

Women at work in Sudan: Marital privilege or constitutional right?

The Islamist state in Sudan, which came to power through a *coup d'état* in 1989 under the command of Omar al-Bashir, has constitutionally guaranteed women's equal right to work (and to equal pay). However, several laws codified by the Islamist government put restrictions on women's right to work. As a result, Sudan is considered among the "worst" countries when it comes to restrictive legal contexts for women's economic empowerment (e.g., see Mala Htun, Francesca Refsum Jensenius and Jamie Nelson Nunez, this volume).

The most severe legal restriction identified in this study is the Muslim Family Law of 1991, which requires wives to get the approval of their husbands before working for wages outside of the matrimonial home. Sudan is one of 18 countries in the world where women need permission from a male guardian to work for a wage. By law, men are the *sole* financial providers within the family, and women are the *sole* caregivers within the family. If a woman can get permission to work, however, she can spend the money she earns as she wishes and is under no obligation to spend her wage to alleviate the man's financial duty to provide financially for the family. As such, there is an interesting tension in the law: while the permission to enter the workplace is, in reality, a privilege bestowed by husbands rather than a constitutional right granted by the state, the Sudanese interpretation of Islamic law regarding the wife's control of her own income presents a potential avenue for women's economic agency and empowerment.

As part of the special issue on *Legal Change and Women's Economic Empowerment*, I explore barriers to as well as possibilities for women's economic agency and empowerment within the legally restrictive context of the Islamist state in Sudan. Building on interviews with

women representing a range of political ideological outlooks collected in 2017 and 2018, this article explores how upper- and middle-class women with higher education, who are married with children in urban Khartoum, perceive and experience the contradictory legal provisions regarding women's relationship to wage labor.

The narratives of the women interviewed in this study clearly articulate the tension between these legal provisions. On the one hand, all categories of women interviewed perceive the fact that they need the permission of husbands to work for pay as discriminatory and un-Islamic. The fact that men have this legal authority renders women subject to the whim of their husbands' views on the appropriateness of women's public role. This legal right, granted to men in the 1991 law, effectively denies women their constitutional right to work, since many men see women's participation in wage labor to be inappropriate or as standing in the way of women's primary role as mothers. Furthermore, thanks to this restriction, working women live under the constant fear of having their work privileges revoked. Wives describe themselves as being under constant scrutiny, especially with respect to performing their domestic duties, which remain their sole responsibility regardless of wage employment. In fact, husbands often make women's permission to work conditional, either implicitly or explicitly, upon the women's ability to uphold their domestic responsibilities.

On the other hand, many of the women who receive permission to work enjoy advantages within the male breadwinner-female caregiver model propagated by Islamists and codified into law in 1991. By law, women are entitled to keep their income for themselves. Unlike men, they do not need to spend it to maintain their families. All categories of women interviewed express that even when women work for pay, it should remain the man's sole responsibility to provide for the family. It is appropriate to compensate the wives for their domestic endeavors. The idea

is that whereas men have one job, women have two. If women work twice as much, they should be financially compensated for having two jobs: one at home to cater for the family and one at the office.

While this “advantage” may give some women autonomy to spend their income free from their husband’s influence, it may yield little transformative potential since it re-enforces rather than challenges the male breadwinner-female caregiver model

Wage employment, bargaining, and women’s empowerment

I follow Naila Kabeer (2005) in defining women’s empowerment as the processes through which women gain the capacity to exercise strategic forms of agency in relation to their own lives as well as in relation to the larger structures of constraint that positions them as subordinate to men (see also Naila Kabeer 2008; Jo Rowlands 2010; Andrea Cornwall 2016). Agency (“power to”) is central to the concept of empowerment and is defined in this article as women’s “ability to make and act on their own life choices, even in the face of others’ opposition” (Naila Kabeer 2005: 14). Agency in relation to empowerment, therefore, implies not only *actively* exercising choice (purposeful behavior), but also doing so in ways that challenge power relations. Naila Kabeer (2005, 15) calls this *transformative* agency (see also Andrea Cornwall 2016).

Wage employment is important to women’s economic empowerment. The position of women in the labor force is often used as an indicator of women’s status in society, because women’s financial dependence on men is identified as an important reason for their disadvantaged position (Fariba Solati 2017, 66). Women who earn wages or have access to other economic assets have higher bargaining power in the household and are more likely to partake in

important decision-making processes within their families, (see, e.g., Bina Agarwal 1994, Naila Kabeer 1999). The logic is as follows: women with independent economic assets are able to exit from a marriage (largely by strengthening their fallback position), and this gives more power to their voices within the marriage (Bina Agarwal 1997; Torbin Iversen and Frances Rosenbluth 2006). For example, women who control property are more able to leave abusive relationships (Pradeep Panda and Bina Agarwal, 2005). Women's income generation may also lead to more egalitarian domestic arrangements (Lyonette and Crompton 2015). Torbin Iversen and Frances Rosenbluth (2006) look at marriage as an incomplete contract that is potentially subject to termination. Both men and women have an incentive to enter into paid work since doing so strengthens their fallback position, which in turn leads to bargaining to determine the distribution of unpaid work within the family. Therefore, women have strong reasons to resist a complete sexual division of labor, which according to Susan Moller Okin (1989) perpetuates women's inequality more than any other factor. As economic independence strengthens women's bargaining power within marriage, we can expect that husbands will contribute more and receive less in the way of unpaid work in the home (Torbin Iversen and Frances Rosenbluth 2006).

However, women's economic agency is often constrained by gendered institutions such as laws that give men guardianship over women as well as social norms about what is regarded as appropriate for women. Laws and social norms can constrain women's bargaining position by restricting their earning opportunities in various ways, such as by discouraging or even preventing women from working outside the home, limiting the range of jobs they may perform, restricting their presence in public spaces, defining child care as their responsibility, and ideologically constructing women as dependents and men as breadwinners (Bina Agarwal 1997).

As such, gendered institutions often constrain women's household bargaining power or what Deniz Kandiyoti (1988) has termed "bargaining with patriarchy." At the same time, gendered institutions give men what Ramzi Mabsout and Irene van Staveren (2010) calls extra-household bargaining power, which may help them overpower the bargaining power women gain from income and other economic assets. Based on a study of a seemingly gender-equal norm of financial independence among Youroba women in Nigeria, Irene van Staversen and Olasundbo Odebode (2007) show that although such a norm may improve women's fallback position, it does little to support their well-being in a legal context where the father gets the custody of the children in case of divorce. Another strand of research suggests that women's control over economic resources may not always affect the division of labor within the home. Despite the fact that women are increasingly taking on wage employment globally, women tend to work a second shift. This is a term coined by Arlie Hochschild (2012) and refers to the double workload of women who work at paid jobs while also performing a disproportionate share of unpaid work at home. Scholars have largely explained this by reference to gendered social norms about who should and should not do housework (Sarah Thébaud 2010; Michael Bittman et al. 2003).

As Mabsout and Staveren (2010) note, there are a number of ways in which women's bargaining power gained through economic independence can thus be undermined . Primary among these are limiting their exit options, through adapting their preferences to what is deemed appropriate for women, and limiting what can and cannot be the subject of bargaining, like the gendered division of labor within the home (Bina Agarwal 1997).

Legal and ideological barriers for working women in Sudan and the MENA¹ region

The Middle East and Northern Africa (MENA) is the region in the world with the most legal restrictions on women's rights to work. It is also the region with the widest gender gap in labor force participation, despite declining fertility rates and higher levels of female enrollment in all levels of schooling (the two factors most commonly identified in the larger literature to boost female labor force participation). Only 28% of Sudanese women have paid employment.² The literature on women and work in MENA has identified other factors specific to the region that negatively affect female labor force participation. These are religion/religiosity (see, for example, Ronald Inglehart and Pippa Norris 2003), oil income (Michael Ross 2008), and the culture of patriarchy (Fariba Solati 2017) or the combination of them (see, for example, Valentine Moghadam 1998 on patriarchy and oil). I situate myself within the scholarship of the culture of patriarchy (Fariba Solati 2017), particularly the scholarship on the *patriarchal gender contract* coined by Moghadam (1998) to refer to the male breadwinner-female caregiver model which dominates in the MENA region and is regarded as the foremost barrier to women's formal labor participation there.

Sudan is among the worst countries in MENA and the world in terms of what Htun, Jensenius, and Nelson Nunez have coined *constraining gender discriminatory laws* (see this special issue). These legal restrictions form part of an Islamist political ideology propagated by President Omar al-Bashir and his supporters, through which the Islamist state sends women contradictory pressures through laws and ideology.³ I situate myself within the scholarship of those who claim that Islam can be used as a political tool to restrict women from wage employment in various ways, a political tool employed especially by Islamic movements and states (see for example Elhum Haghghat 2012, 328; Niels Spierings 2015).

There are two main features of patriarchy in MENA, often described as “classic patriarchy,” (Deniz Kandiyoti 1988), that are intimately linked to *constraining gender discriminatory laws* (see Mala Htun, Francesca Refsum Jensenius, and Jamie Nelson Nunez in this special issue). Fariba Solati (2017) identifies these as the male breadwinner-female caregiver ideal and a rigid separation between public (male) and private (female) spaces/gender segregation. These features of patriarchy are linked to three sets of laws: Muslim family law, labor law, and public order laws.

Muslim family law

In MENA countries, the male breadwinner-female caregiver ideal historically has been most clearly codified in family laws, where women’s obedience to male guardians in exchange for *nafaqa* (maintenance) imply that wives are economic dependents (Barbara Stowasser 1998, 33; Valentine Moghadam 1998).

According to the Sudanese Muslim Family Law of 1991, men are the *sole* financial providers within the family and women are the *sole* caregivers within the family. A wife is required to obey her husband if the husband has paid her the *mahr* (dowry), she is financially secure with him, and he provides her with shelter (El-Nagar and Tønnessen 2017). The *mahr* is a nominal fee which should not be less than two thousand Sudanese Pounds. The law explicitly states that the dowry is considered the wife’s property (articles 27–28). The first portion (*mukaddam*) is paid before the actual beginning of marital relations between the spouses. The code gives the wife the right to refuse conjugal relations until she receives the agreed upon amount of the *mukaddam*. However, traditionally, the prompt mahr (*mukaddam*) is used for the wedding preparations. The second or deferred portion of the *mahr* is supposed to be paid upon the

termination of the marriage by death or divorce. However, in Sudan the deferred *mahr* is seldom discussed or paid.

The wife should obey her husband once these conditions are fulfilled. The male breadwinner-female caregiver ideal is legitimized by the Islamist government's emphasis on biological difference and complementarity between men and women. Women's role in reproduction has been elevated in national narratives and especially in the text of the Muslim Family Law of 1991, codified for the first time by Islamists in 1991. The idea is that while women's biology sets them up to care for and nurture the family, men's biology directs them to provide for and protect the family.

Even when MENA women work for pay, they are expected to fulfil their obligations as caregivers of the family, primarily to provide care for the children and the elderly (Olmsted 2005, 115). Because the image of the female caregiver is so strong, it seems like the prevalence of a "second shift" for women in MENA has been exacerbated. While women of a privileged class position have resolved this problem by hiring women from lower class households to take over their domestic responsibilities while they work for pay, the problem has discouraged others from taking part in the formal labor market (Fariba Solati 2017, 45-46; Ipek Ikkaracan 2012, 23; Jennifer Olmsted 2015, 132; see also Valentine Moghadam 2013, 17).

Breadwinning is an obligation for the man, but only optional for the woman. It is against this backdrop that, in many family laws in the MENA region including in Sudan, a wife cannot work (or move) outside the home without the permission of the husband. In Sudan, the wife will be declared disobedient if she works outside the house without the husband's (oral) approval and will subsequently lose her right to maintenance and custody of her children. (Ustaza Zeinab and Abbas Badawi 2008, 223). The husband is said to have *haq alhabs* (the

right of confinement): the wife must obey him and remain confined at home, unless she obtains his permission (Asma Abdel Halim 2011, 10). Ipek Ikkaracan (2010, 23-24) analyzed women's labor force participation in Turkey and found that a significant number of women who wanted to work for pay reported that their male kin did not permit them to work. The underlying reasons stated for denying women this opportunity were the view that it was inappropriate for women to do paid work and women's primary responsibility as caregivers. Such view also represents a challenge in other Muslim majority contexts and even among Muslim minorities in the West (Naila Kabeer, 2000). However, research from Iran shows that men are more likely to give women permission to work outside the home if the women's earnings are essential for the household (Maryam Poya 1999, 113; Elaheh Rostami-Povey 2005, 13, see also Fariba Solati 2017, 49).

There are other legal principles in Muslim family law that support the idea of the male breadwinner. For example, according to classical interpretations of Sharia law that Sudan adheres to, inheritance law stipulates that a woman inherits half the amount of property that her brothers inherit. The reasoning behind the unequal division of inheritance is that the husband is the breadwinner of the family. So a woman's inheritance is then considered her own property, while a man's inheritance will be used to fulfil his financial obligations to the family. As a result, a man warrants a greater share of an inheritance than does a woman.

The matrimonial property regime, which defines the legal ownership of assets brought to and acquired during the marriage, also tends to benefit men, particularly male breadwinners. The system is with certain exceptions a separation-of-property system in MENA countries including in Sudan. This means that a Muslim wife has no independent stake in marital assets and retains no ownership interest in the marital home. In the event of divorce, each spouse simply walks away from the marriage with his or her individual property. Nevertheless,

historical evidence indicates that Muslim women owned property well before their Western counterparts (Siraj Sait 2015). For example, until the Married Women's Property Act of 1882, British wives surrendered their property to their husbands upon marriage.

Without significant pre-marital assets, *mahr*, gifts, income, property, or savings of their own, the denial of matrimonial property in MENA renders many poor divorcees effectively destitute or reliant on their natal family or the state. This problem is compounded in contexts of swift divorces (*talaq*) (Siraj Sait 2016). According to the 1991 family law in Sudan, a husband has the right to divorce (*talaq*) his wife outside the court without the consent of the wife, and he is not obliged to justify his decision. As soon as the husband pronounces the sentence “I divorce you,” the wife is considered divorced and the *idda* period begins. The only condition put on the husband for the *talaq* to be valid is that he cannot be intoxicated at the time of pronouncement. The *idda* is a waiting period, which in Sudan is three menstrual cycles. In the event that a woman is pregnant, her *idda* period lasts until delivery, even if this occurs before 90 days have passed. For the first and second pronouncements, *idda* may be ended by revocation. In Sudan, if the *talaq* is the third pronouncement, there is no possibility of revocation. By contrast, the wife can only obtain a divorce in court under certain conditions (Carolyn Fluehr-Lobban, 2012).⁴ Divorced women are often stigmatized. Women often receive the blame for causing divorces. Women’s success in their working career is secondary to their success in marriage.

If Sudanese women get permission to work for pay, they can spend the money they earn as they wish, according to the Muslim Family Law. Women are under no obligation to spend the earnings to provide for the family, as is legally stipulated in the case of men. It is stated in the 1991 law that the husband should not deal or interfere with the wife’s private money and should not harm her economically or psychologically. Although the law does not identify the source

of the wife's private assets, the law has been interpreted to include her wage income during marriage. In other words, her wage income is considered as part of her separate marital property. While family laws throughout the region codify the male breadwinner-female caregiver ideal and while most conservative Muslim societies require women to get their husband's permission to work, it is an unusual and unique feature of Sudanese law (codified by the current Islamist state), that female workers nonetheless have the right to spend their income as they wish. Islamist officials in Sudan often identify this feature of Islamic law as an example of how Islam spoils women (Liv Tønnessen 2011).

Labor law and public order

In Sudan, women's presence in the public sphere, including as wage earners, has been central to the Islamist state's marketing itself to the outside world as a 'modern' Islamic state, a contrast to historic Islamic stereotypes that emphasized the physical separation of men and women. During this Islamist government, the number of women receiving higher education has surpassed men; women are represented in national and sub-national legislative assemblies at 30%, and the majority of staff in the civil service is female. These are all "achievements" that are put at the forefront of public discourses on the importance of Muslim women's role in public spheres. These public discourses include the claim that such "achievements" mark Sudan as a modern Islamic state, distinct from other "traditional" and "backwards" Muslim majority countries in which women have been confined to the home (Liv Tønnessen 2011).

However, fear of gender mixing in public spaces has resulted in public order laws that require that women dress and behave modestly. The literature on MENA identifies the fear of gender mixing in public spaces—and the accompanying risk of sexual aggression towards women—and the consequences these have for women's *bay'a* (sexual modesty) as barriers to women's

paid employment (Jawad Syed 2008, 148; Dahlia Hassanien 2010, 5).⁵ Public order laws have been put in place to minimize the risks that accompany gender mixing. Women tend to bear the responsibility for the potential negative consequences of gender mixing. These laws are often collectively referred to as the *public order regime* in Sudan and include a range of laws and decrees. The Passport and Emigration Act of 1994 stipulated that women must have the written approval of a male guardian (husband, father, or brother) in order to travel. In December 1991, hijab became the official dress code for women by presidential decree. Indecent or immoral dress and behavior contrary to public morality is criminalized in article 152 of the 1991 Criminal Code as well as in the Khartoum Public Order Act of 1996.⁶ These legal documents do not, however, clearly or explicitly state what constitutes “indecent and immoral dress and behavior.” The language in Sudan’s legal codes remains ambiguous, vague, and open to interpretation, leaving the door wide open for law enforcement bodies as well as employers to understand them in various (and inconsistent) ways.

Scholars suggest that women in the MENA region suffer from a “double segregation.” Not only do they suffer from labor market segregation, but they also face occupational segregation where only some professions are considered appropriate for women, most of which are extensions of the work women do at home and which coincide with “female temperament” (Jennifer Olmsted 2005; Mervat Hatem 1988; Roksana Bahramitash 2011). These restrictions are often based on a biological understanding of gender difference “whereby the physical, physiological, and biological differences between men and women are translated into universal and immutable differences in their social and intellectual capacities” (Valentine Moghadam 1988, 223, see also Sondra Hale 1997). These restrictions, and sometimes even the physical differences, are often stipulated in labor codes.

In the Sudanese Labor Law of 1997, there are two restrictions put on the type of work deemed appropriate for women. Women are prohibited from hazardous work that requires physical efforts and or may be harmful for health such as underground work or work that could expose women to poisonous materials or high temperatures (article 19 (4)). In addition, there are restrictions when it comes to the time of day that women can work. Women are prohibited from working between 10:00 PM and 6:00 AM (article 20 (1)). However, the profession can mediate this restriction: women working in administrative, technical, social, health and professional work are exempted from the rule.⁷ In reality, this does not restrict urban professional women who work mainly in the public sector—or at least not on paper. This legal restriction has indeed negatively affected women working in the informal market selling food such as *kisra* (sorghum pancakes) or tea in the streets or in public spaces, often at night (Karin Willemse 2007; SIHA 2015).

Experiences of upper- and middle-class married women in urban Khartoum

How do working women negotiate legal constraints placing them under the guardianship of their husbands, imposing strict public dress and behavioral codes upon them, and upholding occupational segregation in the workplace? To explore women's own narratives and experiences, I set out to conduct interviews with university-educated women in urban Khartoum from the middle and upper classes who are either housewives or who work in the formal labor market.⁸

There is relatively little Sudan-specific literature on the topic of women and work (Samia al-Nagar 1986; SIHA 2015; Griet Steel 2017; Karin Willemse 2007). The most recent literature has focused on the negative effects of Islamist policies on unskilled women in the informal labor market (SIHA 2015; Karin Willemse 2007). SIHA (2015), a woman's NGO, has called

attention to the public order police's widespread arrests of unskilled and poor women for working during the night. A prevailing belief is that working at night incites promiscuous behavior, as women are rendering direct service to men under the cloak of darkness. Griet Steel (2017) explores how educated, entrepreneurial women in Khartoum circumvent the public order police by operating in the informal labor market from within their own homes.

I focus here on the pool of female wage earners from the middle and upper classes, which I delineate as having university degrees and as working in professions that are socially valued and respected such as medical doctors, teachers, university lecturers, bureaucrats, and traders/investors with small enterprises. I have chosen to focus on women of the upper and middle classes who have higher education, not only because there is little in the current literature about them, but also and more importantly because these women form part of an important recruitment base for Islamists. Sudanese Islamism has been regarded as “the product of a middle and upper class ideology.” (Ruediger Seesemann 2005, 89). The Islamist project therefore “addresses a distinct type of women, namely those who belong to the educated upper and middle class” (Ruediger Seesemann 2005, 109). While my previous work has focused on the Islamists' perception of their distinct approach to women's empowerment in Islam and how this has developed over time and has been contested by feminists and Salafists,⁹ in this study I focus on how women who are not politically active perceive the restrictions within the legal architecture. I have focused on married women with children because they are at the center of the countervailing pressures of motherhood and wage employment. Married women also face the harshest legal restrictions in the 1991 family law, as they need their husband's permission to work.

I rely on interviews with 33 married women in Khartoum during September-December 2017 and November 2018. I used three research assistants to conduct these interviews with a semi-structured interview guide with questions related to how women perceive and contend with restrictive laws (family law, labor law, and popular order laws), how women gain access to the labor market, how they use their income, and how wage employment affects the power relationship within their households. The interviews were conducted in Arabic, and recorded and transcribed by the research assistants. As a non-native speaker of Arabic, I received assistance in translating written transcripts into English. We have used a snowballing technique where each research assistant conducted their first interviews within their neighborhood/circle of friends,¹⁰ and then we snowballed from there with an explicit aim of getting a sample that reflected a spectrum of ideological outlooks. We have used head covering as a proxy for ideological outlook, including:

1. Niqab, which in the Sudanese context is associated with Salafism, a Wahhabi approach to Islam distinct from Sudanese Islamism. Sudanese Salafi groups define themselves as separate from the Islamist state and they propagate the use of the face veil, something deemed “backward” by the Sudanese governing regime;
2. Hijab (either with the Sudanese traditional tobe or abaya), which the Islamists have been advocating as proper Islamic attire; and
3. “Western” clothes (like trousers) with a “just in case” scarf (the “just in case” scarf has become an almost institutionalized term to refer to women and girls defying the public order regime).

This small sample is of course not representative of all “Sudanese women,” but these in-depth interviews can give us important insights deriving from a specific urban-based class position.

I have analyzed the interview material using thematic analysis, which is “a method for identifying, analyzing and reporting patterns (themes) within data” (Virginia Braun and Veronica Clarke 2006: 79). This inductive approach emphasizes the participants’ perceptions and experiences as the paramount object of study.

Women’s perceptions of men’s ideological outlook on women’s wage work

Laws render women vulnerable to men’s views on whether or not women should work outside of the home. Women’s own political-ideological position did not seem to matter as virtually all of the women we interviewed affirm their right to work. Even the niqab-wearing and presumably most conservative women in the sample express that this is a women’s right granted to them in Islam. According to a niqab-wearing kindergarten teacher, who is married with six children; “Sharia does not give the man right to deprive his wife work” (Interview, 2018). In fact, all the women in the sample regard the fact that women must seek the permission of husbands in order to work for pay as unjust and against Islam. To give one example, a doctor, married and aged 38, says: “The law is unfair. Where is it stated in religion that men can deny women the right to work?” (Interview, 2017).

There are four of nine housewives in my sample that have been forced to stay at home either because their husbands believe that a) paid work for women is inappropriate and women’s primary responsibility is as caregivers or b) the woman’s profession is considered inappropriate, meaning that it will expose the woman to sexual harassment or encourage immoral behavior.

One informant, aged 29, who studied to become a secretary, was denied the opportunity to work by her husband, and her family agreed to that state of affairs on her behalf and in advance when contracting the marriage;

I have not decided to be housewife, but my husband before marriage put a condition in the marriage contract that I should not work. My family and I accepted the condition. My husband and family forced me to be a housewife. Their argument is that housework is a full time job and my husband would provide all needed expenses. If I decide to work or go out I need his permission (Interview, 2017).

Despite many unsuccessful attempts to seek her husband's permission to work outside of the home, another housewife, a 43 year-old business administration graduate in Khartoum, says:

When I was a student I had plans to work, but marriage constrained me as my husband refuses the idea of me working. He thinks that the house and childcare are great responsibilities that cannot be coordinated with work outside. Whenever I show interest in working, we have a big fight and he reminds me with the children's needs for help in their study. I tried several times, but he insists on refusing me. Finally, I got depressed and I gave up. I need his permission for work; I cannot force it on him (Interview, 2017).

These two narratives suggest that the husband's (and at times also other family members') view was that women's primary responsibility as caregivers cannot be combined with wage work. The husband's view triumphs the women's wish to work outside of the house, as illustrated in the above quotes—and the Muslim Family Law of 1991 gives him the legal right to do so.

While some husbands might not be opposed to the idea of women working for pay in general, the type of profession is important in making the decision whether or not to give their wives permission. While labor law prohibits women from hazardous professions, husbands are concerned that certain types of work will put their wives at risk of sexual harassment or that interaction with men at the workplace will encourage immoral behavior. In my sample, there are women who have been denied the permission to work due to their husbands' fear of sexual harassment. In the words of one of the housewives, aged 27, who once aspired to be a TV announcer when studying media at the University of Khartoum:

My husband does not approve of me working as a TV announcer. He does not like this work because women and girls experience harassment there; it is not good work environment. This was a convincing argument for me and I agreed. Many people say that and it is known that it is not a good working environment for women in our society (...) So I did not choose to be a housewife, he refused the idea that I can work (Interview, 2017).

While those interviewed regard the husbands' act of denying their wives the opportunity to work for pay to be unjust and discriminatory, most would agree that some professions are simply not suitable for women either because of biological limitations or because of the risk of sexual harassment. As one housewife puts it, "this is done as recognition and protection for women, it is not a violation of our rights" (Interview, 2017). Based on a biological understanding of women's fragile nature, which is an essential component of Islamists' understanding of complementarity, physical labor is not seen as appropriate work for women; "I think there are jobs that are not suitable to women, specifically activities that involve hard work, because women are fragile and delicate" (Interview, 2018). In the words of Mervat

Hatem (1988) writing on Egypt, these types of jobs simply do not coincide with the “female temperament,” which is just a feature of their biological nature. This view is also consistent with Sudan’s current Labor Law, which excludes women from certain “hazardous” professions. These legal restrictions have broad support among my interviewees and are not seen as discriminatory, but rather protection.

However, when it comes to the fear of sexual harassment, the trend in my interview material suggests a strong class dimension. My interviewees did not have broad sympathy with the reasoning provided above for denying the TV presenter (who holds a master’s degree in media communication) the chance to work. This is likely due to the fact that the risk of sexual harassment for working women, because of gender mixing in the workplace especially at night, is associated with unskilled female workers, particularly those in the informal labor market such as coffee and tea sellers. In the words of one of my interviewees; “Women should have the right to work in any job except in the market, because it exposes her to harassment” (Interview, 2017). In the context of the market, gender mixing and especially the act of rendering direct service to men, is seen as inappropriate and as carrying with it an increased risk of sexual harassment. However, for these women, working in a bank alongside men and rendering service to men would not represent the same risk. A university lecturer puts it like this”

(...) Women actually provide direct services to men, doctors and nurses take care of male patients the whole night, and in the emergency cases they might be alone, nobody comments on that or questions the doctors’ reputation or behavior. A female secretary provides direct services to male managers, and people accept that. But when it comes to certain jobs like working in the market or as waiters or at fuel stations , people think it is unacceptable (Interview, 2017).

While majorities of all categories of women interviewed for this study find it unjust and discriminatory that men have the power to deny their constitutional right to work, they nonetheless embrace occupational segregation embedded within the Islamist understanding of complementarity. In their view, keeping women from entering into certain professions is a form of protection, not discrimination. However, the form of “protection” propagated by the Islamist government affects the women interviewed for this study to a far lesser degree than it affects unskilled women from lower classes working in the informal labor market.

Advantage, not discrimination?

All categories of working women interviewed (except one interviewee) see *advantages* with the male breadwinner model. The advantage of the Islamist vision of economic empowerment, the way they see it, lies in the fact that they are by law entitled to keep their wage income for themselves. What drives many of them into the labor force is a desire for self-realization and a desire to gain economic independence from their husbands, not to help alleviate their husbands’ burden. According to a kindergarten teacher, 47 years-old, married with kids, “I wanted to have a job for self-realization, to feel that I have autonomy using my own money. It is my right to work and Islam encourages women to work and earn” (Interview, 2018).

The Islamist government has of course not invented the male breadwinner model: it was the social norm in Sudan long before the *coup d’etat* in 1989, especially among those classes who could afford to keep women domesticated. (Samia Al-Nagar 1986, 228). Customarily, women could work only if there was an economic need for them to do so. For the affluent classes, however, women’s work was a signifier of the man’s failure to provide for his family (Samia Al-Nagar 1986, 229). The Islamist vision of economic empowerment, catering to its support base in the middle and upper classes, opened up a space for the increasing number of women

with higher education in the country to work for self-realization, rather than doing so to address economic need. Against this backdrop, the women interviewed do not see a contradiction between the male breadwinner model and women's equal right to work for pay, even if there is not always an economic need. In fact, being a working woman is presented as an Islamic ideal. A psychologist, aged 38, says,

For me working and studying is a must, it is a Sunna (in accordance with the Prophet Muhammad's sayings), it is important to study and work in your field. Work develops the person and leads to progress (Interview, 2017).

Even if women are not obliged to contribute to the household, this fact should not stand in the way of women's right to equal pay for equal work. A business woman argues,

Yes, for sure women should have equal payment with men. Nowadays, women work more than men when they work in institutions, if you go to an office you will find a woman is sitting in there, but the man is moving around, drinking coffee or chatting outside the office, so they shouldn't be given less than men (Interview, 2017).

Seen through the lenses of women's "advantage," the Muslim Family Law of 1991 gives women the right to manage their incomes independently of the husband; a right that is widely exercised in my sample of interviewees. "My money is for me", says a 30 year-old business woman (Interview, 2017). There is similar testimony from many interviewees suggesting that the income is theirs to spend, free from the husband's influence. A 38 year-old psychologist testifies, "To be honest, my husband spends on me and the kids. I never pay for our fees" (Interview, 2017). While some explicitly link this ideal to religion, others present it as the social norm. A kindergarten teacher says; "He is the responsible for family needs. I should not give anything in return. Spending is his religious duty" (Interview, 2018). Except for one

interviewee, the working women reported that their husbands are in fact unaware of how much they earn. A pharmacist, aged 36 says;

No never does my husband get involved in how I spend my savings or income, and he doesn't even know how much I get paid, and I do not know his salary (Interview, 2017).

All categories of women interviewed express that if they contribute to the household, it is their choice and not their obligation to do so. A middle-class woman working as a psychologist, married with two children, aged 30, expresses it in this way: "My husband does not have any say in how I spend my savings. If he needs help, I will help, but all my income, savings are mine to do what I please with" (Interview, 2017). Only five of the working women interviewed share the burden of kindergarten and school fees for children or major household expenses such as the electricity bill, while the rest made it clear that such things were the husband's responsibility.

Beyond contributing to household expenses, the women interviewed reported spending their income in the following ways:

- 1) Personal expenditures, typically like mobile (scratch) cards and transportation costs to and from work. It is important to note that personal expenditures do not include, for example, clothes, as clothing the family is considered the husband's responsibility. If a woman does not wear nice clothes in public, it reflects badly on the husband, not on the woman.
- 2) Household items that the husband regards as unnecessary, like decorative pillows for the living room or nice clothes for the children.
- 3) On their self-realization and personal ambition. For example, in my sample there were women who saved for tuition for master's degrees or to start kindergarten business.

4) To give money to the family (mother, father, or siblings). While the husband is obliged to spend on the wife, it is not his responsibility to provide for her parents.

5) Saving for economic hardship through, for example, buying gold (hard currency) or land that later can be sold in times of need.

Three of the ways that women interviewed for this study spend their wage income are forms of economic investments. These are investing in higher education, gold or land, or by giving gifts to their families. Such economic investments will guarantee women's financial security in the future in case, for example, of out of court divorce or the death of their husbands. Education will secure a better job with better pay, while a house can be built on the land that these women own. By giving money gifts to family they make sure that they will be well received if they have no other choice but to move back into the family home. This suggests that being in control of their income, something which is stipulated in the Muslim Family Law, can enable working women in Sudan to make economic choices independently of their husbands and thereby give them capacity for strategic forms of economic agency in their own lives. However, even if working for pay can improve their fallback position, in the Sudanese context they have limited access to divorce. As such the economic investments are primarily a means to reduce economic vulnerability in case of the husband's swift divorce or in case of his death.

There is a clear expectation in the literature that women who earn wages have higher bargaining power in the household, including power leading to more egalitarian domestic arrangements. Many assume that women with resources will use the threat of exit from the marriage as a way to gain more power within marriage. Although working for pay seem to give women in my sample a strong sense of self-realization and independence/autonomy in the spending of their income on what they see fit (which is a reflection of their privileged class position), income

generation does not seem to affect their decision-making power within the family. This finding travels across the different categories of women interviewed for this study. A middle class married woman working as a university lecturer says, “the husband takes main decision such as marriage of daughters” (Interview, 2017). A woman, married with two children, working in a private company notes that the “decision making process has not changed after I started working” (Interview, 2017). However, wives who contribute to their household economy in a significant way seem to have husbands who are encouraging them to work for pay. This aligns with previous studies from Iran suggesting that men are more likely to give women permission to work outside the home if the women’s earnings are essential for the household (Maryam Poya 1999, 113; Elaheh Rostami-Povey 2005, 13; see also Fariba Solati 2017, 49).

Therefore the dynamic foreseen by scholars such as Okin (1989) and Iversen and Rosenbluth (2006) about the relationship between economic empowerment, gender bargaining, and a more egalitarian marriage does not play out among my interviewees. Women with greater financial power are still not able to bargain for less patriarchal marriages or what Kabeer (2005) refers to as exercising transformative agency. This is likely due to the persistence of restrictive laws governing women’s mobility and workplace opportunities, and conservative social norms that may ostracize them in the event of divorce.

Regardless of whether wives contribute to the household economically or not, husbands rarely perform domestic tasks that are considered solely ‘women’s work’. “*No my husband does not help me with household duties, because the men in Sudan don’t help their wives with household duties,*” says a medical doctor, married with five children (Interview, 2017). In the relatively modest sample, there were only two examples where the husband would make modest contributions to domestic tasks, either by doing some cooking or helping out with the children.

The different categories of women interviewed present the division of labor within the home (unpaid care work) as non-negotiable: it is the women's primary and sole responsibility as a wife and mother. While the most affluent interviewees outsource domestic tasks and thereby suffer less from the "double burden," I interpret the absence of protest as a reflection of their awareness of the costs of protest, namely that their privilege to work for pay will be revoked.

In some cases, wives' domestic performance (the most important tasks being cooking, cleaning, and children's education) is an implicit or explicit condition for the husband to grant the permission to work. Typically, the women in my sample have fought for the permission to work against the wishes of their husbands, and are adamant not to give their husbands any reason to doubt that they can perform their domestic tasks even if they also work for pay. A lecturer, aged 40 and married with three children, says,

I faced and still face a lot of pressure from my husband about my work. When I married him I was working and he offered me to stay home (...), but I refused that offer which caused a lot of arguments between us, and he was so adamant that I should stay home. (...) My husband does not contribute to the house work at all. He can't work outside the house and then comes back and with work in the house, he sees it as the wife's job. (...). I find it hard to balance between my house work and my professional work, but I made a vow to myself to never give my husband an opportunity to argue with me and accuse me of neglecting my house duties, so I work twice as hard (...)" (Interview, 2017).

The private sphere is also where women display their feminine identity through doing housework and looking after the family, which again is considered their primary role. Gendered institutions, including Islamist ideology and Sharia laws codified by the Sudanese government, put strong emphasis on women's role as caring wives and mothers. It is only after

this primary role has been successfully performed that women can work for pay. Women have to prove they will not neglect their “second shift” in order to get permission to pursue wage work.

Conclusion

It seems that the Sudanese legal framework is contradictory in granting women the equal right to work in the Constitution, yet also granting husbands with the authority to veto their opportunity to work in the Muslim Family Law of 1991. The general literature, as well as my interviewees, have identified women’s agency in family law as an important barrier to women’s wage employment. This finding resonates with a larger scholarship on family law and the effect on women’s labor participation. Using data from the World Bank's Women, Business, and the Law datasets from 2014 and 2016, Htun, Jensenius, and Nunez (in this special issue) find that restrictions on women's agency in family law serve as by far the strongest predictor of female labor force participation when compared to discrimination in wage work and parental leave.

Interestingly, women of different political-ideological standpoint interviewed for this study see constraints as well as advantages within the 1991 Muslim Family Law, under which a husband can legally divorce (*talaq*) his wife outside the court without stating any reason, women have unequal inheritance rights, and a separate matrimonial property regime. Though the 1991 law takes away women’s control over the decision to work for pay, at the same time it gives them the “advantage” of controlling their own income. It is important to note that my sample of interviews are small and from a specific and privileged class position in Khartoum. Women from other classes in other areas of Sudan might not perceive these parts of the Muslim Family Law of 1991 (which were politically engineered to muster support from urban women of the upper and middle classes) as “advantages” at all. Only 28% of Sudanese women have

entered the formal labor force, and only a minority is from a privileged class position where there is economic room for women to spend their income in ways other than boosting the household economy.

Even a restrictive legal framework can enable working women in Sudan to make independent economic choices and thereby give them capacity for strategic forms of agency in their own lives. Women living in contexts that many would call restrictive or oppressive see advantages of the status quo. However, my findings suggest that the economic resources gained through wage work have had limited transformative potential in relation to the larger structures constraining various aspects of women's lives. Women representing a range of political and ideological outlooks report that generating an income has not resulted in higher bargaining power in the household, nor has it led to husbands' partaking in unpaid care work. However, it has created some economic independence from the husbands and has created a sense of accomplishment and self-realization among women in certain demographic groups. Ironically, by giving elite women some limited freedoms, the Islamist government may have helped dilute their opposition and bought some time for the stability of the regime.

Notes

¹ I include Sudan in the MENA category in this paper, because it is an Islamic state with Arabic as its official language run by a Riverian political elite who claims to be of Arab descent. Sudan (short for the Arabic *bilad as-sudan*, "land of the blacks") has for much of its history been linked with or influenced by Egypt: 1) the Nubian Kingdom of Kush stretches from Sudan to Egypt's Aswan province; 2) Northern Sudan has been conquered by the

Ottoman Empire through the Egyptian ruler Muhammed Ali, 1821-1881; and 3) Sudan has been under Anglo-Egyptian rule (1899-1956). Moreover, UN-agencies as well as Arab Barometer include Sudan as part of MENA.

² This number is taken from the Sudan Labor Force Survey, 2011. I have not been able to access a more updated rate of female labor participation in Sudan. However, these are estimates. According to the UNDP Human Development Report from 2016), the estimated female labor force participation rate (% ages 15 and older) in 2015 in Sudan is 24.3%.

³ Islamism the way the term is employed in this article is not a form of the Muslim faith or an expression of Islamic piety; rather it is defined as a political ideology that strives to derive political legitimacy from Sharia/Islamic law.

⁴ These are: the husband (1) fails to fulfill his financial obligation to support her; (2) has more than one wife and she can prove that he does not treat all his wives justly; (3) has a defect that she did not know about before marriage; (4) suffers from an incurable mental illness; (5) is impotent; (6) behaves cruelly; (7) remains abroad for more than one year; or (8) is sentenced to prison for more than two years. The wife can also obtain a divorce if a judge declares her to be disobedient (*nushuz*) to her husband (articles 151–203).

⁵ Mernissi (1987, 137) describes this feature of patriarchy within the context of Islam where the interaction of unrelated men and women is illicit.

⁶ The Public Order Act was issued in the form of a decree by Badr Eddin Taha Ahmed, governor of Khartoum state, on March 28, 1996, and applies only in Khartoum state.

⁷ However, article 20 (2) states that a specialized authority (council of ministers) in consultation with the National Labor Force Committee can allow women to work at night according to the conditions they set and in fulfillment of the public interest.

⁸ About 35% of Sudan's population live in urban areas. The third of the population that lives in urban centres is concentrated in the Khartoum metropolitan area.

⁹ I have conducted fieldwork in Sudan since 2006 and done an extensive number of interviews with political elites looking at mobilization for, and counter-mobilization against, (Islamic) legal reform to advance women's equal rights. I look at legal debates about women's rights and Sharia are part of an ideological landscape and positions on women's issues serve as symbolic boundary markers between political contenders. These interviews feed into the background section of this paper on the legal restrictions and the section on contradictory ideological pressure.

¹⁰ I personally do not know any of the interviewees.

References

Abdel Halim, Asma. 2011. "A Home for Obedience: Masculinity in Personal Status for Muslims Law." *Hawwa* 9(1): 194–214.

Agarwal, Bina. 1997. "Bargaining and gender relations: Within and beyond the household." *Feminist economics*, 3(1):1-51.

Agarwal, Bina. 1994. *A field of one's own: Gender and land rights in South Asia*. Cambridge University Press.

Al-Nagar, Samia. 1986. *Patterns of women's participation in the labor market in Khartoum* from. PhD dissertation. University of Khartoum

Bahramitash, Roksana. 2011. "Female headed households in Iran: Microcredit versus Charity" in Roksana Bahramitash and Hadi Salehi Esfahani (eds.) *Veiled employment: Islamism and the political economy of women's employment in Iran*. Syracuse University Press.

Bittman Michael, Paula England, Nancy Folbre, Liana Sayer, and George Mathenson. 2003. "When does gender trump money? Bargaining and time in household work". *American Journal of Sociology* 109:186-214.

Braun, Virginia. and Veronica Clarke. 2006. "Using thematic analysis in psychology" *Qualitative Research in Psychology* 3: 77-101.

Cornwall, Andrea. 2016. "Women's empowerment: What works?" *Journal of International Development* 28: 342–359.

El-Nagar, Samia and Liv Tønnessen. 2017. "Family law reform in Sudan: competing claims for gender justice between sharia and women's human rights" Bergen: Chr. Michelsen Institute. Available online: <https://www.cmi.no/publications/file/6401-family-law-reform-in-sudan.pdf>

Fluehr-Lobban, Carolyn. 2012. *Shari'a and Islamism in Sudan: Conflict, law and social transformation*. London: Tauris.

Haghighat, Elhum. 2012. "Debunking the assumed connection between educational attainment, reduced fertility and mortality, labor force inclusion and political participation for women in the Middle East" *Middle East Critique* 21(3): 309-332.

Hale, Sondra. 1997. *Gender politics in Sudan: Islamism, socialism and the state*. Westview Press.

Hatem, Mervat. 1988. "Egypt's middle class in crisis: The sexual division of Labor." *Middle East Journal* 42(3): 407-422.

Hassanien, Dahlia. 2010. "Gendering decent work: Obstacles to performativity in the Egyptian workplace". *Surfacing* 3: 1-15.

Hochschild, Arlie. 2012. *The second shift: Working parents and the revolution at home* Viking Penguin.

Htun, Mala, Francesca Refsum Jensenius and Jamie Nelson Nunez. 2019 (published online). "Gender discriminatory laws and women's economic agency". *Social Politics: International Studies in Gender, State & Society*.

Ikkaracan, Ipek. 2012. "Why so few women in the labor market in Turkey?" *Feminist Economics* 18(1): 1-37.

Inglehart, Ronald and Norris, Pippa. 2003. *Rising tide: Gender equality and cultural change around the world*. Cambridge University Press.

Iversen, Torben. and Frances Rosenbluth. 2006. "The political economy of gender: Explaining cross-national variation in the gender division of labor and the gender voting gap" *American Journal of Political Science* 50 (1): 1-19.

Kabeer, Naila. 1999. "Resources, agency, achievements: reflections on the measurement of women's empowerment". *Development and Change* 30(3): 435-64.

Kabeer, Naila. 2005. "Gender equality and women's empowerment: A critical analysis of the third millennium development goal 1" *Gender and Development* 13(1):13-24.

Kabeer, Naila. 2000. *The power to choose. Bangladeshi women and labour market decisions in London and Dhaka*. Verso.

Kandiyoti, Deniz. 1988. "Bargaining with patriarchy." *Gender and Society* 2: 274-290.

Lyonette, Care and Rosemarie Compton. 2015. "Sharing the load? Partners relative earning and the division of domestic labour" *Work, Employment and Society* 29(1): 23-40.

Mabsout, Ramzi and Irene van Staveren. 2010. "Disentangling bargaining power from individual and household level to institutions: Evidence on women's position in Ethiopia" *World Development* 38(5):783-796.

Mernissi, Fatima. 1987. *Beyond the veil: Male-female dynamics in modern Muslim society*. Indiana University Press.

Moghadam, Valentine. 1998. *Women, work and economic reform in the Middle East and Northern Africa*. Boulder: Lynne Rienner.

Moghadam, Valentine. 1988. "Women, work, and ideology in the Islamic Republic" *International Journal of Middle Eastern Studies* 20(2): 221-243.

Moghadam, Valentine. 2013. *Modernizing women: Gender and social change in the Middle East*. Lynne Rienner.

Moghadam, Valentine. 2005. "Gender and social policy: Family law and women's economic citizenship in the Middle East" *International Review of Public Administration* 10(1): 23-44.

Okin, Susan Moller. 1989. *Justice, gender and the family*. New York: Basic Books.

Olmsted, Jennifer. 2005. "Is paid work the (only) answer?: Neoliberalism, Arab women's well-being, and the social contract" *Journal of Middle East Women's Studies* 1(2): 112-139.

- Panda, Pradeep and Bina Agarwal. 2005. "Martial violence, human development and women's property status in India" *World Development*, 33 (5): 823-850.
- Poya, Maryam. 1999. *Women, work and Islamism: Ideology and resistance in Iran*. Zed Books.
- Rostami-Povey, Elaheh. 2005. "Women and work in Iran" *State of Nature Online Journal*.
- Ross, Michael. 2008. "Oil, Islam and women". *American Political Science Review* 102(1): 107-123.
- Rowlands, Jo. 2010. "Empowerment examined", *Development in Practice* 5(2): 101-107.
- Sait, Siraj M. 2015. "Rethinking Muslim women's equal rights: faith, property and empowerment". In: *Contemporary challenges in securing human rights*. Institute of Commonwealth Studies, School of Advanced Study, University of London.
- Sait, Siraj M. 2016. "Our marriage, your property? Renegotiating Islamic matrimonial property regimes" in Yassari, N (ed) *Changing God's law: The dynamics of Middle Eastern family law*. Routledge.
- Seesemann, Ruediger. 2005. "Islamism and the paradox of secularization: The case of Islamist ideas on women in the Sudan" *Sociologus* 55(1): 89-118.
- Solati, Fariba. 2017. *Women, work, and patriarchy in the Middle East and North Africa*. Palgrave Macmillan.
- Staversen, Irene van and Oluşundbo Odebode. 2007. "Gender norms as asymmetric institutions: A case study of Yoruba women in Nigeria" *Journal of Economic Issues* 41 (4): 903-925.
- Steel, Griet. 2017. "Navigating (im)mobility: Female entrepreneurship and social media in Khartoum" *Africa* 87(02): 233-252.

Stowasser, Barbara. 1998. "Gender issues and contemporary Quran interpretation". In Y. Haddad & J. Esposito (Eds.), *Islam, gender, and social change*. Oxford University Press.

Spierings, Niels. 2015. "The influence of patriarchal norms, institutions, and household composition on women's employment in twenty- eight Muslim-majority countries" *Feminist Economics* 20(4): 87-112.

Syed, Jawad. 2008. "A context-specific perspective of equal employment opportunity in Islamic societies" *Asia Pacific Journal of Management* 25: 135-151

Thebaud, Sarah. 2010. "Masculinity, bargaining and breadwinning: Understanding men's housework in the cultural context of paid work" *Gender & Society* 24 (3): 330-354.

Tønnessen, Liv. 2011. *The many faces of political Islam in Sudan: Muslim women's activism for and against the state*. PhD dissertation University of Bergen, Bergen.

Willemsse, Karin. 2007. *One foot in heaven: Narratives on gender and Islam in Darfur, West-Sudan*. Brill.

Zeinab, Ustaza and Abbas Badawi. 2008. "Needed reforms in family Muslim laws and customary laws in Sudan" in Akolda M. Tire and Balghis Badri (eds). *Law reform in Sudan*. Ahfad University for Women.