

Highlights of the proposed family law in Sudan

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Family law in Sudan is governed by a traditional orthodox thinking methodology that considers family matters one of the fundamentals of religion and therefore a taboo which should not be touched. This is in fact untrue since the present law is actually a mere ad hoc compilation of some of religion's scholars' uncommon and unusual doctrines that show no consideration to women's worth and value.

Writing a proposed law in Sudan is therefore a pioneer attempt to enforce the principles of equality between family members, in addition to implementing religion's and the Sudanese community's virtuous and positive values of social justice and respect to women and children.

Moreover, the proposed law has taken into account international progressive and widely applied ideologies and principles that depict civil, political, economical and social rights which are based on the respect of humanity as a whole.

The proposed law has also considered the discrimination that Sudanese women experience because of the existing law such as violence, denial of custody, unjust divorce that damages the family, polygamy and other forms of discrimination that marginalize and abuse Sudanese women.

One of the main characteristic of the proposed law is its emphasis on women's free will and choice in matters related to marriage, giving women the right to choose their own husbands. The law liberates women's free will from the domination of the Tutelage who in the existing law has great power over women which can go as far as to annul a woman's marriage. However, the tutelage's right to annul a marriage doesn't apply in case of pregnancy. The fear that women have over this right has resulted in the spread of undeclared secret marriages and other types of marriages such as *almuta'a*, *misiar*, *naharia*.

In line with these principles, the proposed law has altered many of the existing laws and replaced them with more just and fair laws. Below are some of these proposed laws:

Age of Marriage

The proposed law has determined the minimum age of marriage to 18 years of age in order to prohibit girls marriage which has damaging consequences on both girls and families.

Financial Maintenance

The proposed law has established a minimum limit of financial support so as to ensure a decent living for families.

Polygamy

When it comes to the issue of polygamy, the proposed law set new procedural terms to regulate polygamy where upon a husband is not allowed to contract another marriage with another woman before obtaining a 'polygamy permission' from the court and before the permission of his wife.

Travel

Wives and mothers have the right to travel with their children to any location they wish.

Child's Custody

The proposed law gives mothers the right to have full custody of their children until the age of 18 yrs which is the age of legal responsibility in the Sudanese law. The child/children are then mature enough to choose how and where they want to live.

Establishing descent

Descent is established by an existence of a matrimonial life, affidavit, testimony and by using scientific methods such as DNA testing, the later being a conclusive method of proving paternity.

Separation and Divorce

In the proposed law divorce is a right given to both men and women as opposed to only men in the existing law. Divorce can only be given in a court of law to easily facilitate all the conflicting issues between the couples e.g. child custody, alimony etc...Furthermore, the proposed law states that women's consent is needed if the husband requested to "return" to his wife.

In contrast to the 1991 family law, matters related to financial statements and contracts, inheritance, will, donations and endowment issues etc were not included. This is because the legal system should constitute of a group of laws and regulations related to a specific subject for instance family system and transaction system else the law becomes confusing and disorganized.

Finally, the experience of the proposed family law has generated a dialogue that is capable to achieve a law that is based on equality regardless of religion, ethnicity and culture in addition to altering the concept of marriage from being sheer misery to being a happy and joyful choice for the parties involved.