



THE SUDD INSTITUTE

RESEARCH FOR A PEACEFUL, JUST AND PROSPEROUS SOUTH SUDAN

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Weekly Review

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Gender Equality in South Sudan: A Review of Customs and Constitution

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Gender equality, although a human rights issue, is often violated. Women's rights are more than susceptible to abrogation in the developing countries. The leaders of these countries tend to unsuccessfully perceive the need to include women in decision making in order to attain a peaceful, just, and prosperous society. Here, rarely are most women allowed to participate in state-related programs and direction. A recently independent country, South Sudan, is facing mountains of transitional difficulties, including how to address developmentally retarding gender inequality. This is a society where very fewer women attain formal education, with a young South Sudanese woman more likely to die in child-birth than completing school. Other challenges that South Sudanese women routinely suffer include domestic violence, which is partly sanctioned by customs and cultures.

The 25 percent quota system that the South Sudan's Transitional Constitution reserves for women in the government is misinterpreted and under-implemented. To be sure, only a little over 10 percent of the nation's cabinet constitute women's representation. Having recently separated from North Sudan, a country that uses culture and religion to put its women down, South Sudan perhaps continues to be bogged down by its predecessor's mistakes. That is, South Sudan's cultures and traditions, though cognizant of individual rights in theory, seem to practically supersede the constitution.

The purpose of this review is to create awareness, educate and ignite a debate on this very important issue of gender equality. The review concentrates on the rights of women in regards to marriage, parental rights, and their participation in public spheres.

Marriage according to Oxford dictionary is defined as "a formal union between a man and a woman, typically recognized by law, by which the two become husband and wife". People usually marry for many reasons, some of which could be related to emotions, finance, traditions, or religion. Although South Sudan values marriage as a way to bring two families together, it also treats it as a lucrative business between two families. A wealthy man in South Sudan is entitled to as many wives as his pocket or cattle camp can spare. Not looking at marriage as being a sacred union between a man and a woman, but instead regarding it as a business transaction between two families necessitates violation of women rights. It violates the young, "girls' rights" as most of the females involved in early marriages are under the age of 18 years.

Some families, particularly among the Nilotes, marry off their daughters at a very early age due to material gains, political favor, or prestige. In some cases, the girl does not wish to be married and aspires to continue with her education, but the offer the suiter makes is usually beyond desirable and families tend to choose bride price over the future of their own children as individuals. Families may also regard marriage, no matter what kind of man is involved, as economically securing the future. This generally results in the girl being convinced or forced to marry a man she does not necessarily love nor of her age.

Young women whose husbands move on to marry another wife are often left with little but children and if lucky, a residence. In addition, not only are these women forced to marry without their consent but are also unable to make decisions regarding sex and family planning. For example, it is often said that sex in the context of marriage is a husbandly right. Normally, since a woman is the one to carry a child for nine months, nurse it once the child is born, and to care for it, she should have the right to decide on the number of children and the timing of production. Once subjected to these sorts of treatments, the young girls grow to become women of low self-esteem, as they are deprived of healthy childhood, education and the right to decide for themselves as adults. These young women often begin to have children when they are still children themselves and experiencing some of the dangerous reproductive health consequences of such early onset of childbearing.

Another violation of women's rights is that of parental rights. Although the constitution states per article 39 section (4) that "children shall not be separated from their parents or persons legally entitled to care for them against the will of such parents or persons, except in accordance with the law", parental rights are usually not gender neutral and in most cases, the mothers lose their rights to raise and care for their children in the event of a divorce. Some South Sudanese cultures and traditions demand that a child be awarded to the biological father and the woman is usually sent back to her family empty handed. The husband's claim usually rests on the price he paid, therefore theoretically turning the wife into some sort of a property. When the woman chooses to end the marriage due to a reason that can be attributed to the husband, she still has to leave empty-handed. Either way, it is all regarded as her fault. Also, when a man impregnates a woman and the man pays the family of the woman what is called an apology restitution, the man still has the right to take the child. At least that is the practice in Nilotic communities. The woman can then be married off to a man the family chooses, in most cases, a man with multiple wives, as a woman who has had a child out of wedlock is often seen as second-hand, and therefore affordable to married men. The woman is deprived of her right to be a parent and the right to decide who to spend her life with.

Furthermore, the constitution also states, per article 16 section (4) "All levels of government shall: (a) promote women participation in public life and their representation in the legislative and executive organs by at least twenty-five per cent as an affirmative action to redress imbalances created by history, customs, and traditions". In the current administration, particularly the cabinet, only 13 percent of women are holding public offices. This violates the 25 percent constitutional quota allocated to women, a measure aimed at rectifying historical injustice that was born of cultural and social biases against

the group. However this gender discrimination is often improperly attributed to lack of education among South Sudanese women. To blame this gender imbalance on lack of qualified women is not at all supported by the facts on the ground. The reality is that there are more than enough qualified South Sudanese women to fill the allotted quota and beyond.

Perhaps, it is best to see the aforementioned affirmative action as a temporary, short-term measure designed to help address the issue of gender equity. In the long run however, an appropriate solution is to remove all the barriers that consign fewer South Sudanese women to be educated. Factors that have to do with gross disproportionate representation of women are associated with them being often relegated to mothers, homemakers, and wives' roles, thus severely restricting their access to other opportunities, such as education. Educating women means making them realize and defend their rights, including avoiding forced marriage. It also means improving the chances that the whole society benefits from what educated women can produce. Dr. Anne Itto, Deputy Secretary General of the South Sudan ruling party (SPLM), recently stated that lack of implementation of gender affirmative action is not related to the constitution. "It is the absence of law that allows women to be protected so that they can realize their rights." Though the law that grants women rights in South Sudan exists, the serious concern is the underlying lack of awareness, civic education, and the political will to promote women's interests in the country. It is evident that socio-cultural perspectives hinder proper application of the existing laws, and the result is that access to justice is not gender equitable.

In closing, women are generally raised to be submissive while men are raised to be more aggressive, and when culture overshadows the law, they are inclined to comply. Also, women who lack education are missing the opportunity to develop additional tools and basic knowledge that strengthens their capacity to fight for their rights, subjecting them to manipulations and ill practices of cultures and traditions. This is not to suggest that our cultures should not be recognized and promoted, however cultural practices that put other human beings at a disadvantage should be deconstructed. South Sudanese women made a tremendous contribution to the liberation efforts, therefore promoting their participation in the nation's peace, justice, development, and prosperity is critical. Not only do they deserve the right to choose their marital partners, have equal access to children and education as men, they also deserve to participate equally in the matters of nation-building. After all, gender equality is both a natural right and smart thing to do.

Gender equality is not a matter of political correctness, to be nice to women, and afterthought. Instead, it is the way to prosperity and stability in South Sudan as a whole; it is the way to fight poverty, childhood and maternal mortality; indeed, it is the way forward. South Sudan cannot move forward without the freedom, support, talent, and intervention of its women; it would have only half the chance of succeeding if it continues to suppress women. Some South Sudanese customs and traditions are detrimental to the advancement of women. And the only way to ensure that the rights of women are promoted in the world's newest country is by ensuring that the constitution trumps cultural beliefs and practices.

About Sudd Institute

The Sudd Institute is an independent research organization that conducts and facilitates policy relevant research and training to inform public policy and practice, to create opportunities for discussion and debate, and to improve analytical capacity in South Sudan. The Sudd Institute's intention is to significantly improve the quality, impact, and accountability of local, national, and international policy- and decision-making in South Sudan in order to promote a more peaceful, just and prosperous society.

About the Author

Awak Deng Bior is a deputy administrator at the Sudd Institute. Awak has experience in documenting, tracking, reporting, monitoring, and evaluation. As well, Awak has a B.A in Biology from the University of Texas at Dallas and is the founder of cushaids.org, an informative website that provides HIV/AIDS awareness among South Sudanese.