is not possible, a witness must confirm the information provided.

## National Identity Cards

- 5.43 National identity cards are issued by the Department of Civil Registry, which is part of the Ministry of Interior. All citizens are required to obtain a national identity card when they turn 16 years old although they can be issued at a younger age if required.
- 5.44 National identity cards are plastic and have some electronic security features. The current national identity card introduced in 2011 includes the individual's name, date of birth, place of birth, profession, address, photograph and national identification number on the front and the date of issue and expiry, place of issue and signature of the relevant authority and barcode and machine readable zone on the back.
- 5.45 Previous national identity cards, including those issued between 2001 and 2011, include the individual's photograph, personal data, fingerprints and blood type and any known illnesses. National identity cards issued prior to 2001 are in the form of a booklet with cloth cover and include the individual's place and date of birth, date of issue and photograph.

## Passports

- 5.46 In order to obtain a Sudanese passport, an individual must present their birth certificate, national identity card and provide a guarantor confirming their identity.
- 5.47 In late 2009, Sudan began issuing machine-readable passports which include some sophisticated security features, including a microchip containing the holder's details.
- 5.48 DFAT understands that some older-style passports are still in circulation. Older-style passports contain limited security features, are usually hand-written and include details of the holder's dependents. Older-style passports can be extended for up to two years, and there is no limit on the number of times they can be extended. DFAT understands that there are provisions for details in the older-style passports, including the holder's name, date of birth, occupation and marital status, to be amended. DFAT is aware of examples of the older-style passports being fraudulently altered, usually in an unsophisticated and easy to detect manner.

## Birth Certificates

- 5.49 Birth certificates are issued free-of-charge by the Department of Vital Statistics, Ministry of Health, Ministry and Interior or Civil Registrar. Each hospital is responsible for accurately recording all births, and reporting these to the Department of Vital Statistics. Midwives who perform home births are also required to report all births to the Department of Vital Statistics. In reality, it is unlikely that all births are registered, particularly in rural and conflict-affected areas. DFAT understands that less than 40 per cent of births are actually registered.
- 5.50 Hospitals and midwives may provide documentation to confirm the birth occurred. DFAT understands that this is not reliable compared to documentation issued by authorities. Authorities issue two types of birth certificates –in Arabic or English. Individuals are also able to obtain extracts from the birth register to confirm that a birth was registered with the Department of Vital Statistics. Extracts include the number of the logbook as well as the registration number.
- 5.51 Ongoing instability means that some individuals do not have birth certificates. Individuals can obtain an age assessment which acts as a birth certificate. An individual must visit their local hospital where an assessment is made based on an individual's teeth in order to obtain an age assessment. DFAT understands that individuals are often asked how old they wish to be and therefore deems age assessments as unreliable.

## Death Certificates

- 5.52 The Department of Vital Statistics is responsible for the registration of all deaths. While the registration of deaths is compulsory, it is unlikely all deaths are registered. In cases where a death has not been registered, DFAT understands that individuals may be able to apply to register the death at a later date and obtain appropriate documentation confirming this.

## Marriage Certificates

- 5.53 Marriages are completed through the signing of a civil contract by a process which is usually officiated by a religious official appointed by the Government, a judge or a legal proxy. Civil contracts are witnessed by two men or two women and one man. A copy of the civil contract is given to the couple and an additional copy is kept by local authorities. In cases of marriage between a Sudanese national and foreign national, a copy is also held by the Office for Certification of Foreign Marriages. DFAT understands that civil contracts can be registered with the Personal Law Court, and stamped accordingly.
- 5.54 Individuals married in Christian Churches may also have a marriage certificate issued by their own Christian Church. The format of these differs based on the particular Christian Church, but can be registered with the Chief Registrar of the Judiciary who can provide official certification.