ABSTRACT
This article seeks to move beyond the impasse between the anthropological tradition (that remains cautious to condemn human rights violations defined by “universal” standards), and the international community (which advocates such “universal” norms). In line with feminist anthropological work in northeast Africa that has advanced understandings of gendered agency in Islamic and patriarchal cultures, I suggest that a careful analysis of plural local normative structures is necessary to understand any practice of women’s subordination and potential for agency. Two registers of justice are in circulation, in which ideals of feminine agency are made explicit. Women and girls who cannot identify their experience through either register of justice may not seek to report it. This helps account for why neither register of justice is useful to the majority of Sudanese women, but this seemingly impossible situation does not determine their capacity for agency. I draw inspiration from post-colonial feminism and Science and Technology Studies (STS) approaches where the “culture” of sexual violence in Sudan is arguably a “translation” of Sudan’s national and transnational moral politics into the micropolitics of power among women and men in an inevitably plural post-colonial setting. Thus agency here is also “doing postcolonial gender.”

KEYWORDS
Sexual violence; women’s rights; sharia; gender; agency; NGO; Sudan; post-colonial

PALAVRAS-CHAVE
Violência sexual; direitos da mulher; sharia; género; agência; ONG; Sudão; pós-colonial

PALABRAS CLAVE
Violencia sexual; derechos de la mujer; sharia; género; agencia; ONG; Sudán; poscolonial

Curating consent: sexual violence, moral politics and gendered agency in Sudan

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ABSTRACT
Este artigo procura ultrapassar o impasse entre a tradição antropológica (que permanece cautelosa para condenar as violações dos direitos humanos definidas por normas “universais”), e a comunidade internacional (que defende tais normas “universais”). Em consonância com o trabalho antropológico feminista no nordeste de África, que avançou na compreensão da agência do género nas culturas islâmicas e patriarcais, sugiro que uma análise cuidadosa das estruturas normativas locais plurais é necessária para compreender qualquer prática de subordinação e potencial de agência da mulher. Estão em circulação dois registros

RESUMO
Este artigo procura ultrapassar o impasse entre a tradição antropológica (que permanece cautelosa para condenar as violações dos direitos humanos definidas por normas “universais”), e a comunidade internacional (que defende tais normas “universais”). Em consonância com o trabalho antropológico feminista no nordeste de África, que avançou na compreensão da agência do género nas culturas islâmicas e patriarcais, sugiro que uma análise cuidadosa das estruturas normativas locais plurais é necessária para compreender qualquer prática de subordinação e potencial de agência da mulher. Estão em circulação dois registros
La curaduría del consentimiento: violencia sexual, política moral y agencia de género en Sudán

RESUMEN
Este artículo pretende superar el impasse entre la tradición antropológica (que sigue siendo cautelosa a la hora de condenar las violaciones de los derechos humanos definidas por normas “universales”), y la comunidad internacional (que defiende dichas normas “universales”). En consonancia con el trabajo antropológico feminista en el noreste de África que ha avanzado en la comprensión de la agencia de género en las culturas islámicas y patriarcales, sugiero que es necesario un análisis cuidadoso de las estructuras normativas locales plurales para comprender cualquier práctica de subordinación y potencial de agencia de las mujeres. Circulan dos registros de justicia en los que se explicitan los ideales de agencia femenina. Las mujeres y las niñas que no pueden identificar su experiencia a través de ninguno de los dos registros de justicia pueden no tratar de denunciarlo. Esto ayuda a explicar por qué ninguno de los dos registros es útil para la mayoría de las mujeres sudanesas, pero esta situación aparentemente imposible no determina su capacidad de agencia. Me inspiro en los enfoques del feminismo poscolonial y de los estudios sobre ciencia y tecnología (CTS), en los que la “cultura” de la violencia sexual en Sudán es posiblemente una “traducción” de la política moral nacional y transnacional de Sudán a la micropolítica del poder entre mujeres y hombres en un entorno poscolonial inevitablemente plural. Por lo tanto, la agencia aquí también es “hacer género poscolonial.”

1. Introduction
Is a cultural approach to sexual violence possible? Or, is sexual violence so egregious that no local or cultural interpretation could ever be weighed against humanitarian principles? This article seeks to move beyond the impasse between the anthropological tradition (that remains cautious to condemn human rights violations defined by “universal” standards), and the international community (which advocates such “universal” norms) (Ammar and Erez 2001; Afkhami 2000). In line with feminist anthropological work in north-east Africa that has advanced understandings of gendered agency in Islamic and patriarchal cultures, I suggest that a careful analysis of local normative structures is, in fact, necessary to understand any practice of women’s subordination and potential for
agency as “doing gender” in Sudan. This does not mean turning to entrenched patriarchal norms for explanation in relativist terms. It means understanding culture as an ongoing process, a set of fluid and shifting practices and norms, defined by situations but wholly embedded in broader political circumstances. This perspective draws inspiration from post-colonial feminism and Science and Technology Studies (STS) approaches where the “culture” of sexual violence in Sudan is arguably a “translation” of Sudan’s national and transnational moral politics into the micropolitics of power among women and men. These politics layer into, multiply and challenge an already tense local situation, in an inevitably plural post-colonial setting. Thus agency here is also “doing postcolonial gender” (see Introduction to this cluster).

As I will detail, the international community has played a large role in promoting the visibility and criminality of rape in Sudan, particularly in the Darfur conflict of the early 2000s, when humanitarian gender violence programming increased. But aside from cases of women activists and mediatized mass rape, it remains rarely if ever reported and even more rarely prosecuted. In fact, with increased visibility, one could observe a silencing and controlling of rape discourse by the former ruling National Congress Party (NCP), as well as in Sudanese public discourse. In this article, I first suggest that the deadlock in rape awareness and dialogue is a matter of moral politics, where the state-supported rise in Islamic fundamentalism, coupled with socioeconomic inequalities has led to heightened expressions of patriarchal protection and control in relativist terms, particularly in dialogue with the so-called “West,” the very international community that seeks to relieve women of their sexually subordinate position. This normative pluralism arguably provoked local hostility and a reluctance to reform sexual violence legislation as in other Muslim contexts (Afkhami 2000).

Furthermore, if one considers the narratives of ordinary women and girls, it is clear that neither a cultural relativist nor the international understanding of gendered agency can account for the range of experiences in sexual violence. In a second argument, I offer several narratives that show how agency is neither muted by oppressive patriarchal structures, nor is it possible to conceive of agency in terms of resistance and voice, in this context. The model of agency that I call “curating consent” is one where rigid gendered norms indeed structure the possibilities for expression, but that women remain undetermined and reflexive vis-à-vis such norms (which I call “registers” as performative semiotic tools for accessing justice), in an inevitably pluralist normative situation. A “register of justice,” as defined in the Introduction to this cluster on “Justifying Gender,” draws from the sociolinguistic understanding of register (Agha 2004) and the pragmatic sociology of critique (Boltanski and Thévenot 2006). It is meant to capture the normativity of justice, and acts of justification are understood as performances of worthiness to access justice.

Thus, I empirically define two registers of justice that are in circulation, and in which ideals of feminine agency are made explicit – that of the “resistor” and the “victim.” The international community defines the ideal feminine agent as “self-fashioning” (Merry 2009a) equipped with “capabilities” (Nussbaum 1997) or “empowered” in development discourse, as a “resistor.” Conversely, the Sudanese legal system, political discourse, health institutions and traditional authorities overwhelmingly subscribe to an ideal vision of a woman through her decorous self-control and childlike need for protection, a
“victim,” where displays of agency are negatively equated with the stigma of provocation. Agency is perceived as a capacity for courage and voice in the former case, but as a "lack of control" in the latter. And yet, when the available registers don’t fit the experiences of women, it follows that only silence can be heard, and this is exactly what one has heard in Sudan for almost two decades – an almost deafening silence from ordinary women and girls – until the revolution in 2019.

In 2019, the 40-year-old legal and constitutional framework that established Sudan as an Islamic state came to an end, and at the time of writing this introduction in mid-2020, renewed alliances with the international community were being forged in the name of democratic transition. Like all independent African states, Sudan’s self-understanding has been heavily influenced by the relations it has established with post-colonial actors, the alliances it has forged, and the oppositions it has carved out. Sudan’s long and troubled career in determining its national character has been documented in relation to its former status as a British colony, in the Cold War, Pan-Arabism, and now its strong ties with the Islamic states of the “Eastern Bloc” including Saudi Arabia, Qatar and Malaysia, in the last decades effectively cutting off (official) ties with “the West” in these geopolitical choices. But as of 2020, one of the most striking outcomes of this transition is that a number of women have spoken up online about sexual violence that occurred during the 2019 uprising that toppled the former President Omar al-Bashir and his Ingāz “salvation” government. It seems clear that at last the space has been cleared to vocalize this experience of injustice, a form of resistance made possible at least for the category of woman most visible in the revolution – the activists, typically IT literate and politically aware youth.¹ This itself is revolutionary, compared with the atmosphere of total suppression at the time the research for this study was carried out, in 2015, when talk of rape was always hushed, behind closed doors. Therefore, the cases presented here inevitably belong to a now enclosed time period. But also, they mostly belong to a category of woman who could not cast off the stigma of rape through political activism – those women who are deeply embedded in ethnically defined migrant communities, whose gender experience is wholly tied to socioeconomic inequalities, and very likely Sudan’s multiple civil wars. Should not these women be first in line for seeking justice for sexual violence? And yet, these women have more to lose by speaking out. Even though there are now fora for Sudan’s educated and networked women to come forward, the decades-old moral-legal structures that underlie the silencing of rape remain a challenge to reform. And feminists in Sudan are as divided as ever over whether Islamic jurisprudence should still be invoked in legal protections against sexual violence (Tønnessen and Al-Nagar 2021).

It is tempting to highlight the intersectional nature of marginalized women’s location at the bottom of a “matrix of oppression” (Collins 2000). Indeed, the exacerbation of these polarized positions critically included or excluded victims from access to justice. And yet, the narratives in the ensuing ethnography suggest that even in the most egregious of circumstances, agencies can be recovered and identified beyond tropes of

¹See the reports: https://www.hrw.org/report/2016/03/23/good-girls-dont-protest/repression-and-abuse-women-human-rights-defenders – accessed July 9, 2020; https://edition.cnn.com/2019/05/17/africa/sudan-protests-asequals-intl/index.html – accessed March 17, 2019.
“resistors” or “victims” now often referred to as “survivors.” I suggest that moral agency resides in between these stereotypes in a setting of multiple normative orders. The capacity for “justifying gender” allows moral actors to deploy normative registers of worth in a world of inevitably multiple norms, critique them, align them, or embed one register within another in situations. Thus, moral agency refers to the way women tailor or “curate” their capacity for resistance or consent, since evidence of consent to sexual intercourse is the pivotal node around which justice can be accessed, and where silencing might prevail. I hope this understanding helps account for why neither register of justice – resistor and victim – is useful to the majority of Sudanese women, and the culture of sexual violence is perpetuated and silenced. These respective biases, which form part of the totalization (Hale 2015) and fetishization (Meger 2016) of rape in Sudan, generate specific gendered stereotypes from both sets of actors, who, were they to account for the actual range of agencies, might encourage greater reporting and trust. It is hoped that the story presented here will contribute to greater dialogue and awareness between the Sudanese civil society involved in social and legal reform and the international community with similar aims, in the post-revolution, post-Ingâz phase.

I first present the context of research, a vignette which also opens the theoretical discussion to registers of gendered agency. I then explicate in more detail the two performative models – one register of justice invoking resistance, in humanitarian and human right’s interventions, and a great number of local NGOs in Sudan’s gender sector. Therefore, I describe the register of justice invoking victimhood, instituted in Sudan’s legal codes and normalized in Sudanese health care and government institutions. In the final part, I present cases which differ from the feminine agencies that are promoted by either register.

2. Advocating for justice in practice

This research was carried out in the context of a five-month consultancy in 2015 for JWNA (Justice for Women in Northeast Africa²), one of several Sudanese NGOs which upholds norms for women’s empowerment in development and international rights discourses. JWNA was conducting a program on sexual violence awareness-raising in marginal communities in El Fasher in Darfur and among Nuba migrants in Khartoum.³ The project sought to better understand causes and deterrents of rape at multiple scales: institutions, communities, and individual cases. Rape is not an easy topic to research, making visible the ugly underbelly of society. Discussing it evokes devastating memories among victims, but also discomfort for the researcher, as the stories unfold. I was hired because of my own background as an anthropologist working on sensitive gender issues in a Nuba community in Khartoum, and because I could quickly grasp the local circumstances and referents narrated by the interviewees as well as ensure the security

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²This is a pseudonym to protect the activities of the NGO. According to the terms of the contract, the NGO has ceded sole ownership of this data and is aware that I would publish from this material.
³This study did not look at other forms of sexual violence: sexual slavery, forced pregnancy, sex trafficking, or forced prostitution. It only focused on women and did not look closely at male rape or child rape.
of the data and discretion for the interviewees that I and my research assistant, a young educated Sudanese woman, met with.

JWNA focuses on two fronts primarily: reforming Sudanese law in accord with international human rights and transforming women’s behavior, encouraging empowerment and capacity building. Its Khartoum staff was predominantly young Sudanese women, graduates of the English-speaking Ahfad University for Women or returnees, having grown up in the United States or Europe. Unlike other work settings in Sudan, the employees comfortably wore jeans and t-shirts and many did not wear a veil, a marked opposition to norms of public presentation. JWNA was firmly situated in the transnational discourse of women’s rights, preferring to use the word “survivors” rather than rape “victims.” In the concept note, they stated: “The research should adopt feminist perspectives as much as possible and carry messages of empowerment that challenge the ‘simple victim’ narrative.” One of their stated goals was to provide platforms for the most vulnerable groups to speak out against violence and abuse.

Within the NGO, “resistance” was an operative word in discussions on sexual violence prevention, and the capacity for resistance was something that was thought to be gained through training (see e.g. Rozee and Koss 2001). Hollander and Einwohner (2004) have classified such overt acts as “apparent resistance;” Jaji (2015) calls them “rebellious femininity,” which “subtly or dramatically” challenges cultural dictates (504). And yet, such discourse seems to get no farther than the JWNA’s project proposal. In sexual violence awareness raising sessions, the NGO staff asked the participants to discuss how they would react in several specific instances of rape. The questions they asked centered on the person who was attacked, and the main point discussed concerned who was at fault and why the person in question did or did not resist. The JWNA staff did little to steer the discussion towards concepts of self-empowerment and rather validated the community responses which centered almost entirely on the failure of the girl’s family and community to “protect” her: “She should have stayed at home;” “She couldn’t resist or they might kill her;” “She should have been more careful;” “Her brother should

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5The assistant researcher had done Gender Studies at Ahfad University for Women. She was very competent in English, and her own language of Sudanese Arabic, as well as extremely sensitive to the need for discretion and do-no-harm in interviewing.

6It is important to note that more tacit resistance practices exist, such as dressing modestly, limiting time spent in public space, not looking unknown men in the eye and so on.
have been watching over her;” “Storekeepers and police should be more vigilant;” “Her mother shouldn’t have left her alone.” In spite of a discourse of empowerment, and a critical view of Sudanese patriarchy, legal institutions and government, JWNA nonetheless seemed to operate well within the pattern of the paternal culture that they rejected.

The emphasis on “resistance” in women’s agency is erased by the focus on a woman’s family and community which supposedly failed to protect her. Saba Mahmood (2005, 5) has taken issue with the trope of resistance, seeing it as too often evoked by liberal feminists as an essential feature of human agency, which needs only to be nourished. Resistance exists, but it is socio-culturally fashioned; it is available when it makes sense and does not mean too great a risk. In the described context, resistance most often means such a risk. Were the international human rights’ interventions to succeed in enabling resistance to sexual violence in Sudan, they would have to neutralize all the demands of cultural and social cohesion. While a great many women do resist the physical attack, many do not, or at least not in a physical or vocal way. Physical safety is one reason, and so too are cultural norms, not for lack of recognizing resistance as an option, but for taking up other forms of agency.

I asked the NGO to re-interview a number of their rape cases in order to witness the way women positioned themselves in these stories. I compared the narrated stories summarized by caseworkers with the versions that I documented. In the NGO documentation process, the first person subject “I” was translated into a third person voice “She,” and quite often a passive syntax, a style oriented towards casework, which lists the events and meetings arranged between a woman and her lawyer, doctor, family, the persecutor or the NGO. But much is lost in this rendering, where a simplified skeleton of a victim and her aggressor is packaged into a standardized case format with date, health status, psychological status, and how much money she was given for doctor and lawyer fees, if any. The packaging of rape into this format erases the narrator’s own self-positioning and agency.

Although JWNA’s caseworkers were sympathetic and concerned for victims’ well-being, they were cautious about encouraging women to seek justice. In the way the caseworkers dealt with women, they exercised a protective relationship, provoking expectations of monetary support. For example, in several of my interviews, women asked me why money had not been given to them after all, although it was promised. One young woman said that she asked for support for returning to school, after a long period away due to depression, but since the NGO did not enroll her in school, she did not continue. The caseworkers, very often, did not work directly with the rape victims but with their guardians, usually aunts or cousins who could “represent” the voice of the victim. When I met with these older relatives, I heard long narratives of social and economic problems, of violent husbands, of money needed for school fees and health care. Whatever resistance or lack thereof was not the concern, and anyhow was lost in the translation of the event through a woman’s guardians, her community and the NGO. Rather, relief from socioeconomic burdens and a desire to get on with life were the concern. Rape existed inside this context not as an individual encounter with an attacker.

JWNA’s practices and discourses of empowerment were impossible to separate from the context which supports the silencing of rape. Women were positioned as

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7Focus groups, Umbadda and Mayo neighborhoods, Khartoum, March 1–2, 2015.
beneficiaries, protected by and dependent on the NGO. This means that women, while exposed to a discourse of resistance, will not likely identify their experience as one which qualifies for resistance. While this is certainly in part due to the interference of Sudanese norms in a Sudanese NGO, as Sally Engle Merry (2009a) suggested, paternalism is embedded in human rights discourse itself. Gender empowerment promoted by human rights is undermined by its own efforts at implementation. As for rape victims, those whose agency is best supported in this system, must already be free-choice-making subjects, those who have autonomously transcended obligations of kinship and livelihood. Such women were those who could afford private services and did not risk social exclusion and/or incrimination. They can seek both treatment and confidentiality, and in some cases, preventative pregnancy medication (the morning after pill) in private clinics. While government hospitals are legally obliged to report all rapes, a doctor interviewed in a private health clinic that treats private paying patients says that he does not report rape to the police and operates according to the code of doctor-patient confidentiality. Thus, healthcare in private clinics can protect victims from the police. Among the interviewees, activist and networked women were also more likely to seek support. The case of Safiya Ishag illustrates this: she was raped after participating in a protest by three national intelligence and security personnel (No to Women Oppression Coalition 2011). She circulated her testimony in a widely viewed YouTube video, and is now a political asylee living abroad. A victim’s access to medical and psychosocial care is often contingent on her own resources or networks.

What comes out of the experience at JWNA is that it promoted a neoliberal model of a self-governing, choice-making feminine subject, but the victims, perpetrators and communities adhered to a discourse of consent consonant with that of the Sudanese criminal justice system. This finding is not meant to criticize a well-intended NGO, so much as to demonstrate the glaring reality of introducing women’s rights norms in this context. It became clear at this point, that the conceptual tools for theorizing sexual violence had to account for politics beyond so-called “patriarchal” or “traditional” culture, or at least to put them in relation to one another. The other outcome was the striking lacuna of information from the victims themselves, protected as they were by a dense social web of complex and multivalent interests and concerns.

3. Two registers of justice and their moral politics

In trying to draw out patterns in my case studies, I turned to the literature on sexual violence. In Sudan, women’s rights-oriented publications from legal, development and political science approaches have been numerous (see e.g. Tønnessen 2012; 2014; Tønnessen and Al-Nagar 2015; 2021; Sidahmed 2001; Abdel Halim 2016). Especially given the high visibility of the Darfur conflict, a number of position papers produced by international and local NGOs have been put forward advocating for reform of rape law. This research

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8REDRESS, “Reforming Sudan’s legislation on rape and sexual violence,” position paper, September 2008; Liv Tønnessen, “From impunity to prosecution? Sexual violence in Sudan beyond Darfur,” NOREF Report, February 2012; Tara Gingerich and Jennifer Leaning, “The use of rape as a weapon of war in the conflict in Darfur, Sudan,” USAID/OTI Report, October 2004; Nobel Women’s Initiative, “Survivors speak out: sexual violence in Sudan,” report, November 2013; John Hagan, Wenona Rymond-Richmond and Patricia Parker, “The criminology of Genocide: the death and rape of Darfur,” Criminology, August 2005, 43, 3.
has largely focused on several key problems with the Sudanese penal code during the Ingāz and its interpretation, which I will outline later. A number of reports, often in collaboration with Ahfad University which produces much of the gender and development-oriented research in Sudan, which I will outline later. A number of reports, often in collaboration with Ahfad University which produces much of the gender and development-oriented research in Sudan, suggests how extensive violence against women is. The definition of rape as a crime against humanity, the need to distinguish it from consensual sexual relations and its rather new interpretation as a form of violence have been worked out from concerning the occurrence of mass rape in war. This literature was useful in identifying legal sticking points, wide interpretive liberty and political maneuvers that the international community was confronting in its advocacy work. A discourse analysis of these position papers, as well as interviews with members of communities, police, legal and healthcare institutions, formed the basis for my identification of two registers of justice – that which frames access to the Sudanese legal system, and that which is promoted by the international community. One main point of contention is the risk that a woman faces in voicing a rape claim, an act which carries critical consequences. Were she to take up the register of a “resistor” and speak out against her aggressor, she would risk incrimination within the former Sudanese justice system.

What I found in my interviews with communities, local leaders, medical, security and political actors, was that the idea of rape with impunity was perpetuated not only by the legal system, but by a widespread bias against women as capable of making moral decisions – thus women were often blamed for having invited a rape attack. These interviews also confirmed the stereotypical biases against the reforms promoted by the international community, and the very divisiveness of Sudanese civil society itself over these issues (Tønnessen and Al-Nagar 2021; Tønnessen 2013). As I will detail in the following discussion, the very act of reporting such an attack is, paradoxically, an agentive act which demands a demonstration of victimhood.

3.1. Transnational feminist activism and the register of resistance

Violence against Women (VAW) and Sexual and Gender-Based Violence (SGBV) are firmly part of universal humanitarian and human rights, having solidified as normative agendas which circulate and translate into local contexts (Merry 2009b), at least since the 1990s (Basu 2000). Given the mediatization of sexual violence in the 2000s, Darfur activists and their partners in Sudan have launched a number of campaigns (Fadlalla 2008; Tønnessen and Al-Nagar 2015). The Comprehensive Peace Agreement in 2005 also opened the door to constitutional reform. Following the International Commission of Inquiry for Darfur and the indictment of then President Omar al Bashir, an arrest warrant was issued for violations of international law by the International Criminal Court (ICC) in 2008. The ICC and the United States considered mass rape an act of genocide due to the systematic nature of the attacks. Humanitarian and human rights responses included increased SGBV protection programs, research and advocacy. The

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9 The Prevalence of violence against women in North Sudan, Report, UN Women, 2011; http://www.thehopecharity.com/Domestic-violence-in-Sudan.html; Situational analysis of different forms of violence against women in South Kordofan State. UN Women and Ministry of Justice SK, 2010; Reproductive Health KAP survey among communities affected by conflict in Darfur. Rahma, E. UNFPA, 2009; Ibrahim, M. 2006. Impact of Darfur conflict on women traders. MS Dissertation, Ahfad University.

10 http://www.icc-cpi.int/iccdocs/doc/doc639078.pdf – accessed April 29, 2015. The Rome Statute of the International Criminal Court (ICC) prohibits rape and sexual violence as war crimes and crimes against humanity.
gender protection and empowerment sector is comprised of several local CBOs and NGOs, transnational women’s NGOs, as well as the private Ahfad University for Women (and the Ahfad Trauma Center). NGOs, largely funded by Western donors as well as international institutions such as UNWOMEN and UNFPA, produced a wealth of reports and analyses throughout the 2000s on the topic of VAW and SGBV, both to draw attention and to lobby for constitutional reform. These efforts saw some results.

In response to the attention on Darfur and mass rape as a breach of international humanitarian law, the government Unit for Combating Violence against Women and Children was formed and units were set up in all states in 2005. In 2007, UNMIS and a new unit in the Ministry of Justice introduced a new plan and legal amendments for Darfur drawing on UNSCR 1325. The new plan focused on training police on humanitarian and human rights law and the legal system and introducing women police officers. Legal counsels were recruited in Darfur to prosecute crimes against women, although these courts have been deemed ineffective due to a lack of trained staff and unqualified judiciary, sometimes recruited from the military. Following a broad campaign known as the Article 149 Alliance, an amendment was passed distinguishing the definition of rape in the 1991 Criminal Code from adultery, but the definition remains problematic and open to wide interpretation. Thus, while some progress had been made, Criminal Law continued to challenge efforts to align Sudanese legal practice with international standards. This activism also triggered ongoing tensions within the government. Questions of sexual violence became public issues, and the topic of morality, guilt, and blame came to the fore. The reforms that feminist NGOs promoted were linked with distrust and negative stereotypes that accompanied Western interventions, and specifically, the empowered feminine subjectivity that seemed to threaten Islamic and Sudanese values. As Tønnessen and Al-Nagar (2013) and Tønnessen (2013, 2014, 2012) observed, the Sudanese system does not value individual rights but rather distributed rights within a social relationship. According to Merry (2009a, 385), individuality “is the subjectivity of modernity: the self-fashioning subject who is responsible for herself and who makes a self through choices based on utility and preference rather than kinship obligations or the demands of customs [she is] free to choose and is able to manage and control herself and her feelings.” Merry (2009b) says that adopting human rights allows for political space at the expense of other norms. Individual autonomy, equality, choice and secular values challenge other ideas of social justice not oriented towards the individual.

11See e.g. REDRESS and KCHRED (2008), Fricke and Khair (2007), Eltayeb and Eltayeb (2014).
12Report, Unit for Combating Violence against Women and Children, December 2008 – March 2010.
13Workshop Report, “Women, Peace and Security” with special focus on Violence against Women in conflict and post conflict situations and to enhance the implementation of NAP for combating violence against women in Darfur, 14, June 2007.
14In 2000, UNSC Resolution 1325 was passed which included protection of the rights of girls and women, especially concerning rape and other forms of sexual abuse.
15In 2005, the Chief Justice set up a Special Criminal Court for the Events in Darfur (SCCED) which has jurisdiction over the Sudanese penal code as well as international humanitarian law. However, victims of rape reportedly suffer from confusion over which court to take their case to. The SCCED, the so-called “Special Courts” were established by the Chief Justice in 2001, replaced by “Specialized Courts” in 2003 or the regular statutory courts.
16Campaign on Rape Law Reform in Sudan. This initiative was a collaboration between Refugees International and a Sudanese national coalition of organizations and individuals, based at the Salmah center, as well as Pakistani women’s activists who succeeded in reforming Pakistan’s Hudud Ordinance.
But this is not the only problem. In spite of promoting an ideology of individuality, there is a point at which some abuses are intolerable to international rights discourses, even cases in which women give their consent (Merry 2009a). In such cases, such as rape, women are thought to require protection, paradoxically, to ensure their individual autonomy. Such paradoxes accompany any humanitarian or development intervention because of the inherently unequal relationship between the rescuing party and the recipient of aid (Fassin 2012; Redfield 2005). Such is the contradiction inherent in universal conceptions of gendered justice, such as Martha Nussbaum’s (1997) “Capabilities Approach” which sees women as autonomous agents equipped with universal freedoms, but these freedoms can only be ensured by so-called “just” societies. If a government fails to ensure these rights and freedoms, it can be held morally accountable under the rubric of human rights and humanitarianism.

The consequences of positioning women’s bodies as needing protection for empowerment as the justification for large-scale humanitarian interventions are vast, reproducing colonial images of “backward” cultures that need civilizing (Fadlalla and Adunbi 2016, 3; Abu-Lughod 2002). In Sudan, mass rape along with genocide and the (R2P) “responsibility to protect” and “compassion” discourses have been instrumentalized by both the US and Sudan in large political and moral battles with ulterior motives (Mamdani 2008; Fadlalla 2008; Fadlalla and Adunbi 2016; Fadlalla 2019). “Black” and “Arab” racial categories have been utilized by both sides: the Sudanese government famously armed Arab Janjaweed militias, and in Western media representations “Black” women and children have been depicted as “victims” of “Arab” aggressors (Fadlalla 2008, 2019; Hale 2010). If the intervening party needs to “save” women from their own men, then necessarily, these same men can respond by “protecting” their own women from foreign and presumably immoral intervention. As Fadlalla (2019, 194–195) observed, transnational interventions tend to frame women’s causes in terms of “humanitarian emergencies,” part and parcel of the broader project of “competing sovereignties.”

This means rejecting international conventions which are seen not as universal freedoms but as political instruments, such as the Child Act17 which is ambiguously enforced by judges. Another example is how in reaction to the ICC arrest warrant of Al Bashir, the latter’s government expelled 13 international NGOs and 3 local NGOs in 2009 seriously reducing SGBV services such as rape kits, trainings for police and hospital staff (PHR 2010). Crackdowns on civil society activists working on rape reform increased (see Tønnessen and Al-Nagar 2015, 8–12 for a summary). In addition, there is a lack of adequate funding for ongoing programming. In 2013, 4% of all SGBV programs assessed for the UN Common Humanitarian Fund (CHF) annual plan were funded. Funding commitments have further declined in recent years because of a lack of government accountability and blocking of funds.18 The CHF funded only two SGBV programs in 2015, 1% of the total estimated need. The 2015 Humanitarian Response Plan of 44 million $US was on hold by the government at the time of fieldwork.

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17Under the Child Act (2010), anyone under age 18, is considered a child. Sudan signed the Convention of the Rights of the Child in 1991, which provided the framework for the Sudan 2010 National Child Act.

18According to the Humanitarian and Voluntary Work Act of 2006, the Sudanese Humanitarian Aid Commission (HAC) must issue permissions for a number of the operations of NGOs, hiring, funding, programming, information about staff, etc.
In spite of the massive effort to advocate for legal reform in the 2000s, and again after the 2019 revolution, Sudan has not yet ratified the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). The Sudanese Fiqh Academy of Jurisprudence barred its ratification in May 2021. CEDAW requires member states to enable women’s choice-making by protecting them from inequalities. Ensuring equality, freedom and choice means eliminating obstacles which impede agency (Merry 2009a). The legal process of CEDAW centers on the “cultural work of altering the meanings of gender” and modernity based in secularity and equality (Merry 2011, 52), an outcome which supporters of sharia-based legal systems such as that of the former Sudan find problematic. Post-revolution Sudan still to date does not have a clear policy framework towards SGBV. The discourse on sexual violence in particular has feeble political will (inside the government at least), and remains extremely sensitive in this highly factionalized and politicized context.

The register of resistance and empowerment is an ethical mobilizing discourse. It comes with contradictions: the rights concept of “bodily integrity” under a liberal ideology of autonomy, individuality on the one hand, and on the other the need to protect by exclusion and control in order to maintain boundaries, which figures strongly in the larger politics of race and power in colonial and contemporary neoliberal projects of governance. On both sides, these interests were enacted in a damaging way on women’s bodies. Sudan’s rejection of SGBV discourse does not mean that rape (ightisāb) is a socially permissible practice. The practice is illegal, however poorly defined. And yet, for many Sudanese political and legal actors (still today), the solution is not that of CEDAW or UNSC 1325, but a different model of feminine agency, one which stresses and even demands self-representation as a victim.

3.2. The Sudanese justice system and the register of victimization

The second register of justice is available to those that can qualify as “victims,” employed to distinguish them from “provocateurs.” The Sudanese legal system, political discourse, health institutions and traditional authorities overwhelmingly subscribed to a vision of women who have experienced sexual violence as provocateurs, a norm attributing a great amount of control to women, which must be reined in through self-discipline. There was a focus, even an obsession, with identifying and separating the “victims” from the “provocateurs,” and only a minority of rape cases unambiguously fall into the former category. Based on information from a wide range of actors in rape servicing, I learned that specific types of women earn the sympathy of these supporters as “victims,” namely children, handicapped women, those with physical proof of violence, women past menopause and sometimes virgins. These categories are considered exempt from responsibility since there is purported evidence of a lack of agency, such as, “too young to make a sound decision,” “too old to desire sex,” or evident signs of physical injury. Other adult women have to demonstrate their innocence by appealing to the model of passivity that the “victim” indexes, or otherwise risk accusation of provocation.

https://www.dabangasudan.org/en/all-news/article/sudan-s-fiqh-academy-prohibits-ratification-of-cedaw – accessed on September 20, 2021.
The model of a passive feminine victim features in fundamentalist patriarchal societies, in which women are considered incapable of moral decision-making, and thus thought to require protection or punishment, and subjugation (Hawley and Proudfoot 1994) for having endangered themselves in the outside world. Rape, following this analysis, "regulates power through sexual means" (Reid-Cunningham 2008, 280). The patriarchal frame makes rape within the family a matter of paternal power, such as in marital or child rape cases. When the attacker comes from outside the family, the would-be protector himself may be angry, blaming the victim for having undermined his power as patriarch, by having naively made herself available to other men. One community member in Omdurman said, “Rape happens when the victim doesn’t defend herself or she likes that to happen,” highlighting how even the word “rape” is not necessarily associated with lack of consent. Thus, women are caught in-between protection and punishment and seem to have no control over their own circumstances. One sheikh from Darfur said that a rapist:

[…] must pay the family a compensation because the young girl who is raped is like the shop that is full of goods, and everyone sees this shop and praises it; when you come and destroy these goods or burn it you must pay the price.

Women are thought of as a commodity to be protected, sold or bought, as items of negotiation between men. Most Nuba and Darfuri Native Administration (traditional authorities) interviewed sought to solve the social consequences of rape by arranging for the girl and the attacker to marry one another, conflating rape with sex before marriage. This paternalist model was cemented into law in 1991. Article 149 of the former constitution confuses adultery (zina) with rape (ightisāb), which is defined as “sexual intercourse by way of adultery or homosexuality” with any person without consent. If a woman reports the rape, this is evidence of her confession that penetration had happened making her guilty of extramarital intercourse. For married women this is punishable by stoning to death, and for unmarried women by 100 lashes. Thus, ightisāb is, unless lack of consent can be proven with four male witnesses, by default, considered an act of zina. According to Muslim Family Law (1991) a wife must obey her husband and rape is only considered in the case of extramarital sex. It is a crime against the state and public morality, where anyone can accuse another of zina.

Proving consent is the legal issue that lawyers focus on. There are a number of poorly defined legal arguments for consent, including the age at which it is possible vis-à-vis legal marriage age. A good example of ambiguous wording around consent is found

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20In February 2015, a new amendment to Article 149 was passed by Parliament. The amendment reworded the definition of ightisāb disambiguating zina from rape. However, it did not disambiguate the punishment for the respective crimes of rape, adultery and sodomy, therefore rape punishment was still that of adultery and sodomy. The evidentiary requirements also remained unchanged.

21To date, however, while women have been incriminated, no woman has been stoned.

22The 2015 amendment broadened the definition of consent to forms of power which could render someone unable to “express their consent due to natural or temptation reasons or related to age.” That the age of consent is not fixed renders this clause open to interpretation. A victim must be considered an “adult” for consent to be possible. “Adulthood” in the constitution is defined as fifteen years and evidence of puberty, or eighteen years with no evidence (Article 3), meaning that psychological maturity is given no weight, and also makes for arbitrary determinations of maturity. For girls under fifteen and under the age of marriage, this is unproblematic and consent is not possible. For girls of marriageable age and adult women, consent (or rather lack thereof) must be proven. However, the age for marriage in Sudan according to the Personal Act for Muslims (1991) is 10 years, thus entirely contradicting the Child Law. The child is no longer protected by the Child Law, so if a married girl under age fifteen is accused of adultery for a rape that she reports, it is unclear whether she has to prove consent or not.
in the definition of sexual harassment added in 2015 to Article 151 on indecent behavior on Public Order Law, which is meant to maintain morality in the public sphere. Sexual harassment was defined as an act that is a “temptation” or invitation for someone to practice illegitimate sex, making unclear who is the harasser or the harassee – the one who invites or who tempts. Gender activists were concerned that women would be criminalized for their clothing as a temptation according to this amendment. According to lawyers that we interviewed, in evaluating the evidence concerning a woman’s claim of having been raped, judges invariably consider a woman’s social status, her ethnicity, her livelihood, and how she dresses, exercising wide interpretive liberty in making a determination of her victimhood.

The health service institutions too are influenced by prejudice, especially government hospitals. In interviews with health providers, doctors, and other staff mostly asserted the same moral discourse against women and brought it into their practice in the form of hunting for evidence of her guilt. In hospitals, women are subject to tight surveillance, where the omnipresence of police affects the quality of the treatment. Before a rape victim can be treated she obligatorily fills out police Form 8, meaning that in seeking treatment she makes her case visible to the justice system, putting her at risk of being accused. The questions on Form 8 are oriented to looking for evidence of virginity, as if virginity had any bearing on whether she was or wasn’t raped. Form 8 is used in criminal prosecutions instead of any complete medical evaluation. Gathering evidence from victims is not designed to discover whether a rape happened, but whether there was sex. There is a lack of discretion altogether for rape victims, an obsession with extramarital relations and a prejudice against non-virgins. As a result, victims who need medical treatment are afraid to speak plainly about what happened to them and will often cover up a rape with other explanations for their injuries. One case was described where a woman came in beaten and raped, refused to meet the police officer, and even escaped unseen following treatment before the police could come and interrogate her. In another, which took place in El Fasher, a sheikh found a rape victim left in the street, and returned her to her family, who took her to the hospital. Both the police and the doctors in the hospital told them not to talk about this attack as a rape case, showing their complicity with the policy of silencing.

The Sudanese government and legal system which has the power and authority to support and protect women from attackers, built its model of justice on that of a patriarchal Sudanese family. In fact, the former constitution granted immunity from accusations of rape to all government law enforcement personnel: security, police, military, militias and guards, essentially legitimizing rape as a patriarchal mechanism of punishment. This somewhat radical perversion of patriarchy as a paranoid obsession with sexuality, combined with increasingly brutal forms of rape, suggests that other forces are at work than “traditional culture.” This trend is linked with ideological reforms taking place at least since the implementation of sharia law in 1983 and again in 1991 with the Islamic Civilization Project, and with specific features of the Criminal Code, including Public Order Law, and Muslim Family Law. These reforms and the discourse of İngâz (“salvation”) located public morality on the bodies and behaviors of women (Hale 1996). Willemsen

\[23\text{Article 33 of 1998 Security Forces Act; Article 46 of Police Forces Act; Article 8 of People’s Armed Forces Act and 2005 presidential decree.}\]
(2005, 170) wrote about the discursive strategy of the former Islamist government in targeting women as objects of reform since 1991: “Women in general were constructed as a threat to social stability and the moral order if they did not keep to their symbolic role as mothers and wives, as propagated by the male members of their own class.” In the contemporary Sudanese context, misogyny has been used as part of the government’s political strategy to exercise control over public morality. It is strongly linked with women’s increased movement in society, working outside the home, greater income and education.

A woman’s presence in public space is seen as troublemaking when she does not abide by a modest self-presentation, exacerbating the justification of increased control over and/or protection of women. Caseworkers, lawyers and health practitioners who work in Mayo and Wad el Bashir areas of Omdurman confirmed that most rape cases come from known persons who are supposed to be acting in a protective capacity towards the victim. According to one member of the popular committee in Wad al Bashir, rape happens because women work most of the day outside the house and come home late. A sheikh saw women’s presence in public as a sign of her immoral intentions: “Yes there are some cases and it exists, but some young girls go and look for men, then they claim that they get raped, but girls who stay at home cannot get raped.”

Another sheikh blamed women who walk outside during the Azan call for prayer. Women who work in the informal sector are stigmatized as sexually promiscuous: domestic labor in urban neighborhoods, local alcohol vendors, and tea ladies because they sit out in the public and talk to predominantly male clientele.

By a similar logic, educated, politically active or working women, must be “put in their place.” Interviews with youth gangs from marginalized migrant communities from South Sudan or Nuba Mountains who identify as Black Africans and call themselves Awlād Niggers (or “Nigger Boys”) revealed that they specifically target young, educated women who act pretentiously towards them. “We rape them as a group together. Sometimes the girl, she is proud and does not like us – that’s why we rape, because we want her to lose her virginity.” In interviews, two university women attending a political rally at the University of Khartoum reported that they were picked up, raped and beaten by members of national security. While one woman was being assaulted, security called her a Khādim (or “slave”) and a sharmūta (“prostitute”). These rapes also made other hierarchies visible – that of racial/ethnic power dynamics – where not only social and economic factors are relevant but racial oppositions are mapped onto these differences. Khādim is a racial insult used for Sudanese who do not come from one of the self-ascribed Arab ethnic groups. Women frequently narrated their own responsibility in having provoked the attack: “It’s my fault. I trusted people I shouldn’t trust.” “I work outside,” “I was working in the market;” “I was coming home late.” By the same token, mothers of girls who’ve been raped are blamed for having left the girl at home alone in the house while they were out working.

Most rape is in part legitimized or justified in terms of patriarchal norms, which frame people’s perceptions of men’s rights over women and women’s own potential for consent to sexual intercourse and possible culpability. This register finds little in

24Interview, Native Administration, May 24, 2015.
25Interview, Awlad Niggers, Khartoum, March 25, 2015.
common with a civic model of justice, in which all persons, including women, have an equal right to legal justice, based in an egalitarian rather than a hierarchal model. Women must overcome great social prejudice to be validated as victims who did not consent. Girls and women experiencing situations which do not fit the prototype of victimhood, will not often identify their experience of rape as being a criminal issue at all. The negative association of resistance, which demands reporting with agency, would dissuade the few who come into contact with international rights’ discourse. The vast majority remains silent. Therefore, victim register formally inscribes but also exacerbates older patriarchal patterns, bringing high level politics into local gender relations, where ordinary women can be victimized, not only by attackers but by the larger socio-political order.

4. Curating consent: the “voice” of the “victim”

From the histories detailed in the last section, the opportunities for voice through these two registers are indeed limited. As I have been arguing, neither the register of resistance nor that of the victim applies to a great number of women’s and girls’ experiences. Few women can provide the undisputable evidentiary requirements to deploy the “victim” register. And, most women simply cannot risk taking up the register of resistance. In the following narratives by those who do report, however, women manage to curate their consent by carefully weaving the two registers together in situations where the act of violence must always be justified as out of one’s control due to appeals to age, debility, race, ethnicity or class.

As I sought for a way to conceptualize this way of doing gender, I moved beyond the women’s rights literature which did not provide a vocabulary for thinking through the muddy terrain of multivalent practices. The material seemed to invite an intersectional perspective, since age, debility, race, ethnicity and class are clearly intersecting dimensions of inequality (Crenshaw 1990), and could help to explain targeting of victims, the silencing of rape and cases of prolonged sexual abuse. And yet, intersectional awareness was also the reason that these women were able to voice their experience. Intersectionality was additionally useful to understand how women could reflexively and critically engage with structural inequalities, rather than being only a diagnostic of their oppression brought to the situation by an outside academic observer.

The detailed ethnographies by feminist anthropologists of the Sudan offered a more expansive vocabulary for thinking through forms of agency in strongly patriarchal settings with purportedly oppressive bodily practices. Female genital circumcision has been described as a practice deeply embedded in local gender norms, a practice that upholds the virtues of purity, fertility, beauty and cleanliness (Gruenbaum 2001; Abusharaf 2001; Boddy 1998). As for forced sexual penetration, however, there is almost nothing written by anthropologists except in the context of mass rape (see Hale 2010, 2015; Abusharaf 2009). In other contexts, anthropologists have identified patterns of rape in societies linked with various patterns of patriarchal power following the work of Brownmiller (1975). In neighboring Egypt, sexual violence was linked with women’s increased mobility in the labor market (Hammoud 1997). This is certainly relevant. Nonetheless, we learn little about the women and in particular the “silence” of the majority of women, in cultures of sexual violence.
And yet, by listening to the voices of women, however quiet, a slightly different story emerges. For those rare cases which arrive in a setting of formal complaint, I identified a common moral plot following “the victim” narrative, outlined above. Regardless of whether a victim succeeds in getting recognized as such in court, she will invariably shape her narrative toward that end – that her plight was inevitable, due to her being childlike, being virginal and undesiring, or due to her material insecurity. But the narratives also entail elements of resistance, submission to domination or complicity with it, and even opportunism, and involve a range of emotional experiences. While “the victim” narrative frames the claim of injustice, there are a multitude of other experiences elided by the polarized norms of victimhood and resistance in negotiating sexual violence. The practice of situating these multivalent circumstances inside the frame of “the victim” is an example of “embedding” one register within another, and a way of “justifying gender.”

4.1. The childlike or handicapped form of consent

This first story is representative of a frequent type of domestic rape where members of the same household engage in a situation of prolonged abuse. I repeatedly heard a narrative where a woman or girl is forced or coerced into sex, in a back room or an empty lot, but does not fight back or cry out. Sawsen, living in Khartoum with her mother, step-father and three half-siblings, grew up thinking her step-father was her father. She only discovered that he was not her father at age 14, during her court case against him for rape:

He would send my brothers to my grandmother’s house, and then call me. He would beat me, take off my clothes, have sex with me and leave. When my mother came back, he would lie to her, saying that I don’t listen to him and that I beat the kids. I wanted to tell my mother the truth, but she blames me and I’m scared of him, because he’s always there, and will come and make up another story.26

This went on for two years, until her aunt walked in on the act. Her court case was successful, although her mother and grandmother did not support her case. Her fear and lack of social support curbed any intention of resisting. Since it went on for two years, her lawyer had to demonstrate this vulnerability, selecting aspects of the case to position Sawsen as a victim – that she was an “illegitimate” child of a Nuba father and that her mother did not care for her. She was now remarried to an Arab, a point that supports a known normative power difference in Sudan – that Nuba are the ‘abēd “slaves” to Arabs. Had she been 18, this case would likely have never made it to court, if reported at all. It made it to trial because Sawsen was still legally a “child” according to the Child Act, which was applied in this specific case, but is not always supported in Sudan.27

In a similar case, a 22-year-old Nuba woman brought a claim against her neighbor for rape after a pregnancy by him. Maysoon was mildly mentally handicapped, as told to me by her aunt and caseworker who came to tell this story. They recounted that on discovering her pregnancy, she was unwilling to explain who did this to her. With some pressure,

26Interview, Sawsen, March 15, 2015.
27While Sudan signed the 2010 Child Act which protects children from statutory rape, raising the age of “child” to the international standard age 18, this Act is not enforced and many judges adhere to the 1991 interpretation of “adult” as showing physical signs of puberty.
she revealed that it was a neighbor whose shop she visited near their house. Both
Maysoon and her aunt were slow to disclose the real nature of the relationship,
because it turned out to be a love affair. Knowing that her case would not be classified
as rape given her pregnancy, the mental handicap was emphasized and Maysoon’s
ongoing relationship downplayed. In her aunt’s words, “We met the lawyer who told us
that to carry on with this case in court, we’d need a psychiatric report due to Maysoon’s
situation in order to support her case in court.”

4.2. The undesiring form of consent

In another type of event, a woman demonstrates physical resistance but also acceptance.
Gaffar is a perpetrator who was being prosecuted for one of his so-called “relationships”
and agreed to meet with my research assistant. He narrates raping his house cleaner who
was from the Nuba Mountains: “When she started to clean the floor, I couldn’t stop myself;
I just jumped on her. She is beautiful. When I finished she started crying.” When asked why
she cried, he replied, “to make me feel guilty and give her more money, and so I did. I gave
her 100 pounds.” Gaffar expressed no remorse, shame or guilt, claiming that he is very
weak in front of beauty. He said, “She is Nuba and it is ok according to their culture. This
kind of people have no problem with these things. They do it and accept it as normal.” His
explanation was that she implicitly agreed since she didn’t cry at first. She tried to stop
him but then gave up the fight. In Gaffar’s explanation, this was harakat (or “overreac-
tion”) in the way Sudanese women often feign resistance, even with their husbands, to
give the impression that they do not desire sex. Feigned resistance can have many mean-
ings – perhaps she did not want sex at all.

Gaffar perceived the house cleaner as a working woman who was ready to exchange
sex for money; he also linked his perception of loose morality with her being Nuba to
justify raping her. He did not acknowledge the power difference between himself as an
Arab employer and her financial dependency. This case illustrates the common percep-
tion of women as temptresses, secretly wanting sex, asking for it with their bodies and
dress even if they resist. But it also suggests a certain ambiguity in the intentions of
women, some of whom certainly use this nuance in their relationships, and some who
are sorely misunderstood or ignored.

4.3. The materially insecure form of consent

In Darfur, more than Khartoum, there is an utter lack of faith in the justice system, from the
family, up through the community, the police and the court. To quote one Darfuri woman
who had been raped by three soldiers on the way home from a day of work in the tobacco
fields, “I haven’t gone to the police or hospital because nobody cares and they would not
listen. They just gossip, so I kept silent.” Young women in the focus groups feared blame
and being kicked out of the house, which happens when they get pregnant. Adult married
women were afraid of angering their husbands, “You just stay quiet,” “If you get pregnant,

28Interview, aunt, Khartoum, March 15, 2015.
29Interview, Gaffar, Khartoum, April 15, 2015.
30Interview, victim, Alsalam IDP camp, March 27, 2015.
it is easiest if you’re already married; it’s just another child.” As elsewhere, families often pressure the victim to avoid pursuing a case.

Women in IDP camps are stigmatized both by their ethnicity and their status as outsiders to the El Fasher area. IDP women are known as “girls of the camp,” with the general presumption that a girl or a woman from the camp should be available to men. It is assumed that women have experienced rape during the displacement, so they can experience it again, having nothing to lose. This image is compounded when these women must earn money. As described by the participants in focus groups, instances of rape often evolve into some form of prostitution once the pattern has started. The sense of hopelessness and a devaluation of their gendered identity certainly played a role in propagating the sex trade. A woman from the Beni Hussein tribe that identifies as Arab and local in the El Fasher area, narrated the stigma that women in IDPs must bear:

[...] the few rape cases started after the IDPs came here, they came with their own problems and we pay the price. IDP women look for men to do this for money; they are a real problem, and they are not poor, they dress well and live in a good situation better than in their [home] village. You know those people (IDPs) like to play the role of the victim and they are not victims, they know what they are doing, they have a lot of money, the men, most of them are merchants. If you go to the camp, yes you will find poor people, but also you will find some of them have good houses and furniture.

[...] they have benefited a lot from the displacement, they have electricity, monthly relief allowance, water is near to them and it is better than their water [in the village], and they have studios and a cafeteria in the camp.

This perspective, while clearly prejudiced, complicates the notion of IDPs as victims and suggests that there may be an opportunism connected with the market, the aid industry and the sex trade. Indeed, IDP camps are free of taxes, IDP merchants have sidelined the local markets with products from the war economy. Takana (2014) reported results from a recent study on the sex trade in El Fasher that counted 300 sex workers, 20% of whom were from IDP camps, 50% were newcomers from rural areas and 30% from El Fasher city. Sex workers said that they felt they had no other options since their parents or husbands had died in the conflict and they had no other marketable skills. IDP camp residents nonetheless say that they have no income “we don’t have work and we don’t know how to deal with urban business.”

It is reported that many girls and women in the IDP camps are subject to sexual abuse from soldiers, police or truck drivers who pay money or buy clothes for them. A woman said “The day before yesterday a girl was raped by the youth around the camp, but for mature women they normally get money either from soldiers or truck drivers, who abuse them,” suggesting that young women are less likely to be coerced into the sex economy than older women. Locals do not always perceive sexual abuse as a form of rape, especially when a woman takes money in exchange for sex. These circumstances highlight the general perception that rape is only a crime if the victim is not already sexually active such as children, the elderly or handicapped women. In an interview held in Al

31Focus group, El Fasher, March 25, 2015.
32Interview, young woman, El Fasher, March 26, 2015.
33https://www.academia.edu/12260858/Zamzam_IDP_Camp_Market_Darfur – accessed May 23, 2015.
34Focus group, Zamzam IDP camp, March 26, 2015.
35Focus group, Abushouk IDP camp, March 28, 2015.
Salam IDP camp, a widow reported having been raped twice. Her husband was a soldier killed in conflict and she had an arrangement with a policeman who came at night. One time, her neighbor came to the door and saw inside that there was milk, jam, sugar and fruit on the table. Her arrangement with the policeman had become known to the community and became a topic of gossip – that this woman exchanged sex for goods. She said:

I have a relationship with the policeman. He protects me and provides for basic needs for the children. All women who work have to experience sex with men, whether they agreed to have it or not, so it is better to do it with one person and stay at home to take care of my kids. But when men came and saw what was going on, it became an issue of discussion inside the camp. Then some men thought I should be available to them. I can’t ask for help because of what happened, people don’t like me, they don’t visit me. That policeman was taking my kids into account. They never saw me in such a situation, but those men just did it and my kids saw me twice; they just cried. I talked to the policeman but he just left me and doesn’t come back. He doesn’t want to get into any trouble.36

This woman sought to secure the material needs and physical protection for herself and her children by taking up a “relationship.” Can she be classified as a victim in a hopeless economy of despair, where the sex trade is normalized? Without diminishing the insecurity these women live with, which she emphasized in her lack of choices, she made the line clear between choice and abuse. Not all women in her situation sought to tread this thin line by engaging in such a “relationship,” but rather sought to work independently. Such cases challenge the victim/resistor dichotomy as well as illustrating the fine line between sexual abuse in exchange for goods and protection versus sex work for direct cash exchange versus rape. What was a consensual arrangement, albeit with a clear power differential, was interpreted as prostitution and thus other men felt it legitimate to rape her following the belief that unmarried sexually active women are inherently incapable of choice and resistance.

An even greater degree of sex trade opportunism is institutionalized in El Fasher city at a place called al Mustaba, where women gather looking for work. Men looking for domestic labor come and hire them; according to several interviews, men very often force women into sex. Women rationalize continuing to go to al Mustaba, while knowing full well what the potential implications of this work entails, with the need to feed their children. The following narrative comes from a 45-year-old woman, who cannot work on the tobacco farms because they are too far; she says she needs to be nearer to care for her children:

I go to al Mustaba to look for work cleaning clothes, twelve pieces for two pounds, then I go to the market and buy food for my children and go home. Once, a man came with his car and picked me up saying he wanted me to clean clothes. I went with him in his car. When I arrived at his house, he gave me soap and some clothes and put me in a room, but no one was in there. He came in behind me and closed the door. I couldn’t cry aloud as I was afraid the neighbors would hear me. I tried to stop him but in the end, he laid me on the bed and did it. When he finished, he gave me twenty pounds and told me to go. He didn’t even want me to wash clothes. I didn’t tell anybody what happened because of the shame. The next time I went to the market, a woman who usually sits at al Mustaba asked me about that. She laughed, she knew; she experienced the same thing.

36Interview, El Fasher, March 25, 2015.
If a woman is married it is not a big problem if she got raped but the problem is those unmarried girls. I didn’t go to the hospital. Why should I go? What happened, happened. I’m a married woman and will not bleed. Nothing can happen to me, even if I get pregnant nobody will help me and they will not open a case for me; besides, my husband would never accept that. He would not allow me to go to work, and I need to work to support my children, so I just keep silent. Sometimes you face it [rape] and sometimes you find a *wad al-halāl* good man, and sometimes you find those *al-māel dēl* “bad ones.” What we do we have no choice.\(^{37}\)

As this latter narrative showed, working women are almost by default considered available to perpetrators. Married women in this sex trade have not only exchanged sex for money, they have exchanged their value as chaste women for their value as mothers, the need to feed their children.

While this woman narrates a seemingly hopeless situation, emphasizing the lack of choice, she leaves out one aspect of the story – that there is a growing sex trade in El Fasher, where women young and old actively position themselves within this market, knowing full well what it means to go to Al Mustaba. There is, additionally, a black market service for dealing with this sex trade and its consequences, pointing to further forms of opportunism. One woman narrated the following:

My period didn’t come, and I realized I was pregnant. *Allah kashafni!* God will reveal what happened to me. So, I went to a local midwife. People talk about her in the camp, that she helps pregnant girls. I told her that I am pregnant but I have no money to pay. She agreed to help me and told me to come on a certain day to her house. When I arrived, I found a man in the house. The midwife told me to wait there and she would go out for some medicine for the abortion, but she didn’t come back for a very long time. When she left the man came closer to me; he wanted to have sex with me. I couldn’t say no. I just kept silent looking at him. He said, “What will happen to you? Will you lose your virginity? Will you get pregnant? Lie on the bed.” I cried a lot, but I said to myself, he is right. I have nothing to lose. So, it is better for me to get rid of the baby and this is the price. Anyway, he had sex with me.\(^{38}\)

The midwife, for her part, in another interview, justified this as a way to help women. This was the price of her silence, where the public hospital would have incriminated her.

### 5. Conclusion

I have argued for the ambiguity and complexity that underlie sexual violence – that even in seemingly prototypical moments of victimization, there are agencies that belie such submission and conversely, in moments of overt physical resistance, there may be more nuance than outright rebellious femininity. The curating of consent complicates both Sudanese Islamic moral discourse and international human rights’ ideas about power and agency. Women’s rights approaches struggle to encourage women to resist outwardly, by hosting “awareness raising” workshops, meaning that the women seemingly don’t fully understand that they are subjugated. Conversely, the local discourse might emphasize that even if a woman fights back, she implicitly consented. What is overlooked by either discourse is that women can negotiate power in subtle and sometimes contradictory ways (McFadden 2003). Fighting a man before sex empowers her self-respect, her modesty and her femininity in her relationship,

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\(^{37}\)Focus group, El Fasher, March 26, 2015.

\(^{38}\)Interview, El Fasher, March 25, 2015.
whether with her husband or her lover. Letting sexual abuse happen may make other forms of security available to a victim, such as that provided by guardians or those who offer financial protection. This helps to explain why women and girls do not readily shout or later report when rape has happened. They do not dare to risk that others believe they brought this on themselves. Silencing abuse also ensures the stability and coherency of family relationships and community reputations, as well as warding off stigma and shame.

Women can become dependent on the financial security that a man can provide, such as the pattern in IDP camps where women exchange sex with soldiers or police in return for goods and money. Not only clear cases of prostitution, but cases of close financial, but also social and psychological security through dependency on male patriarchs, illustrate how women may seek or agree to sexual relationships. It helps to explain cases such as that of Sawsen or Maysun who were involved in cases of prolonged abuse by trusted and known older men. It also helps to explain why the “victim” narrative does not hold much weight neither in Sudanese hospitals and courts nor with a woman’s private surroundings such as her own mother and father. There is no clear benchmark for women who say “no.” Illicit intentions are always a suspected possibility for anyone but a child.

While ideas about gendered agency are indeed cultural as they now exist as norms among ordinary people, these forms of agency are not rooted in anything similar to a deep cultural essence. I have argued that the recent polarization of positions through Sudanese national and international politics tends to locate agency in opposing terms. Tønnessen (2012) has argued that the former ruling party constructed a neat opposition between the “Islamic model” and the “Western model,” meant to be upheld by the morality of women. “The pious, modern and modest Muslim woman is juxtaposed to the secular, promiscuous and atheist Western woman” (Tønnessen 2012, 9). Sexual “immorality” in this dichotomy is blamed on Western ideas that influence women, largely introduced through “compromisionate” humanitarianism, rather than on a failed Islamic project in creating a moral society.

Both Sudanese institutions and women’s rights organizations, who should provide legal deterrents to perpetrators, and representation and support services to women, operate through registers of justice in which norms of feminine agency are defined. But “narrow” (Cornwall, Corrêa, and Jolly 2008) understandings of sexuality and gender, or “homogenizing” discourses, obscure the “continuum of femininities” (Jaji 2015, 506) that are performed. The consequence of reducing women to resistance or victimization is that the diversity of lived experiences is silenced. Also silenced is an understanding of the basic competence to curate consent by embedding one’s “voice” within the normative frame that might recognize women’s rights to justice.

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References

Abdel Halim, Asma M. 2016. “Gendered Justice: Women and Criminal Law in the Sudan.” In Criminal Law Reform and Transitional Justice: Human Rights Perspectives for Sudan, edited by Lutz Oette, 227–242. New York, NY: Routledge.

Abu-Lughod, Lila. 2002. “Do Muslim Women Really Need Saving? Anthropological Reflections on Cultural Relativism and its Others.” American Anthropologist 104 (3): 783–790.

Abusharaf, Rogaia Mustafa. 2001. “Virtuous Cuts: Female Genital Circumcision in an African Ontology.” Differences: A Journal of Feminist Cultural Studies 12 (1): 112–140.

Abusharaf, Rogaia Mustafa. 2009. Transforming Displaced Women in Sudan. Chicago, IL: University of Chicago Press.

Afkhani, Mahnaz. 2000. Faith and Freedom: Women’s Human Rights in the Muslim World (Repr.). London: Tauris Publ.

Agha, Asif. 2004. “Registers of Language.” In A Companion to Linguistic Anthropology, edited by Alessandro Duranti, 23–45. New York, NY: Blackwell.

Ammar, Nawal, and Edna Erez. 2001. Encyclopedia of Criminology and Deviant Behavior, edited by Clifton D. Bryant. Philadelphia, PA: Brunner-Routledge.

Basu, Amrita. 2000. “Globalization of the Local/Localization of the Global Mapping Transnational Women’s Movements.” Meridians 1 (1): 68–84.

Boddy, Janice. 1998. “Violence Embodied?: Circumcision, Gender Politics, and Cultural Aesthetics.” In Rethinking Violence Against Women, edited by R. Emerson Dobash and Russell P. Dobash, 77–110. Thousand Oaks, CA: SAGE Publications. doi:10.4135/9781452243306.n4.

Boltanski, Luc, and Laurent Thévenot. 2006. On Justification: Economies of Worth. Princeton, NJ: Princeton University Press.

Brownmiller, Susan. 1975. Against Our Will: Men, Women, and Rape. New York: Open Road Integrated Media. https://search.ebscohost.com/login.aspx?direct=true&scope=site&db=nlebk&db=nlabk&AN=825813

Collins, Patricia Hill. 2000. Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment. New York, NY: Routledge.

Cornwall, Andrea, Sonia Corrêa, and Susie Jolly. 2008. “Development with a Body: Making the Connections Between Sexuality, Human Rights and Development.” In Development with a Body: Sexuality, Human Rights & Development, edited by A. Cornwall, S. Corrêa, and S. Jolly, 1–21. London: Zed Books.

Crenshaw, Kimberley. 1990. “Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color.” Stanford Law Review 43 (6): 1241. doi:10.2307/1229039.

Eltayeb, Muna, and M. Eltayeb. 2014. Jurisprudence on Sexual Offences and Proposals to Close the Gaps for the Prosecution of Rape in the Sudan. New York, NY: Equality Now. http://www.equalitynow.org/sites/default/files/Equality_Now_Proposals_Legal_Reform_in_Sudan_EN.pdf

Fadlalla, Amal Hassan. 2008. “The Neoliberalization of Compassion: Darfur and the Mediation of American Faith, Fear, and Terror.” In New Landscapes of Inequality: Neoliberalism and the Erosion of Democracy in America, edited by Jane L. Collins, Micaela di Leonardo, and Brett Williams, 209–228. Santa Fe, NM: School of American Research Press.

Fadlalla, Amal Hassan. 2019. Branding Humanity: Competing Narratives of Rights, Violence, and Global Citizenship. Stanford Studies in Human Rights. Stanford, CA: Stanford University Press.

Fadlalla, Amal Hassan, and Omolade Adunbi. 2016. “Introduction.” Humanity: An International Journal of Human Rights, Humanitarianism, and Development 7 (1): 1–6. doi:10.1353/hum.2016.0001.
Fassin, Didier. 2012. Humanitarian Reason: A Moral History of the Present. Translated and edited by Rachel Gomme. 1st ed. Berkeley, CA: University of California Press. http://www.jstor.org/stable/10.1525/j.ctt1pptmk.

Fricke, Adrienne, and Amira Khair. 2007. Laws Without Justice, Assessment of Sudanese Laws Affecting Survivors of Rape. Washington, DC: Refugees International. http://media.npr.org/programs/newsnotes/features/2007/07/Lawswithoutjustice.pdf.

Gruenbaum, Ellen. 2001. The Female Circumcision Controversy: An Anthropological Perspective. Philadelphia, PA: University of Pennsylvania Press.

Hale, Sondra. 1996. Gender Politics in Sudan: Islamism, Socialism and the State. New York, NY: Westview Press.

Hale, Sondra. 2010. “Rape as a Marker and Eraser of Difference: Darfur and the Nuba Mountains (Sudan).” In Gender, War, and Militarism: Feminist Perspectives, edited by Laura Sjoberg and Sandra Via, 105–113. Santa Barbara, CA: Praeger Security International.

Hale, Sondra. 2015. “By Any Other Name: Gender and Genocide – Women of Darfur and the Nuba Mountains.” In Sudan’s Killing Fields: Political Violence and Fragmentation, edited by Sondra Hale and Laura N. Beny, 201–216. Trenton, NJ: Red Sea Press.

Hammoud, Rafiqa Selim. 1997. Al-Mara’ al-Misriah: Mushkilat al-Hadir Wa Tahdiat al-Mustqbal, The Egyptian Woman: Contemporary Problems and Future Challenges. Cairo: Dar al-Amin lil-Nashr wa al-Tiba’h.

Hawley, John Stratton, and Wayne Proudfoot. 1994. “Introduction.” In Fundamentalism and Gender, edited by John Stratton Hawley and Wayne Proudfoot, 3–46. New York, NY: Oxford University Press.

Hollander, Jocelyn A., and Rachel L. Einwohner. 2004. “Conceptualizing Resistance.” Sociological Forum 19 (4): 533–554. doi:10.1007/s11206-004-0694-5.

Jaji, Rose. 2015. “Normative, Agitated, and Rebellious Femininities among East and Central African Refugee Women.” Gender, Place & Culture 22 (4): 494–509. doi:10.1080/0966369X.2014.885886.

Mahmood, Saba. 2005. Politics of Piety: The Islamic Revival and the Feminist Subject. Princeton, NJ: Princeton University Press.

Mamdani, Mahmood. 2008. “The New Humanitarian Order.” The Nation. https://www.thenation.com/article/new-humanitarian-order/

Merry, Sally Engle. 2009a. “Relating to the Subjects of Human Rights: The Culture of Agency in Human Rights Discourse.” In Law and Anthropology: Current Legal Issues. Vol. 12, edited by Michael Freeman and David Napier, 385–407. Oxford: Oxford University Press.

Merry, Sally Engle. 2009b. Human Rights and Gender Violence: Translating International Law into Local Justice. Chicago, IL: University of Chicago Press.

Merry, Sally Engle. 2011. “Gender Justice and CEDAW: The Convention on the Elimination of All Forms of Discrimination Against Women.” Hawwa 9 (1): 49–75. doi:10.1163/156920811X575505.

No to Women Oppression Coalition. 2011. “Sudan Security Services Intensify New Tools of Rape and Sexual Assault to Punish Women Who Express Their Political Opinion – Sudan Tribune: Plural News and Views on Sudan.” Sudan Tribune. http://www.sudantribune.com/spip.php?article38141

Nussbaum, Martha C. 1997. “Capabilities and Human Rights.” Fordham Law Review 66: 273.

PHR. 2010. Action Agenda for Realizing Treatment and Support for Women and Girls in Darfur. Cambridge, MA: Physicians for Human Rights. https://s3.amazonaws.com/PHR_Reports/darfur-action-agenda.pdf

Redfield, Peter. 2005. “Doctors, Borders, and Life in Crisis.” Cultural Anthropology 20 (3): 328–361.

REDRESS, and KCHRED. 2008. “Reforming Sudan’s Legislation on Rape and Sexual Violence. Khartoum.” http://www.redress.org/downloads/country-reports/Position%20Paper%20Rape%202005%20SEP%20008%203.pdf

Reid-Cunningham, Allison Ruby. 2008. “Rape as a Weapon of Genocide.” Genocide Studies and Prevention 3 (3): 279–296.
Rozee, Patricia D., and Mary P. Koss. 2001. “Rape: A Century of Resistance.” Psychology of Women Quarterly 25 (4): 295–311. doi:10.1111/1471-6402.00030.

Sidahmed, Abdel Salam. 2001. “Problems in Contemporary Applications of Islamic Criminal Sanctions: The Penalty for Adultery in Relation to Women.” British Journal of Middle Eastern Studies 28 (2): 187–204. doi:10.1080/13530190120083077.

Takana, Yousif. 2014. Darfur Crisis: The Role of Traditional Leaders in Dealing with Violence against Women. Sudan Working Papers. Bergen: Chr. Michelsen Institute. http://hdl.handle.net/11250/2475005

Tønnessen, Liv. 2012. From Impunity to Prosecution? Sexual Violence in Sudan Beyond Darfur. Oslo: NOREF. Norwegian Peacebuilding Resource Center. http://www.cmi.no/file/1939-noref-report.pdf

Tønnessen, Liv. 2013. “Between Sharia and CEDAW in Sudan: Islamist Women Negotiating Gender Equity.” In Gender, Justice and Legal Pluralities: Latin American and African Perspectives, edited by Rachel Sieder, 133–155. Abingdon: Routledge.

Tønnessen, Liv. 2014. “When Rape Becomes Politics: Negotiating Islamic Law Reform in Sudan.” Women’s Studies International Forum 44 (May): 145–153. doi:10.1016/j.wsif.2013.12.003.

Tønnessen, Liv, and Samia Al-Nagar. 2013. “The Women’s Quota in Conflict Ridden Sudan: Ideological Battles for and Against Gender Equality.” Women’s Studies International Forum 41 (2): 122–131.

Tønnessen, Liv, and Samia Al-Nagar. 2015. Women and Girls Caught between Rape and Adultery in Sudan: Criminal Law Reform 2010–2015. Chr. Michelsen Institute. http://www.cmi.no/file/1939-noref-report.pdf

Tønnessen, Liv, and Samia Al-Nagar. 2021. “Legal Mobilization to Protect Women Against Rape in Islamist Sudan.” Cahiers D’études Africaines LXI (242): 355–376. doi:10.4000/etudesafricaines.34279.

Willemse, Karin. 2005. “On Globalisation, Gender and the Nation-State: Muslim Masculinity and the Urban Middle Class Family in Islamist Sudan.” In The Gender Question in Globalisation. Changing Perspectives and Practices, edited by T. David and F. van Driel, 159–178. Williston, VT: Ashgate.