

THE TROUBLING CASE OF MERIAM IBRAHIM

HEARING

BEFORE THE

SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH,
GLOBAL HUMAN RIGHTS, AND
INTERNATIONAL ORGANIZATIONS

OF THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

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THE TROUBLING CASE OF MERIAM IBRAHIM

WEDNESDAY, JULY 23, 2014

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH,
GLOBAL HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 2 o'clock p.m., in room 2172 Rayburn House Office Building, Hon. Christopher H. Smith (chairman of the subcommittee) presiding.

Mr. SMITH. The subcommittee will come to order.

Let me begin by, again, expressing my apology for the lateness of our start. We did have two votes, recorded votes. They went longer than anyone could have anticipated.

For weeks this spring the world watched as Meriam Ibrahim, a pregnant Christian woman in Sudan, faced flogging and the death penalty because her government would not accept that she had lived her life as a Christian and married a Christian man. Meriam has demonstrated both courage and grace under pressure, giving birth in jail in May, while chained, and caring for her two children, including her newborn, not only under restraints but without the normal amenities that any pregnant woman and nursing mother should expect.

The harsh application of Sharia law on non-Muslims was the trigger, and everyone knows this, for the two-decade-long civil war in Sudan that eventually led to the secession of the South. Sudan is one of 20 countries in the world who have laws against apostasy, defined as the abandonment by an individual of his or her original religion.

In Sudan, apostasy is effectively considered leaving the Muslim faith, particularly the interpretation of Islam followed by authorities there. In Sudan, to leave the Muslim faith is an automatic death sentence. If you are considered an apostate, you cannot legally marry someone of another faith, and for this Meriam was also charged with adultery and sentenced to flogging.

However, this story is not just about harshly applied religious and legal principles in violation of national and international law. Daniel Wani, Meriam's husband, is a Christian, who is a dual American and South Sudanese citizen. He has lived in the United States for more than a decade. He married Meriam in late 2011, and they had a son a year later.

Somehow, the U.S. Embassy in Khartoum could not find a way to help bring this American to get his family out of Sudan before

the crisis developed. Even after she was arrested and released last year on charges involving apostasy.

Today's hearing is intended to examine the facts as we know them and to determine how strictly applied rules almost led to the officially sanctioned beating and execution of a young woman who has lived as a Christian all of her life, but who has now been told that she has no right to choose her religious belief.

This hearing was originally scheduled to take place in June, but at the urging of Sudanese officials and Mark Meadows, who has been doing yeoman's work on this issue, and some in our Government, we postponed it to allow for quiet diplomacy to take place. However, Meriam's legal entanglements seem to be increasing now rather than diminishing.

We intend for this hearing to be a strong appeal to the Government of Sudan to use their legal authority to end the official entanglements Meriam has faced since her arrest in January and subsequent trial. A Sudanese court initially ruled that the mere fact that her father was Muslim means that she should have been raised as a Muslim. She was given 3 days to convert to Islam, but she told authorities she would not abandon her Christian faith. Her refusal to leave the faith she had practiced her entire life led to her being in mortal fear for her life.

Fortunately, a Sudanese appeals court believed that she considered herself Christian and overturned her conviction on apostasy and adultery charges. However, members of her family, allegedly, have appealed the overturning of her conviction. Meanwhile, the Government of Sudan rearrested Meriam for using South Sudanese documents in an attempt to leave the country while she was released on bail. That case is still pending.

Finally, Meriam's family has filed a case in domestic law court to establish that she is Muslim and that her brother, who was unable to prove his legal connection in the original apostasy/adultery case, should be her legal guardian under Sharia law. The hearing date for at least part of that case is currently set for August 4, because she was not given a written summons to appear at a July 17 hearing on the matter.

We cannot be absolutely certain of the exact chain of events that led to this situation. The Department of State understandably decided not to testify at this particular hearing, although this will become a hearing in a series of hearings until this is resolved. Daniel and Meriam are still in Sudan at this point, and we will invite the State Department to give a full accounting and any insights they might want to provide.

Daniel and Meriam are still in Sudan, as we all know, at this point. Daniel is free to leave with his children, but has chosen of course to stay with his wife until she, too, can leave with her family. Since Meriam's conviction in May, a bipartisan, bicameral congressional coalition has worked tirelessly to undo the harsh penalties for her under the apostasy and adultery laws, and to secure her family's repatriation to the U.S.

Contact was made with Daniel, as well as the U.S. Embassy in Khartoum, and the Sudanese Embassy right here in Washington. Eventually, the headquarters offices of both State Department and U.S. Citizenship and Immigration Services got involved. You know,

one wonders why this matter had to come to a crisis stage before a means could be found to avoid what now seems to have been an inevitable outcome in this case.

Daniel told congressional staff that he sought help from the U.S. Embassy in Khartoum, but was told that he should seek an attorney, since the situation was mostly focused on his wife who was not an American. This was the advice he received even when he was—when arrested and had his passport seized. An American citizen should expect more, I believe, from his government's representatives in a foreign country when the country's government has taken action against them.

Sudanese officials do not have the right to force someone to be Muslim when they assert their beliefs to be otherwise. Under the principles of natural law, which are the basis of our governing documents and those of countries around the world, there are certain inalienable rights endowed by our Creator. The decision on how to worship our Creator is one of them.

Elements in Sudan's Islamic clergy and in the government interpret the Koran, to give them license to tell people how they will live out their faith, whether they consider themselves Muslim or not.

In Meriam's case, her father had been absent from her life since she was a small child. Her Christian mother raised her as a Christian. Sadly, Meriam is not the only Sudanese who chose differently on the matter of faith only to be faced with a death sentence for that choice. Sudanese activist Mahmoud Mohammed Taha was arrested and charged with apostasy in 1984 for his efforts to end Sharia law in Sudan. He was subsequently executed.

In some countries, Christian converts have been forced to renounce their faith and conform to the version of Islam favored by the government of that day. Some of these countries have constitutions that ostensibly guarantee religious freedom, even as they may also have laws that actually contradict those rights.

Except for Malaysia, Oman, Qatar, Saudi Arabia, and the United Arab Emirates, the other 15 countries, including Sudan, have signed the International Covenant on Civil and Political Rights guaranteeing freedoms for their citizens.

Article 18 of that document enshrines "the right to freedom of thought, conscience, and religion." Speaking of the rights of the individual, that article also forbids "coercion which would impair his freedom to have or to adopt a religion or belief of his choice."

Article 18 also guarantees "the freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching."

The current report by the U.S. Commission on International Religious Freedom cites Sudan as a Country of Particular Concern due to its government's engaging in systematic, ongoing, and egregious violations of freedom of religion. According to USCIRF, Sudan is the world's most violent abuser of the right to freedom of religion or belief.

Thankfully, we have the author of that law, the International Religious Freedom Act, Frank Wolf, who back in 1998 authored that landmark legislation. And today testifying we have Zuhdi Jasser

from the Commission, who recommends in his testimony that not only should the U.S. Government take appropriate actions against Sudan, as detailed in IRFA, but that our Government should also make freedom of religion and human rights a centerpiece of the U.S.-Sudan bilateral relationship, as that has not been the case to date.

The troubling case of Meriam Ibrahim should warn of future incidents in which those who do not believe in Islam are defined by the government, are persecuted, or placed in fear of death or torture. We, again, appeal to the Government of Sudan to use all legal means at its disposal to free her, this courageous young woman, allow her to pursue her faith and join her husband in the United States.

I would like to yield to a friend and colleague, the ranking member, Ms. Bass.

Ms. BASS. Thank you, Mr. Chairman, for your leadership and for convening today's hearing. I would also like to thank our distinguished witnesses, and I look forward to hearing your perspective on the socio-political context in Sudan as it relates to this case, the legal framework, as well as adultery laws and information on the limitations on religious freedom.

As we prepare to hear from today's witnesses, I hope we can learn critical lessons from their experiences and use them to increase awareness and support for the improved protections of human rights and religious freedom in Sudan.

I am also interested in hearing an update on the case. I met not too long ago with representatives from the Embassy, and it was my understanding that this case was going to be resolved very soon. So I will be interested to hear your updates.

Thank you very much. I yield back my time.

Mr. SMITH. Thank you very much.

I would like to now yield to a gentleman on the committee, Mark Meadows.

Mr. MEADOWS. Thank you, Mr. Chairman. And thank each one of you for your valuable time in coming here, and I think the fundamental question for all of us is, is this a day where truly religious freedoms of all faiths are going to be upheld and valued in America? And with that, it is critical history shows us—and it is not about—just about Christian faith. It is of many faiths. History shows us that time and time again when we don't value that the outcome is tragic.

And so I thank each one of you for coming today to spend your valuable time to not only continue to intercede on behalf of Meriam, but to also make it a reminder to those of us in a freedom-loving world that it is critical that we stand on those foundations of upholding religious liberty. If there are policies that we can use to go more toward valuing that, I look forward to hearing from each of you on that particular subject.

I yield back, Mr. Chairman, and thank you for your leadership.

Mr. SMITH. Thank you, Mr. Meadows. And I want to thank you for the meetings that you arranged with the Ambassador in an attempt to try to do this as efficaciously as possible, and the meeting that you did convene was I think a very important one, but still,

it has not yielded the result that we are all hoping and praying for, but thank you for that leadership.

Mr. Pittenger.

Mr. PITTINGER. Thank you, Mr. Chairman, for allowing me to participate and for holding this hearing of such great importance. I commend you for your tireless dedication, as always. I have watched you now for the last 30 years bringing the right of freedom of religion to everyone in the world.

I would also like to thank the witnesses for appearing before us today and for the dedication you have shown to defending human rights and religious freedoms, freedoms of conscience throughout the world.

The case of Meriam Yahia Ibrahim Ishag is tragic, a story now, regrettably, that is being told throughout the world, she—a young woman imprisoned because she has chosen to be a believer and follower of Jesus Christ. Her punishment for following her faith, for refusing to convert to a religion she does not believe in, death by hanging.

The Sudanese Government declared her marriage to a Christian man unlawful, and, therefore, convicted her of adultery, punishable by 100 lashes. Thankfully, an appellate court overruled both of these convictions, but Ms. Ishag still is not free. While trying to leave Sudan with her husband and children, one which she gave birth to while she was in prison, the family was again detained on claims of using false travel documents.

Here is a family simply trying to believe in their own convictions and live out their faith, trying to practice their own religion, and this is what they have been subjected to. While Ms. Ishag's case has garnered significant media attention, we must remember that denial of the basic human right to religious freedom is not an isolated case.

As members of the United States Congress, it is vital that we continue to shine light on all of the cases of injustice and for the United States to continue exerting whatever pressure we can on governments who so blatantly and obviously infringe upon those rights.

Thank you, Mr. Chairman, and I do yield back.

Mr. SMITH. Mr. Pittenger, thank you very much for your comments and your leadership.

We now yield to Chairman Frank Wolf. And, again, he is the author of the International Religious Freedom Act, landmark legislation that finally, at long last in 1998, put religious freedom as a core element of our U.S. foreign policy. Chairman Wolf?

Mr. WOLF. Thank you, Mr. Chairman. I want to thank you for having the hearing. I think, as Mr. Pittenger said, you have probably done more than anybody else in the time that I have served here, so I want to thank you.

I want to thank the witnesses. I think there are two points. I think our State Department is failing us. We have seen their lack of action on people in Korea. We have seen their lack of action with regard to people in Vietnam. We have seen their lack of action to not even visit Liu Xiaobo's house in China when he is the Nobel Prize winner, and his wife is not well, and we see the fundamental weakness.

And we have also seen the failure of this administration with Pastor Abedini. I mean, Pastor Abedini and his wife, they are American citizens and we can't even get them to do anything, nor will the Secretary meet with them. So this is not a surprise.

Secondly, I think I would just separate myself out from the State Department. Weakness is never good. And we are weak. We are perceived as weak. Now, I say somewhere out there—and I can almost predict who—there is a representative or two of the Sudanese Government. They are going to listen. They are going to send a message back to al-Bashir who is an indicted war criminal. Indicted war criminal. Two-point-one million people died in the North-South battle. He has blood on his hands.

So this ought to be a test. If Meriam is not out in 2 or 3 weeks, the word should go out they will never be off the list. They will always be on the terrorist list. There will always be sanctions. We will bring the government down. What they are doing with the Nuba Mountains, what they are doing with regard to Darfur, they were responsible for the genocide in Darfur and it still continues today.

So they are going to look to see how strong you are. One of them out there—they may have a law firm working for them, too—will come back and tell them, “If Meriam is not out in 2 weeks, never should they ever be taken off the sanctions list.” And we should make sure the U.N. tracks al-Bashir down when he goes to Egypt, or wherever he goes, and bring him so he goes to The Hague and stands as a criminal.

And thank you for having the hearing.

Mr. SMITH. Chairman Wolf, thank you very much.

Mr. Cotton.

Mr. COTTON. Thank you, Chairman Smith, and Ranking Member Bass, for letting me join your subcommittee today, first off. Second off, I would like to closely associate myself with the remarks of Frank Wolf, a great champion in the United States Congress for religious liberty. It is a travesty that Meriam was detained at all in Sudan, or that her detention has continued. I agree with Mr. Wolf she should be released posthaste, if not in 2 weeks from now.

But it is troubling that this is part of a pattern more broadly throughout the Middle East and North Africa, and, regrettably, all around the world. Twenty countries now have laws penalizing apostasy, and eight of those can legally impose the death penalty for apostasy, for nothing more than being a follower of Jesus Christ.

I saw this kind of persecution firsthand when I was a lieutenant with the 101st Airborne in Iraq and Baghdad in 2006, Christian churches being vandalized and Christians being persecuted and driven out of their homes and neighborhoods. We see it again today in Mosul as the Islamic State is driving Christians out of that city where they have lived almost since the times of Jesus Christ.

As a country that was founded by religious refugees, and for whom religious freedom is our very first freedom, it is incumbent upon us in this institution, as well as the President and the State Department, to rectify the injustice, not just when it involves Americans, like Pastor Abedini or Meriam and her family, but to the greatest extent we can all around the world.

Thank you.

Mr. SMITH. Mr. Cotton, thank you so very much, and thank you for your extraordinary military service.

I would like to now introduce our distinguished panel. We are very fortunate to have four very knowledgeable and eminent individuals to provide testimony to the committee, beginning with Dr. Zuhdi Jasser, who is a member of the U.S. Commission on International Religious Freedom. He is also the founder and president of the American Islamic Forum for Democracy.

Dr. Jasser is a first generation American Muslim whose parents fled the oppressive Baathist regime of Syria. He earned his medical degree in the U.S. Navy, on a U.S. Navy scholarship, and served 11 years in the Navy. Dr. Jasser has testified before Congress before, including before our subcommittee, and has briefed members of the House and Senate frequently on issues related to religious freedom.

We will then hear from The Honorable Tony Perkins, who is president of the Family Research Council. He is a former member of the Louisiana legislature where he served for 8 years, and he is recognized as a legislative pioneer. Since joining FRC in the fall of 2003, he has launched new initiatives to affirm and defend the Judeo-Christian values upon which this nation was founded.

Tony Perkins and FRC have led the way in defending religious freedom. He hosts a daily national radio program and broadcasts a daily commentary heard on over 300 stations nationwide. His daily email update is sent to tens of thousands of individuals throughout this country and in the world.

We will then hear from Ambassador Grover Joseph Rees, who has served as the first United States Ambassador to East Timor, and as Special Representative for Social Issues in the U.S. Department of State where he was responsible for promoting human dignity, including issues affecting vulnerable persons and the family within the U.N. system.

He was also a senior staff member of this committee. As a matter of fact, he was general counsel and staff director, where he was responsible for human rights and refugee protection, and he played a major role in drafting an enactment of important human rights legislation including the Trafficking Victims Protection Act, International Religious Freedom Act, and the Torture Victims Relief Act.

Of high significance as well, he served as general counsel of the U.S. Immigration and Naturalization Service and was extremely knowledgeable, especially in fighting against the forced repatriation of many, including the Vietnamese boat people.

As a direct result of his work, some 20,000 Vietnamese who were sent back were brought to this country, were rereviewed when they were improperly screened out as refugees. So I want to publicly acknowledge the extraordinary work that he did to ensure the safe immigration of those people, those Vietnamese boat people, to the United States.

And, finally, we will hear from Mr. Omer Ismail, who was born in the Darfur region of Sudan and spent over 20 years working both independently and with international organizations on relief efforts in human rights. He fled Sudan in 1989 as a result of his

political views and helped found the Sudan Democratic Forum, a think-tank of Sudanese intellectuals working for the advancement of democracy in Sudan.

In addition, he co-founded the Darfur Peace and Development Organization to raise awareness about the crisis in this troubled region. He currently works as policy advisor to several agencies working in crisis management and conflict resolution in Africa.

Thank you as well for your leadership and for being here. I would like to begin with Dr. Jasser.

STATEMENT OF ZUHDI JASSER, M.D., COMMISSIONER, UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Dr. JASSER. Thank you, Chairman Smith, and Ranking Member Bass, and members of the subcommittee. Thank you for the opportunity to testify on the extremely troubling case of Meriam Ibrahim. I ask that my written testimony be submitted for the record.

Mr. SMITH. Without objection, so ordered.

Dr. JASSER. Meriam Ibrahim's case must—must continue to draw international attention until she and her family leave Sudan for freedom in the United States. Even then, the international community must continue to focus on Sudan, because while Meriam's case is among the most egregious, it is only the latest example of the Sudanese Government's deplorable religious freedom and human rights record. It is simply the tip of the iceberg, as we have heard from many of your comments.

This record has earned Sudan a Country of Particular Concern (CPC) designation since 1999 from not only our commission but also from the State Department. The government imposes a restrictive interpretation of Sharia law on Muslims and non-Muslims alike, and charges individuals with the capital crime of apostasy, flogging Sudanese for undefined acts of indecency and immorality, and arrests, threatens, harasses, and discriminates against Christians and others with minority views.

These religious freedom violations, along with the violence in Southern Kordofan, Blue Nile, and Darfur, derive from President al-Bashir's policy of Islamization and Arabization.

Meriam's ordeal began with her February 17 arrest—here is a picture of her from before her arrest. At that time, her brother reported to the police that she had left Islam to marry a Christian man, a capital crime in Sudan. The Sudanese Government's application of Sharia law prohibits a Muslim woman from marrying a Christian man. However, while Meriam was born to a Muslim father and an Ethiopian Orthodox mother, her father left the family when she was six, and she was essentially raised a Christian.

Meriam was convicted on May 15 of apostasy and sentenced to death by hanging. Because the court did not recognize her marriage, she was also found guilty of adultery and sentenced to 100 lashes. While imprisoned, Meriam gave birth on May 27 to her baby daughter, who was detained with her and her 2-year-old son.

On June 23, an appeals court cancelled the apostasy charges and death sentence, most likely due to the international attention that many of you and others have brought, and ordered her release from

prison. She and her family then were detained on June 24, a day later, in Khartoum's airport when they sought to leave the country, after which she was held with her family at a police station, and then arrested again on document fraud charges. Since June 27, she and her family now remain in Sudan, safely, as the Sudanese Government continues to block their departure from the country.

On July 17, Meriam's brother, alleged brother, challenged the appeal that had overturned her apostasy and adultery convictions. The Sudanese Supreme Court has up to 3 months to review the brother's court action. And that is her current status.

Meriam's ordeal reflects more deeply the Sudanese Government's enforcement of a rigid ideology against Sudan's religiously diverse population, particularly non-conforming Muslims and Christians. As detailed in our commission's November 13 policy brief, which we have available in the back—I request that that also be submitted for the record.

Mr. SMITH. Without objection, it will be made a part of the record.

Dr. JASSER. Thank you. The Sudanese Government has implemented Sharia law for more than 30 years, with the 1991 Criminal Code Act being the cornerstone of that implementation. The Act addresses offenses that violate public order and carry the death sentence for apostasy, stoning for adultery, prison sentences for blasphemy, and floggings for undefined offenses of honor, reputation, and public morality.

Since 2011, there has been an alarming increase in the number of persons arrested and found guilty of what are called hudood offenses, with the most dramatic increase in the number of those such as Meriam arrested for apostasy, carrying an automatic death sentence. For example, in the past 3 years alone, more than 170 persons have been arrested, the majority of whom practice a version of Islam which differs from that of the ruling National Congress Party of al-Bashir.

Government pressure on Christians in Sudan has also increased since South Sudan's 2011 independence, with the government announcing in July that it no longer would issue any permits—this is just a few weeks ago—for new church buildings. In the last several years, at least 11 churches have been attacked and others threatened. Individual Christians have also been arrested, threatened, and harassed, in Nuba, and South Sudanese Christians continue to be arrested and deported.

The Sudanese Government also discriminates against its minority Christian community by promoting conversion openly to Islam, prohibiting foreign church officials from traveling outside Khartoum, using school textbooks that negatively stereotype non-Muslims, and giving preferential treatment to Muslims in employment and services and in court cases involving Muslims against non-Muslims.

So what can we do? Meriam's case underscores the need for the U.S. Government to do the following. First, we need to continue to advocate tirelessly for Meriam and her family to immediately leave Sudan and that all charges against her be dropped, and all prisoners who have been jailed on account of their religion or belief also be released and the charges against them be dropped.

Second, we need to redesignate Sudan as a CPC and take appropriate actions that follow thereof. We also need to make religious freedom and human rights a centerpiece of the U.S.-Sudan bilateral relations, and take the conversation beyond simply being the issue of violence.

We need to press the Sudanese Government to engage in an inclusive and transparent constitution drafting convention. We also need to require before normalizing relations or lifting sanctions, that the Sudanese Government abide by international standards of freedom of religion and belief. And we must also support all those civil society groups monitoring the implementation of the public order laws and advocate for their immediate repeal.

We must hold the Sudanese Government accountable to protect and respect freedom of religion or belief, not only for Meriam Ibrahim but for all Sudanese.

Thank you.

[The prepared statement of Dr. Jasser follows:]

STATEMENT OF

M. ZUHDI JASSER

BEFORE

THE SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL
HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS

OF THE

COMMITTEE OF FOREIGN AFFAIRS

ON THE

TROUBLING CASE OF MERIAM IBRAHIM

JULY 23, 2014

Chairman Smith and members of the Subcommittee, thank you for the opportunity to testify today on behalf of the U.S. Commission on International Religious Freedom (USCIRF). Today's hearing is extremely important and timely. The case of Meriam Yahia Ibrahim Ishag rightly has garnered international attention and condemnation and will continue to do so until she and her family are allowed to leave Sudan for freedom in the United States. Hopefully, this hearing also will draw attention to the ongoing violations of religious freedom in Sudan for which Sudan has been designated a "country of particular concern" (CPC) by the State Department since 1999, and which Meriam and her family so sadly exemplify. The government of Sudan imposes a restrictive interpretation of Shari'ah law on Muslims and non-Muslims alike which include, along with charging individuals with the capital crime of apostasy, using amputations against those found guilty of armed robbery, and flogging Sudanese for undefined acts of "indecent" and "immorality."

However, they live in legal limbo because the Sudanese government has prohibited them from leaving.

Meriam's ordeal began when she was arrested on February 17 after her brother reported to the police that she had left Islam to marry a Christian man, a capital crime under Sudan's 1991 Criminal Code. The Sudanese government's application of Shari'ah law prohibits a Muslim woman marrying a Christian man. However, while Meriam was born to a Muslim father and an Ethiopian Orthodox mother, her father left the family when she was six and she was raised a Christian. As evidence of her Christian faith, Meriam produced her marriage certificate which identified her as a Christian, and witnesses who tried to testify on her behalf, but court authorities prevented them from speaking.

Meriam was convicted on May 15 of apostasy and sentenced to death by hanging. Because the court did not recognize her marriage, she also was found guilty of adultery and sentenced to 100 lashes. While imprisoned in the Omdurman Federal Women's Prison, Meriam gave birth on May 27 to a baby girl, Maya, who had been detained with her, along with her two-year-old son Martin. There have been reports that the baby has suffered complications from the conditions of her birth in prison. On June 23, an appeals court cancelled the apostasy charges and death sentence against Meriam and ordered her release from prison. She and her family then were detained on June 24 at Khartoum's airport as they sought to leave the country. She was then held with her family at a Khartoum police station, with Meriam being arrested on document fraud charges. On July 17, Meriam's brother challenged in court the appeal that had overturned her apostasy and adultery convictions. The Sudanese Supreme Court has up to three months to consider if it will review the brother's court action.

Meriam's conviction, sentencing, detention and re-detention, and inability to leave Sudan all are travesties of religious freedom and human rights in Sudan. The laws which she was accused of breaking violated Sudan's own constitutional and international commitments to religious freedom and human rights. USCIRF calls on the Sudanese government to immediately allow Meriam and her family to leave Sudan and all charges against her be dropped.

USCIRF applauds the State Department and the U.S. Embassy in Khartoum for their vigorous advocacy on Meriam's behalf.

USCIRF also welcomed the statements of support for Meriam issued by Secretary of State Kerry, the White House, the State Department, and Members of Congress. USCIRF also welcomed the May 14 joint statement by the United States, Canada, the United Kingdom, and the Netherlands expressing their concern over the apostasy ruling and noting an individual's right to change faith. The large diplomatic presence at the May 15 hearing at the Public Order Court in El Haj Yousif, Khartoum demonstrated international concern. USCIRF issued statements on June 25, 2014 and May 16, 2014 strongly condemning Meriam's detention and sentencing and called for her immediate release.

Meriam's case is among the most egregious, but only the latest example, of Khartoum's deplorable religious freedom and human rights record. June 30 marked the 25th anniversary of Sudanese President Omar al-Bashir's coup against former Prime Minister Sadiq al-Mahdi and the rise of the ruling National Congress Party. For 25 years, Sudan has been plagued with internal conflicts as Sudanese opposition parties, civil society, students, and regular citizens have protested, and marginalized ethnic groups in Darfur and Southern Kordofan and Blue Nile states have battled, so that their religious, ethnic, and civil and political rights would be respected.

Religious Freedom in Sudan

The actions taken against Meriam Yahia Ibrahim Ishag are understood best when considered in the context of a Sudanese government led by Omar al-Bashir which engages in systematic, ongoing, and egregious violations of freedom of religion or belief. In April of this year USCIRF recommended that the State Department redesignate as a "country of particular concern" (CPC), a recommendation the Commission annually has made since 1999. Religious freedom has deteriorated significantly in Sudan since South Sudan seceded in 2011. This deterioration reflects the ruling party's determination to enforce a narrow, rigid ideology against Sudan's religiously diverse population, particularly against non-conforming Muslims and Christians. Signs of such deterioration were evident prior to South Sudan's vote for independence: in December 2010, al-Bashir declared that Sudan's new constitution would be based on his government's interpretation of Shari'ah law. Senior Sudanese government officials continue to affirm his declaration, just as opposition parties and civil society representatives insist that Sudan's new constitution be based on universal human rights and reflect Sudan's commitments to international human rights standards, including freedom of religion or belief. After South Sudan's secession, the Sudanese government took actions that reflected the goal of Islamizing the country. Such actions included arresting non-conforming Muslims for apostasy in 2011, destroying churches primarily in 2012, and increasing the prosecutions of women for adultery since 2011.

The government of Sudan imposes a restrictive interpretation of Shari'ah law on Muslims and non-Muslims alike, including charging individuals with the capital crime of apostasy, using amputations against those found guilty of armed robbery, flogging Sudanese for undefined acts of "indecent" and "immorality," and arresting, threatening, harassing and discriminating against Christians. These religious freedom violations, as well as the violence in Southern Kordofan, Blue Nile, and Darfur, are the result of President Bashir's policies of Islamization and Arabization.

The Implementation of Shari'ah Law in Sudan

As detailed in USCIRF's November 2013 Policy Brief on the issue, Shari'ah law has been implemented in Sudan for more than 30 years, prior to the rise of al-Bashir and the National Congress Party. Former President Gaafar Numeiri in September 1983 first introduced Shari'ah and *hudoob* punishments into Sudan's criminal code by promulgating the "September Laws," the 1983 Sources of Judicial Decisions Act, and the 1984 Civil Transitions Act. Al-Bashir and the NCP also expanded the application of their interpretation of Shari'ah across the country in national and state laws in 1991. Due to these laws, the 1991 Criminal Code, the 1991 Personal Status Law on Muslims, and state-level public order laws, the NCP's interpretation of Shari'ah law regulates not only criminal matters, but also personal behavior for all Sudanese, regardless of one's faith and belief.

Inserting Shari'ah law into Sudan's criminal code has been debated since Sudan's independence in 1956, with opposition political parties, human rights organizations, women's rights groups, and religious minorities calling for its repeal. In the run-up to the April 2010 election, several opposition parties called for Sudan to become a secular state and the repeal of the mechanisms enforcing religiously-based morality laws. However, President al-Bashir and Vice President Ali Osman Taha alleged that calls advocated disunity, a view that newspapers and clerics supportive of the government echoed. The government's imposition of Shari'ah countrywide in 1983, including on the predominantly animist and Christian South, significantly contributed to the onset of Sudan's 20-year North-South civil war. This imposition continues to contribute to the ongoing fighting in Southern Kordofan and Blue Nile states.

The 1991 Criminal Code Act is the cornerstone of the NCP government's implementation of Shari'ah in Sudan. The Act identifies and addresses those offenses, including *hudoob* offenses that violate "public order." According to the Act, *hudoob* offenses are defined as drinking alcohol, apostasy (*ridda*), adultery (*Zina*), defamation of unchastity (*qazf*), armed robbery (*hiraba*), and capital theft. Per the Criminal code, these identified offenses carry death sentences for apostasy, stoning for adultery, cross-amputations for theft, prison sentences for blasphemy, and floggings for undefined "offences of honor, reputation and public morality," including undefined "indecent or immoral acts."

Since 2011, USCIRF and a number of human rights organizations have documented an alarming increase in the number of persons arrested, and at times found guilty, of *hudoob* offenses listed in the 1991 Criminal Code.

The most worrisome and dramatic increase is in the number of persons, such as Meriam Ibrahim, who have been arrested for apostasy, which carries an automatic death sentence: In the past three and a half years, more than 170 persons have been arrested. The African Centre for Justice and Peace Studies reported that more than 150 ethnic Hausa Darfuris were arrested, and 129 formally charged, with apostasy in 2011. Their "crime" was practicing a version of Islam which differed from that of the ruling NCP; they follow the Qur'an but not the sunna. They later were released, but only after renouncing their faith and agreeing to follow the regime's interpretation of Islam. That same year, Suleman Aboulgasim Musa and 17 of his followers were arrested and charged with apostasy. Musa, who believes he is Jesus Christ and a follower of the Prophet Mohammed,

and his followers had been practicing their religion since 1981. They also were released after renouncing their faith. Also in 2011, Hawa Abdulla Muhammad Saleh, a Christian, was arrested for apostasy, proselytizing, "Christianization of minors," and other crimes before being released after international pressure. In 2012, Coptic Orthodox priests Rev. Markus Anthony and Rev. Sarbion Hussein and three other Christians were arrested for converting a young Muslim woman to Christianity. The convert fled the country fearing for her life. The Sudanese priests and others later were released following advocacy by Christian organizations.

Several women in 2012 were found guilty of adultery and sentenced to death by stoning or other punishments, including Intisar Sharif Abdallah and Layla Ibrahim Issa Jumul. Both were released after an appeals court dropped the convictions and sentences due to international attention. However, their initial convictions and sentences reflect the government's attempts to implement its stricter interpretation of Shari'ah law. In other adultery cases, a couple in 2012 was lashed 100 times for adultery, even though they had a customary marriage license; and last February, an Ethiopian teen who was gang raped by three Sudanese men was convicted of "indecent acts," given a one month suspended jail term, and fined \$900. The three men who raped the teen each were given 100 lashes for adultery and a man who posted a video online of the rape was sentenced to 40 lashes.

Other instances of Khartoum's prosecution of persons alleged to have violated *hudood* offenses include the 2013 sentencing to death by crucifixion of three Darfuris after they were found guilty of murder: they still await execution. In addition, according to Human Rights Watch, there also has been an increase in persons sentenced to cross amputations for armed robbery, which doctors routinely are being forced to carry out.

The Sudanese government also employs state level "public order" laws to implement the 1991 Criminal Code's prohibitions and related punishments for "immorality" and "indecency." In practice, these laws disproportionately impact women and young girls, especially those from marginalized religious and ethnic communities. The most far reaching law is the Khartoum Public Order Act of 1998 which restricts the activities (in both public and private) of the more than seven million people who live in Sudan's capital, Khartoum. The Act restricts behavior that authorities, based on their interpretation of Shari'ah, deem offenses of honor, reputation and public morality, including prohibitions on dress, music preferences, mixing of the sexes at parties and in public and private transportation, and women-owned businesses. As defined in the Criminal Code, penalties for these offenses include imprisonment, whipping, and fines.

The Khartoum Public Order Act created enforcement mechanisms, including a special public order police, the Police of Society Security, and special public order courts. While the Act is a state law, the public order police are a special arm of the national Sudan Police Force and frequently employ "sweep and arrest" operations that usually target women from marginalized communities. Along with enforcing the Khartoum Public Order Act, public order courts also enforce relevant national laws, including the Shari'ah provisions of the 1991 Criminal Code. Defendants brought before the public order courts are not afforded due process rights, including legal assistance or time to prepare a defense. Defendants' arrest, detention, hearing, sentencing, and penalty imposition can take less than 24 hours. And records of court proceedings are scant.

Dozens of Muslim and Christian women and girls in Khartoum annually are flogged for indecent dress. What constitutes indecent dress is not defined by law, but is left to the discretion of arresting officers and prosecuting judges. Amira Osman Hamed continues her court fight against the law after she was arrested on August 27, 2013 for not covering her head.

Additionally, under the guise of protecting morality and preventing co-mingling, which is deemed “prostitution,” the Public Order laws have been used to stop co-mingling of unmarried men and women as well as target the NCP’s political opponents.

Finally, the 1991 Personal Status Law of Muslims or “Family Code” has been codified in the state legal code Shari’ah law provisions on personal matters such as marriage, divorce, child guardianship, and inheritance. While these provisions were respected during the colonial era and before 1991, the Family Code marks the first time they have been codified in national law, thereby establishing a discriminatory system that limits the rights of women based on a particular understanding of Islamic law.

Harassment of Christians

In addition to the increased application of Shari’ah law provisions in the 1991 Criminal Code, government pressure on Christians in Sudan has increased since South Sudan’s independence in 2011. A senior Christian leader from Khartoum told USCIRF in October 2011 that Christians fear for their future and safety in Sudan and that churches are no longer places of sanctuary, but government targets. Furthermore, the Sudanese Minister of Guidance and Religious Endowments announced in July 2014 that the government no longer will issue permits for the building of new churches in the country, alleging that there are a sufficient number of churches for the Christians remaining in Sudan after the secession of South Sudan in 2011. The Sudan Council of Churches recently and bravely criticized the authorities for banning the construction of new churches.

In the last few years, at least 11 churches have come under attack. On July 1, 2014, Sudanese authorities bulldozed a church of the Sudanese Church of Christ, built in 1983 at El Izba residential area in Khartoum North. Most congregants of the Sudanese Church of Christ are Nuba from South Kordofan. Extremists burned down the Presbyterian Church of the Sudan on January 15, 2011; a mob burned down a church in Omdurman on June 28, 2011; a mob attacked the congregation of the Sudanese Church of Christ on Omdurman West on August 5, 2011 as congregants attempted to build a church; a religious statue in a Catholic church in Kosti, White Nile state, was defaced in October 2011; a 300-person mob destroyed the Gerief West Bible School and damaged the Sudan Presbyterian Evangelical Church and other buildings in the church’s compound on April 21, 2012; the St. John Episcopal Church of Sudan and a Catholic church building, both located in the Haj Yousif area of Khartoum, were bulldozed in 2012; the National Intelligence Security Services (NISS) raided the New Life Church in Omdurman Town on March 2, 2013; the NISS raided the offices of the Sudan Presbyterian Evangelical Church on June 25, 2013; the NISS confiscated the Khartoum Bahri Evangelical Church on October 5, 2013; and the NISS bulldozed the Sudanese Church of Christ building also in Omdurman on February 17, 2014.

Moreover, other Christian houses of worship have faced threats. On September 11, 2011 officials from the Ministry of Physical Planning and Public Utilities threatened to demolish the Sudanese

Church of Christ, the Episcopal Church of Sudan, and the Roman Catholic Church in Omdurman if the churches continued to conduct services. The officials, who marked the church doors with a red X, said that the churches were operating on government land without permission. In addition to these threats, church leaders report that Ministry of Guidance and Religious Endowment officials have asked them to reveal information about church activities and church members.

Individual Christians also have been arrested, threatened, or harassed and NISS officers continue to arrest and deport Nuba and South Sudanese Christians.

Finally, attacks on churches beyond Khartoum also have taken place. During an October 2011 trip to Yida refugee camp and Juba, South Sudan, USCIRF staff was told by Nuban refugees that, in the fighting in Southern Kordofan, Sudanese Armed Forces (SAF) and paramilitary soldiers targeted Christians for executions and arrest because of their faith or because, as Christians, they were assumed to be supportive of the opposition Sudan People's Liberation Movement-North. USCIRF staff also received testimony that churches and mosques were bombed and razed in Khartoum's targeted campaign against civilian areas in Southern Kordofan and Blue Niles states. On February 1, 2012, the first day of school, the government bombed Heiban Bible College. While no one was hurt, two buildings were destroyed. Earlier this year, the government bombed the church-run Mother of Mercy Catholic Hospital. The findings of this trip were reported in a special USCIRF Sudan Policy Focus.

Official Discrimination against Christians

The Sudanese government also is guilty of officially discriminating against its minority Christian community. Government policies and societal pressure promote conversion to Islam, including alleged government tolerance of the use of humanitarian assistance to induce conversion to Islam; prohibitions on foreign church officials from traveling outside Khartoum; the use of school textbooks that negatively stereotype non-Muslims; and preferential treatment given to Muslims to access government employment and government services and in court cases involving Muslims against non-Muslims. The government also routinely grants permits to construct and operate mosques, often with government funds. In contrast, permission to build churches is difficult or impossible to obtain and as noted since 2011, the government has destroyed several churches, and in July 2014 indicated that it would no longer issue permits for the building of new churches.

Recommendations

Current U.S. policy is focused on dealing with the large crisis in South Sudan, Darfur, and Southern Kordofan and Blue Nile states and has failed to address the underlying reasons for the violence: Khartoum's repression of religious, ethnic and social-political rights and the marginalization of minority communities. Violence will continue to plague Sudan until there is a true national dialogue, reconciliation, and rule of law reform that leads to full and equal protection of the human rights of all Sudanese. And without such a dialogue, reconciliation and rule of law reform, people like Meriam Yahia Ibrahim Ishag will continue to suffer.

USCIRF recommends that the U.S. government:

- Call on the Sudanese government to allow Meriam Yahia Ibrahim Ishag and her family to leave Sudan and drop all charges against her and release all prisoners who have been jailed on account of their religion or belief and drop all charges against those who have cases pending against them.
- Annually designate CPCs and redesignate Sudan a CPC for its systematic, ongoing and egregious violations of religious freedom and the repressive policies and practices of the Sudanese government, and take appropriate actions as detailed in the International Religious Freedom Act (IRFA).
- Make promotion of religious freedom and human rights a centerpiece of U.S.-Sudan bi-lateral relations. This includes calling on the Sudanese government to reform national laws which contradict its constitutional and international commitments to freedom of religion or belief and human rights.
- Press the Sudanese government to engage in an inclusive and transparent constitution drafting convention to ensure that a future constitution maintains strong religious freedom and human rights protections, as well as recognizes Sudan's great religious, ethnic, and linguistic diversity.
- Before normalizing relations or lifting sanctions under IRFA and the International Emergency Economic Powers Act, require that the government of Sudan abide by international standards of freedom of religion or belief, including by reforming the 1992 Criminal Code and repealing the Public Order Regime and laws and practices which discriminate against non-Muslim minorities.
- Encourage and support civil society groups to monitor implementation of the Public Order laws and advocate for their repeal.

Conclusion

Sudan's abuses against religious freedom demand our attention and action. These abuses violate international standards and norms, destabilize the country, and do grave harm to people like Meriam Yahia Ibrahim Ishag and her family. Her case exemplifies the dire status of religious freedom and human rights in Sudan.

Continued and focused international attention is critical to holding the Sudanese government accountable for its own constitutional provisions and international commitments to protect and respect freedom of religion or belief not only for Mrs. Ibrahim, but all Sudanese, regardless of faith.

Mr. SMITH. Dr. Jasser, thank you very much for your testimony. The Honorable Tony Perkins.

**STATEMENT OF THE HONORABLE TONY PERKINS,
PRESIDENT, FAMILY RESEARCH COUNCIL**

Mr. PERKINS. Thank you, Chairman Smith, Ranking Member Bass, and members of the subcommittee. I want to thank you for not only the opportunity to address the situation of Meriam Ibrahim, but also for the work that this subcommittee has done on religious liberty around the world. And with that, I want to briefly address the broader issue of religious liberty internationally.

I would like to address the why and the how. First is the why. Now, I am here, as many have tracked the media reports that have been out there, some accurate, some not. I have worked with members of this committee, other Members of Congress, and I have also engaged in conversations, ongoing conversations, with Sudanese officials.

The why we are here I think is very clear. We are here because of the courage of a 27-year-old mother, a 27-year-old mother. If you will, just for a moment, imagine the situation in a prison in Khartoum which the U.N. says has an infant mortality rate of one child a day dying in that prison. At her side, 8 months pregnant, is a 20-month-old boy, and she is told that if she will denounce her faith in Jesus Christ, there is the door, you can be a free person. But, yet, she refused to denounce her faith because she had the courage to stare death in the face.

What has America done? Where is the courage in America to speak out for those who are suffering at the hands of dictators who refuse to recognize not an American right, but a human right? A human right of religious freedom, to determine the destiny of one's own life, to live your life according to your own conviction and your faith. Why the silence in America?

Now, you might be tempted to say, "Well, this is just one case. Why the big deal?" This is not an isolated case, as Dr. Jasser said, but just in April another individual who the attorneys have asked that the name not be used, was detained under the same charges of apostasy and facing the same possible outcome.

We also have to consider Daniel, her husband, American husband that has been referenced here, a man who is bound to a wheelchair, who was powerless to do anything to secure the freedom of his wife and his children, and yet he went to the State Department waiting for them to act on behalf of his children and his wife, and there was silence until just recently.

Now, while other governments have called attention to Meriam's situation, including the European Parliament passing a resolution, and the British Government's Prime Minister speaking publicly, as I said, the U.S. Government has been practically mute. Even after multiple activist organizations initiated petitions with hundreds of thousands of signatures, the U.S. Government's disinterest in the plight of an American and his family is simply indefensible.

And, of course, we do this ignoring the International Religious Freedom Act of 1998, which states that

"It shall be the policy of the United States to condemn violations of religious freedom and to promote and to assist

other governments in the promotion of the fundamental right to freedom of religion.”

The United States has clearly failed to adequately condemn this violation or to speak out clearly and with conviction and courage on behalf of Meriam.

Religious freedom is increasingly under attack around the world today. According to Pew Research Center, as of 2012, Christians continue to be harassed in more countries than those of any other faith, Muslims not far behind.

Religious freedom is a fundamental inherent in international human right. Yes, it is a core American ideal, an ideal that we should defend at home and abroad. And a warning should be sounded across America that an indifference to religious persecution abroad can only lead to greater religious intolerance here at home.

Now, the binding International Convention on Civil and Political Rights, which there has been a reference to, ICCPR, explicitly states,

“Everyone shall have the right to freedom of thought, conscience, and religion. This right shall include freedom to have or to adopt a religion or a belief of his choice and freedom, either individually or in community with others in public or private, to manifest his religion or belief in worship, observance, practice, and teaching.”

And that is binding.

U.S. inaction overseas is all the more troubling when U.S. citizens are involved as has been referenced, such as Daniel Wani, Pastor Saeed Abedini detained in Iran, and Kenneth Bae in North Korea.

And I want to point out the U.S. indifference to religious hostility is not limited by political party. It was under the George W. Bush administration’s allowance of blasphemy laws under the new Afghan constitution that almost led to the execution of Abdul Rahman, a Muslim convert to Christianity, who only escaped with the assistance of the U.N. when he was offered asylum in Italy.

It is difficult to look at these facts and not understand them in light of the current administration’s unilateral reinterpretation of religious freedom domestically. This administration believes religious belief should be quarantined to private spaces and excluded from the public space.

This truncated view of religious freedom domestically, more accurately described as the freedom of worship, is matched by the administration’s failure to even address the growing threats to religious freedom internationally. Indeed, U.S. Secretary of State John Kerry only commented on Meriam Ibrahim’s case after international outcry over her plight made it impossible for them to remain silent.

Now, there is more reasons we should be involved and concerned about religious freedom. There is a growing body of research that points to nations that protect religious freedom as nations that have freer economic markets, and, therefore, greater economic stability and prosperity.

This religious intolerance, as evidenced in Sudan, must be condemned in its own right, yet such intolerance is also harmful because it stifles economic growth in countries that need economic growth greatly. In turn, the lack of economic growth fosters instability and a lack of security.

There is the why. What is the how? Religious freedom should be a central priority in U.S. diplomatic and strategic engagement worldwide in order to promote freedom for its own sake as well as for reasons of global stability and security. The U.S. and this committee must seriously consider making human rights and religious freedom a central component of U.S. international aid contributions. In short, promoting religious freedom promotes societal well-being at home and abroad.

We must—in this particular case, the administration should specifically work to ensure Meriam's children are immediately granted U.S. citizenship as all of the proper documents have been submitted and continue to provide Meriam and her family physical protection while they are in Sudan. Their lives are at risk. Provide Meriam and her family the proper medical care. There are reports that the child, Maya, was injured at birth. We need to make sure that they have the proper medical care. And then we must pressure the Sudanese Government to ensure that legal proceedings conclude quickly, as in yesterday.

And then, secondly, we must urge Congress to pass H. Res. 601, the Trent Franks resolution that condemns the treatment of Meriam Ibrahim and pressures the administration to act in accordance with the United States' responsibility to be a strong advocate for religious freedom generally, and Meriam specifically.

It was Meriam's courage that brought us here today. Now, it is our turn to act with courage to bring Meriam and her family to America.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Perkins follows:]

Testimony of Tony Perkins, President of Family Research Council

Hearing: "The Troubling Case of Meriam Ibrahim"

Subcommittee on Africa, Global Health, Global Human Rights, and International
Organizations
Committee on Foreign Affairs
U.S. House of Representatives
Washington, DC 20515-6128

Christopher H. Smith (R-NJ), Chairman

July 23, 2014

**The Handling of International Religious Freedom Issues by the United States Government:
The Case of Meriam Ibrahim and Other Recent Issues**

I. Meriam Ibrahim's Situation

a. Background

Meriam Ibrahim is a Sudanese woman who was born to an Ethiopian Christian mother and a Muslim father. Her father abandoned the family early in her life, and she was raised as a Christian by her mother. Meriam, who has always considered herself to be a Christian, is married to Daniel Wani, a Christian man from South Sudan who is a U.S. citizen. Earlier this year, upon complaints by individuals alleged to be her relatives, Meriam was charged and subsequently convicted of apostasy under Sudanese law after she refused to renounce her Christian faith. For this she was sentenced to death. Because Sudanese law considers her a Muslim and does not recognize her marriage to a Christian, she was also convicted of adultery. For this she was sentenced to 100 lashes.

When she was convicted, Meriam was eight months' pregnant. She subsequently gave birth to a baby girl while imprisoned at Omdurman Federal Women's Prison, where she had been detained with Martin, her 20-month-old son, since January 17, 2014. Both of her children are eligible for U.S. citizenship. It must be noted that while all necessary paperwork has been completed for their citizenship status, according to advocates working with Meriam's legal team, the State Department has delayed granting them citizenship, despite the urgent realities of their case.

On May 31, 2014, under pressure primarily from various activist groups, a Sudanese foreign ministry official said that Meriam would be released soon. But many, including Meriam's attorneys, were skeptical of this statement, and believed it was just an attempt to silence the international media outcry. On June 1, 2014, Sudan government officials clarified that they did

not indicate she would be released, but merely stated that she would be if her appeal was successful.

On June 23, 2014, it was reported that a Sudanese appeals court overturned Meriam's conviction. According to Sudan's official SUNA news agency, "The appeal court ordered the release of Mariam Yahya and the cancellation of the (previous) court ruling."¹

Yet soon after, Meriam and her family were detained at the airport as they tried to leave Sudan, purportedly based on allegations of travel documentation fraud. Meriam and her family were held at a police station for several days [REDACTED]

Since then, a new case has been filed in family court attacking the validity of Meriam's marriage. There is a hearing set for August 2014 in this case. This case prevents her from leaving the country.

It also appears her "family" has appealed the dismissal of her original conviction for apostasy and adultery. Initially, it seemed Meriam would not be able to travel until at least 15 days from the date the family appealed—June 26, 2014—so the earliest she could travel would have been July 10th or 11th. However, this date has come and gone, and she is still not free to leave. [REDACTED] While no future hearing date is set in this particular case, if a hearing is held, [REDACTED] This case also prevents her from leaving the country.

In addition to this appeal of her original conviction, it appears the fraud charges are still pending. No hearing date is set for them either. While this case does not directly prevent her from leaving the country, the individual who helped her obtain bail would suffer financially if she left Sudan at this point.

There are thus three ongoing legal proceedings in which Meriam is involved, all of which prevent her from leaving Sudan. By now, observers have begun to grow suspicious of any assertion that Meriam is free to leave, due to new obstacles constantly appearing in her path.

b. Response and Reflection

While activists and other governments have spoken out on Meriam's situation, the U.S. government has largely been silent, despite the fact that her husband is a U.S. citizen and her children will become citizens pending State Department processing. This is flatly inadequate. The virtual silence of the U.S. Secretary of State is especially embarrassing in light of other governments' proclamations. The British government spoke out forcefully before the United States said a word, and even the European Parliament has passed a resolution condemning Meriam's conviction. Yet the U.S. government has barely commented on Meriam's plight.

The fact that this matter involves a U.S. citizen, his wife, and his two children who await their own U.S. citizenship makes the U.S. government's silence simply indefensible. There was a time

¹ Sudan court frees woman sentenced to death for changing faith, Reuters, June 24, 2014, <http://uk.reuters.com/article/2014/06/24/uk-sudan-ruling-idUKKBN0EY2GW20140624>.

when being an American citizen meant that no matter where you might find yourself in the world, you were not alone. Today, we have reached a new low point where the family of an American is denied their freedom by a despotic government and the U.S. barely comments.

Historically the United States has been a leader when it came to protecting the international right of religious freedom and defending the individual right of conscience vigorously on the world stage. From asylum for Soviet dissidents, to calls for protection of Burmese democracy activists, the United States has led the way in protecting the individual conscience rights as a core value of our foreign policy adding to our security and strengthening our vital interests. Where is that United States now?

While not unique or limited to America, religious freedom is a primary American ideal. America's standing in the world rises or falls in part based on its promotion of this right. The persecuted around the world look to America as the beacon of liberty; standing with them says to friend and foe alike that to the United States, human dignity matters. This is a warning to some and a profound encouragement to others.

Sadly, the United States rarely comments on many religious freedom violations occurring worldwide. Religious freedom is being neglected in the world today, and the failure of the United States to maintain its own moral voice on this right has contributed significantly to this decline.

Of the other voices who have spoken internationally against Meriam's treatment, one group must not go unmentioned: the voices *within* Sudan who have made it known that they want justice for Meriam too. Most significantly, the Sudanese attorneys representing Meriam and her husband, led by Mohamed Mustafa Elnour of the Justice Center in Sudan, are Muslims who are defending a non-Muslim's right to choose her own religion. Her attorneys strongly believe in her case, and despite receiving death threats for defending a Christian, they intend to fight to the end and exhaust all appeals. These attorneys and other supporters of Meriam in Sudan must be supported. Here, Muslim men are defending a Christian woman in her quest for justice.

In addition, other Muslims in Sudan have been demonstrating on Meriam's behalf. According to the international religious freedom organization Hardwired (which has closely monitored the situation in Sudan), Sudanese Muslims had protested Meriam's sentence and conducted demonstrations against her conviction. They are acting openly and in public, in view of the Sudanese authorities.² This is a significant development, especially in Sudan, a Muslim-majority country with a version of Sharia law. In other nations with similar versions of Sharia, such as Pakistan, the accused cannot even make it to the courthouse, much less have fellow citizens demonstrating in public view on their behalf.

Meriam's attorneys and the Sudanese protesting her conviction are expressing their desire for Sudan to take ownership of this issue and to be ready to handle religious freedom challenges

² Sudanese Muslims Risking Their Lives For A Christian Woman Sentenced to Death: Hardwired Helps Fight Religious Oppression in Sudan, Hardwired, June 4, 2014, <http://us7.campaign-archive1.com/?u=61aea03a5b7c951e46ab4fb3b&id=ecc14fb213>.

when they inevitably arise in the future. Indeed, additional challenges to the religious freedom rights of individuals have arisen since Meriam's initial imprisonment.

Though Sudan is certainly not the worst current offender of religious freedom worldwide, the country historically has not had a stellar record on religious toleration. Indeed, the law under which Meriam was convicted has existed since 1991. Troubling news for religious groups such as Christians continues to emerge from Sudan. On July 12, 2014, the Sudanese Minister for Guidance and Religious Endowments, Shalil Abdullah, reaffirmed that the government will not issue building permits for new churches in Sudan.⁴ Christians have been detained by the National Intelligence Security Services (NISS), and church buildings have been demolished and vandalized.⁵

In the face of these developments, Sudanese advocates like Meriam's attorneys and those demonstrating on her behalf must be supported all the more intentionally by the U.S. and our State Department. Even in a country like Afghanistan, which received a significant investment of Western blood, sweat, and treasure (and attention to developing human rights standards), sufficient local support for conversion from Islam could not be inculcated. Yet that local support is appearing in Sudan. In so many places where human rights are threatened, the ultimate solution is still to remove (through a grant of asylum or refugee status) the individual from the country with the hostile culture or legal regime. Yet this is not sustainable if the long term cultivation of human rights standards is desired. Meriam's attorneys and the protesting crowds are expressing their support for a domestic human rights framework that will be able to handle religious freedom challenges when they inevitably arise in the future. This is sustainable; it simply needs U.S. support. Despite this opportunity in Sudan, the U.S. government and its State Department appears to ignore these natural allies.

The International Religious Freedom Act of 1998 (IRFA) states that "[i]t shall be the policy of the United States . . . [t]o condemn violations of religious freedom, and to promote, and to assist other governments in the promotion of, the fundamental right to freedom of religion."⁶ Yet the United States has failed to adequately condemn the violation which is the subject of this hearing. The U.S. government could also promote religious freedom in Sudan by assisting its local advocates like Meriam's attorneys and other supporters, which to our knowledge has not

⁴ Sudanese Minister reaffirms government policy to deny new permits to build churches, Christian Solidarity Worldwide, July 16, 2014, <http://dynamic.csw.org.uk/article.asp?t=news&id=2102>.

⁵ *Id.*

⁶ 23 U.S.C. § 6401(b)(1).

occurred. Indeed, reports have indicated that staff at the U.S. Embassy in Khartoum, initially approached by Meriam's husband Daniel Wani almost a year ago for help, has repeatedly shown indifference in their handling of a serious human rights violation in which U.S. citizens are impacted. U.S. Embassy staff does not appear to have even engaged Meriam's attorneys and supporters until much later in this case. In doing so, they have done a disservice to the U.S. citizens involved in this matter, whom they are specifically stationed in Sudan to serve.

Compounding this error, the U.S. Embassy missed a strategic opportunity to underscore a U.S. commitment to religious freedom and human rights by failing to engage other religious freedom advocates in Sudan. Their indifference in this regard ultimately fails all U.S. citizens, who are represented by the actions of U.S. embassy staff in Sudan, and who have an interest in seeing IRFA followed and religious freedom promoted in Sudan.

The fact that a law still exists in Sudan which permitted Meriam's conviction in the first place is understandably horrific from an international human rights perspective. The Sudanese legal system did achieve a just result by overturning Meriam's conviction. But her current plight is unacceptable. The United States should work with Sudan to the greatest extent possible in order to ensure the remaining judicial proceedings are concluded quickly and Meriam Ibrahim is free to leave the country.

We call upon the House of Representatives to pass H.Res. 601, which underscores Congress' belief that the State Department must indeed do more on Meriam's behalf. H. Res. 601 not only urges the State Department to work towards Meriam's safe departure from Sudan, but also calls upon Sudan to honor their legal obligations to protect Meriam's religious freedom.

II. International Religious Freedom in Law

Religious freedom is a fundamental, inherent, and international human right. It is not merely an American right—though religious freedom was foundational to the very existence of the United States. Religious freedom is enshrined in international human rights law, a body of law which the United States was instrumental in bringing into being.

Yet the individual right of religious freedom is not merely a creature of modern-era positive law. For centuries, theologians and philosophers recognized that people could not be forced to adopt religious beliefs against their own will. The founding assertion of our Republic is that our rights come from our Creator, and that government's duty is to protect them. Alexander Hamilton referred to "the sacred rights of mankind . . . [which] are written . . . by the Hand of Divinity itself." These rights informed the very basis of the American Revolution.

The United States was founded by individuals who left their nations due to religious intolerance and persecution, seeking a place in which to freely live out their faith. For these settlers who experienced religious persecution in Europe, religious freedom was important enough that they were willing to risk hardship and death to live freely elsewhere. These persecuted Christians did not just accept the fact that their government suppressed their rights. They did not accept a regime engaged in religious persecution, but fled to the New World. As they settled into life in the New World, many worked to ensure that religious freedom was protected in law.

Explicit legal protections for religious liberty remained mainly domestic until 1948, when the nations of the world, appalled by the horror of the Holocaust, came together to form the United Nations (UN) and adopt the Universal Declaration of Human Rights (UDHR) to address and lay the groundwork to prevent such fundamental human rights violations in the future.

In its preamble, the UDHR recognizes humankind's "inherent dignity" and proclaims that the "disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind," and therefore, "if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, human rights should be protected by the rule of law."⁷ UN Member States pledged to secure the "universal and effective recognition and observance" of these rights, "both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction."⁸ Later, the UDHR specifically states that "[e]veryone has the right to freedom of thought, conscience and religion; *this right includes freedom to change his religion or belief*, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."⁹

Almost twenty years later, the fundamental right to freedom of religion was again recognized as an inherent human right that applied across national boundaries in the text of the International Convention on Civil and Political Rights (ICCPR), which explicitly "[r]ecogniz[es] that" religious freedom and other "rights derive from the inherent dignity of the human person."¹⁰

While the UDHR recognizes these rights, it does not legally bind nations as a matter of positive law. The ICCPR is legally binding, however. In language tracking that of the UDHR, it states: "[e]veryone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching."¹¹ The ICCPR goes further, noting that "[n]o one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice."¹² Seventy-four nations have signed and committed themselves to recognizing and upholding these inherent rights, including Sudan and the United States.¹³

The recognition of religious freedom in international law is also manifested in various regional international organizations. The European Convention on Human Rights expresses recognition of freedom of religion within the context of the Council of Europe, which includes the freedom

⁷ Universal Declaration of Human Rights, G.A. Res. 217A, pmbl., U.N. GAOR, 3d Sess., 1st plen. mtg., U.N. Doc. A/810 (Dec. 12, 1948) [hereinafter UDHR].

⁸ *Id.*

⁹ *Id.* art. 18.

¹⁰ International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), pmbl., 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976 [hereinafter ICCPR].

¹¹ *Id.* art. 18.

¹² *Id.*

¹³ Status of ICCPR, UN Treaty Collection, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en.

to manifest one's religion and change one's religion.¹⁴ The American Convention on Human Rights contains similar language in proclaiming the right within the Organization of American States.¹⁵ Likewise, the African Charter on Human and Peoples' Rights includes protection for the freedom of religion, stating that "[f]reedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms."¹⁶

I join with the Founders of our country in believing, as noted earlier, that human rights and the human dignity attendant to them are gifts of God, regardless of the approval of any international body. However, it is important to recognize that for more than half a century, the nations of the world – including Sudan – have agreed to abide by covenants of behavior respecting their citizens. That Sudan so egregiously has failed to do so is of particular note.

Meriam's conviction and the Sudanese laws under which she was convicted violate Sudan's commitments under both the ICCPR and the African Charter. In addition, they violate Sudan's 2005 Interim Constitution, which states that the government "shall respect the religious rights to . . . worship or assemble in connection with any religion or belief and to establish and maintain places for these purposes."¹⁷

Various international legal instruments all express a fundamental right to religious freedom—the same right which the United States played a significant role in bringing to worldwide recognition.¹⁸ The United States must be prepared to defend them in the face of injustices like Meriam's conviction. If the United States can't condemn this conviction and Sudan's draconian 1991 apostasy law in the face of Sudan's multiple legal obligations, one wonders what the United States can condemn.

III. International Religious Freedom in Practice: Other Recent Issues and U.S. Responses

Religious freedom, properly defined as the ability to freely choose one's religion according to the human rights standards just discussed, is under serious and increasing attack in the world today. Whether at the hands of Muslim extremists, or under the watchful eye of the Chinese government, more people are finding it difficult to practice their faith freely. According to the Pew Research Center, as of 2012, Christians continued to be harassed in more countries (110)

¹⁴ Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, art. 9, Nov. 4, 1950, ETS 5, 213 U.N.T.S. 222, entered into force Sept. 3, 1953 (hereinafter "European Convention on Human Rights").

¹⁵ Organization of American States, American Convention on Human Rights, art. 12, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123.

¹⁶ Organization for African Unity, African Charter on Human and Peoples' Rights, art. 8, June 27, 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982).

¹⁷ 2005 Interim National Constitution of the Republic of Sudan, art. 6.

¹⁸ Other authorities express support for religious freedom, albeit in slightly different forms. For instance, the international legal framework includes the Convention on the Prevention and Punishment of the Crime of Genocide, which protects religious liberty by criminalizing acts taken to destroy a religious group. Convention on the Prevention and Punishment of the Crime of Genocide, 9 December 1948, 78 U.N.T.S. 277, art. 2, entered into force 12 January 1951, (hereinafter "Genocide Convention").

than those of any other faith. (Muslims are harassed in 109 countries in 2012).¹⁹ Over the course of the past six years to date, Christians have been harassed in the most countries (151). Muslims are harassed in the second largest number of countries, at 135.²⁰

It is troubling that two other countries in which the United States has invested significant resources in recent years, and in which the United States has a legitimate interest and stake in seeing its values perpetuated—Iraq and Afghanistan—continue to experience religious freedom violations to this day. Indeed, Afghanistan was recently found to be second only to Pakistan as the location where the most social hostility is exhibited toward religion.²¹ Iraq has recently seen a significant deterioration in religious freedom, again primarily with regard to Christians. The Islamic State of Iraq has declared that all Christians are legitimate targets in its campaign of terror.²² Christian homes have been raided, and stores have been bombed.²³ In Mosul, Christians have been shot and their homes have been bombed. Christian villages, churches and businesses are attacked, and Christians are forced to stay indoors because it is too dangerous in the streets.²⁴ As the United States loses its voice on religious freedom and other moral issues, its credibility in the Middle East, Africa, and elsewhere wanes, only making it easier for terrorists groups to flourish in the absence of U.S. presence or influence. Religious intolerance also stifles economic growth in countries where it occurs. Yet economic growth is necessary and valuable for multiple reasons, including promoting stability and security.²⁵

U.S. inaction overseas is all the more troubling when U.S. citizens are involved, such as those detained in Iran and North Korea. Inaction is not excusable on the theory that the individual detained is herself not a U.S. citizen, as is the case with Mrs. Ibrahim. The U.S. government is obligated to assist her husband and children, and should be further assisting her.

U.S. indifference and inaction in the face of this religious hostility is not limited by political party. The George W. Bush administration is rightly criticized for permitting a constitution to be birthed in Afghanistan which still permitted blasphemy prosecutions, even after the United States expended blood, sweat, and toil to “liberate” that country. Notably, Abdul Rahman, a Muslim convert to Christianity, was convicted of blasphemy under the new Afghani legal regime, and only narrowly escaped death after being offered asylum in Italy.

U.S. foreign policy under the Obama Administration demonstrates an even greater disregard for the principle of religious freedom. The position of U.S. Ambassador-at-Large for International

¹⁹ Religious Hostilities Reach Six-Year High, Pew Research, Religion & Public Life Project, Jan. 14, 2014, <http://www.pewforum.org/2014/01/14/religious-hostilities-reach-six-year-high/>.

²⁰ *Id.*

²¹ *Id.*

²² Taylor Barnes, Al Qaeda Ally in Iraq Says All Christians “Legitimate Targets,” Christian Science Monitor, Nov. 3, 2010, <http://www.csmonitor.com/World/terrorism-security/2010/1103/Al-Qaeda-ally-in-Iraq-says-all-Christians-legitimate-targets>.

²³ U.S. State Dep’t, Int’l Religious Freedom Report, 2012, Iraq, <http://www.state.gov/j/drl/rls/rf/religiousfreedom/index.htm?year=2012&dclid=208194#wrapper>.

²⁴ World Watch Top 10 Violence list, Open Doors, <https://www.opendoorsusa.org/downloads/pdf-downloads/violence-top-10-countries-2014.pdf>.

²⁵ Remarks by Brian Grim, President, Religious Freedom and Business Foundation, “The Social and Economic Impact of Religious Intolerance,” March 14, 2014, <http://religiousfreedomandbusiness.org/2/post/2014/03/the-social-and-economic-impact-of-religious-intolerance.html>.

Religious Freedom remains vacant, despite being mandated by the International Religious Freedom Act of 1998—an act which also created the United States Commission on International Religious Freedom to advise the president on international religious freedom policy. In the years since, however, the U.S. State Department has minimized the purpose and weakened the effect of this legislation by isolating the Ambassador post, refusing to comply with reporting requirements, and leaving the post of Ambassador unfilled for months at a time.

As a result of Administration inaction, Congress has drafted legislation providing for the establishment of the Special Envoy to Promote Religious Freedom of Religious Minorities in the Near East and South Central Asia. This bill, which Family Research Council supported, passed overwhelmingly in the House almost a year ago (H.R. 301). Just this month, the Senate passed the Senate version of this legislation (S. 653) despite opposition voiced by the Obama Administration.

Meanwhile, as the Obama Administration fails to fulfil responsibilities under current law and refuses to support new religious freedom legislation, other nations have devoted attention to this matter and created entities to address it. Why is it that others have been speaking up while the United States remains relatively quiet? It could be, as The Hudson Institute's Paul Marshall has noted, "American officials seem so scared of being accused of selectively defending Christians that they consistently overcompensate and minimize what is happening."²⁶ It is unacceptable that fears over public perception are trumping the defense of clearly established international human rights violations. It is likewise unacceptable that a fear of being perceived as selectively supportive of religious freedom would result in a near total silence on the subject overall.

Religious freedom violations involving U.S. citizens detained overseas are compounded when U.S. citizens do not receive proper assistance from their own government. U.S. citizens Saeed Abedini, Kenneth Bae, and others remain languishing in foreign jails. While Meriam Ibrahim is not a U.S. citizen, her husband is, and her two small children will become citizens whenever the State Department finally chooses to process their applications.

Though the United States boldly defended the need for core human rights protections after World War II, it is not currently leading in the defense of the international human right of religious freedom. Though standards are now expressed in positive law, countries still fail to meet such standards, and often quite dreadfully. Sometimes governmental authorities engage directly in religious persecution. At other times private citizens or groups of citizens persecute their fellow citizens. Though such "social hostility" may occur under a well-intentioned but inept local government, it often is permitted to occur because of government acquiescence. The U.S. has defaulted under the current Administration to a role of inaction, becoming complicit in allowing social hostility towards religion to continue even when the United States has a platform to speak on behalf of religious freedom.

This growing indifference of our government to religious persecution abroad may be attributable to the unilateral reinterpretation of religious freedom domestically. The Obama Administration's interpretation of religious freedom includes protection of one's ability to hold a religious belief,

²⁶ Paul Marshall, *The War on Christians*, The Weekly Standard, Vol. 19, No. 39, June 23, 2014, available at http://www.weeklystandard.com/articles/war-christians_794945.html?page=1.

but not necessarily protection for the ability to express that belief. Practically, such a view means that religious practice should be relegated to private worship and any related religious activities or expression should not enter the public square but should be confined to the privacy of a church or home. In theory, according to the Administration, religion has no role in public debate.

The Obama Administration's truncated view of religious freedom domestically is matched by its failure to address growing threats to religious freedom internationally. Indeed, U.S. Secretary of State John Kerry only commented on Meriam Ibrahim's case when the international outcry made silence no longer an option. These actions, individually and in sum, reveal this Administration's marginalization of religious freedom. The United States can only begin to recover its moral voice on religious freedom by forcefully advocating for Meriam and others subject to religious persecution worldwide.

IV. Conclusion

The international legal framework meant to address situations like Meriam's is firmly in place. Yet governments and other non-state actors continue to delay in ensuring that these rights are protected in practice. The United States has historically held a pivotal position on the world stage in ensuring civil liberties and democratic rights, including the right to freedom of religion, continue to be protected worldwide. Yet our moral voice, and actions backing up that voice, have been increasingly and noticeably absent with regard to the human right to freedom of religion. We must once again find that voice. The world will be better for it.

The U.S. government should immediately and fully intervene in Meriam's situation to ensure that she is protected. Though Meriam's life no longer appears to be immediately threatened by the Sudanese government, it is threatened by some of her fellow citizens and the potential for further court actions on appealed apostasy charges. The U.S. government must also demonstrate a commitment to U.S. citizens imperiled overseas by their connection to these violations—in this instance, Meriam's husband Daniel, and her two children (who are citizens pending verification). To protect Meriam and her family, the U.S. government must:

- Specifically ensure Meriam's children are immediately granted U.S. citizenship, as all the proper documents have been submitted.
- Ensure that Meriam and her family have the proper documentation in order permitting them to leave when the court proceedings are concluded.
- Provide Meriam and her family physical protection while in Sudan.
- Provide Meriam and her family proper advice and counsel on their situation.
- Provide Meriam and her family proper medical care.
- Pressure the Sudanese government to ensure the legal proceedings conclude quickly.

We also urge that Congress pass H. Res. 601 to pressure the Administration to act in accordance with the United States' responsibility to be a strong advocate for religious freedom generally and Meriam specifically. Our own values are at stake. Thank you for giving me this opportunity to address you all, and thank you for holding this hearing.

Mr. SMITH. Thank you so very much, Mr. Perkins, for your testimony.

Ambassador Rees?

**STATEMENT OF THE HONORABLE GROVER JOSEPH REES
(FORMER GENERAL COUNSEL, U.S. IMMIGRATION AND NATURALIZATION SERVICE)**

Ambassador REES. Thank you. Mr. Chairman, Madam Ranking Member, and members of the subcommittee, thank you so much for the opportunity to testify at this timely and important hearing, and I am very honored to be on a panel with these extremely distinguished and dedicated witnesses. Thank you.

I have been asked to testify on a narrow question about the citizenship of the two children. Whether the two children of Meriam Ibrahim and Daniel Wani are United States citizens who should be given appropriate documentation of their citizenship, and who should be afforded such protection and assistance as the Government of the United States typically gives its citizens who are residing or visiting in other countries.

Now, United States citizenship law with respect to children born overseas to a United States citizen is fairly straightforward. Section 301 of the Immigration and Nationality Act provides in pertinent part that when a child is born outside the United States and its possessions to parents one of whom is a United States citizen and the other of whom is a foreign national, the child is a citizen at birth, provided that the U.S. citizen parent has lived in the United States for at least 5 years before the birth and that 2 of those years were after the parent had reached the age of 14.

Looking at the facts of the case, which have been set forth by other witnesses, and lining them up against the law, it seems pretty clear that these two children are United States citizens and should be certified as such. The two parents were married at the time of both births. Mr. Wani is listed on the birth certificate of Martin, the oldest child, as the father. There is as yet, I understand, no birth certificate for Maya, who was born while her mother was in prison. But there is no reason to think that anyone else will be put as the—will be listed as the father on that birth certificate.

It would seem that the application for a Certificate of Citizenship or for a Report of Consular Birth Overseas should have been granted, yet Mr. Wani says it wasn't. Importantly, by the way, Section 309 of the Immigration and Nationality Act sets forth some additional requirements for children born out of wedlock. If the parents are not married at the time of the birth, there has to be "clear and convincing evidence" of the blood relationship between the child and the United States citizen parent.

Importantly, that provision does not apply to children who were born of a marriage of the parents. And yet Mr. Wani says that he has been asked to provide a DNA test. So what it looks like is that the State Department is applying the test—the consular officer in question is applying the test that the statute provides for out-of-wedlock births instead of the one that is provided for children born in marriage.

Now, some supporters of Mrs. Ibrahim have said that this must mean that our Government is applying Sharia law to the case, because if the law is—if the marriage is not recognized under Sudanese law, then they are not married, and he would have to meet the test of blood relationship by clear and convincing evidence, and perhaps a DNA test would be appropriate.

I can't say that is not what the consular officer was thinking. I don't know. But I think that unfortunately this may be indicative of a broader attitude, a broader culture of negativity and denial, that many of us who work in the immigration and citizenship area have encountered not only in this case, not only in cases involving Sudan or involving Christians, but in cases across the board and around the world.

I am an alumnus of the Immigration and Naturalization Service, and I worked with many fine and conscientious people. But we often had to confront this idea that our job was to turn everybody down and then somebody would straighten it out later on if we were wrong.

I later learned working with the—I used to say we either needed to change our attitude or we needed to change the sign on the door to say “Anti-Immigration and Naturalization Service.” And I later learned working for the State Department and working for this committee that that culture of denial is even more robust, unfortunately, in the consular corps than in the Immigration Service.

This doesn't happen because consular officers or immigration officers are bad people. Most of them are fine and decent and conscientious people. It happens partly because they really do encounter fraud. They really do encounter frivolous applications. And we all know the adage “Once bitten, twice shy.” I think a corollary of that is that if you are bitten four or five times you are probably shy the rest of your life.

Consular officers also work typically in—a lot of what they do involves non-immigrant visas. And for non-immigrant visas, tourist visas, visitor visas, the law says that you are presumed to be an intending immigrant. That is, you are presumed to be lying until you can prove to the satisfaction of the officer that you really will return to your home country according to the terms of your visa.

Now, the problem is that a lot of consular officers seem to carry over that extreme skepticism which is required by law in some cases to cases where the law doesn't require it, including the provision of documentation and other consular services to United States citizens.

Now, I want to suggest—in my written testimony, which I hope will be accepted for the record, I have given some specific language in the Foreign Affairs Manual that seems to encourage consular officers in this attitude that somehow citizenship is a benefit that they are conferring, and that they have discretion, and that they ought to do the same kind of investigation in a case involving a married couple, a child of a married couple, as they would in an out-of-wedlock case under the statute.

I do want to say that it is possible that the facts of the case—there could be facts known to the consular officer that would justify requiring further evidence, not just the fact that the parents were married and that the father is on the birth certificate. For instance,

if Mr. Wani's passport showed that he hadn't been in Sudan at any relevant time when the child could have been conceived, then it would be reasonable to ask for more evidence.

That is not what Mr. Wani said happened. He says that from the very beginning when he approached the consular officer he was told "I don't have time." He said that the consular officer was rude and high-handed.

If that happened, it was a violation of the law. When a consular officer denies a visa to somebody who is eligible for that visa, that might be bad policy. That might be a bad decision. But that is within the discretion of the consular officer. But citizenship is not a benefit. The consular officer isn't making you a citizen by giving you the certificate. You either are or you are not a citizen.

And if a consular officer denies the appropriate documentation, appropriate assistance and protection, to a United States citizen, he or she is not just making bad policy, not just making a bad decision, he or she is violating the law.

I am happy to say that the State Department—that I am proud of our Government, that in the last few weeks they seem to be making amends. They seem to be providing Mrs. Ibrahim and her family with the appropriate attention and care and are really working to solve this case. It is nice to know that first principles can sometimes trump institutional cultures and institutional concerns. In this case, the principle is that we Americans do not leave our own in harm's way.

Thank you very much.

[The prepared statement of Ambassador Rees follows:]

Statement of Grover Joseph Rees¹
before the Committee on Foreign Affairs,
Subcommittee on Africa, Global Health, Global Human Rights, and
International Organizations:
Hearing on “The Troubling Case of Meriam Ibrahim”,
July 23, 2014

Mr. Chairman and members of the Subcommittee,

Thank you for the opportunity to testify at this timely and important hearing. You have asked me to address the question whether the two children of Meriam Ibrahim and Daniel Wani are United States citizens who should be given appropriate documentation of their citizenship and afforded such protection and assistance as the government of the United States gives its citizens who are residing or visiting in other countries.

Mr. Wani and Mrs. Ibrahim were married in 2011. Mr. Wani was a citizen of the United States at the time of the marriage, having come to the United States in 1988 as a refugee and having subsequently naturalized as a citizen. Since the marriage Mr. Wani has divided his time between his home in New Hampshire, the home he shares with his wife in Sudan, and his family’s home in South Sudan. In November 2012 Mrs. Ibrahim gave birth to a son, Martin. The baby’s birth certificate, issued by the government of Sudan, lists Mr. Wani as the father. Last month Mrs. Ibrahim gave birth to a daughter, Maya. No birth certificate has yet been issued, perhaps because the birth took place in a prison where Mrs. Ibrahim was being held pursuant to charges related to her allegedly illegal marriage to Mr. Wani.

United States law with respect to the citizenship of children born to United States citizens in other countries is fairly straightforward. Section 301(g) of the Immigration and Nationality Act (INA) provides in pertinent part that a child born outside the United States and its outlying possessions, one of whose parents is a citizen of the United States, is a citizen at birth provided that his or her United States citizen parent resided in the United States for at least five years before the birth, and that at least two of these years of residence were after the parent had reached the age of fourteen.

¹ United States Ambassador, Retired. The witness also served as General Counsel of the United States Immigration and Naturalization Service from 1991 through 1993.

Importantly, Section 309 of the INA provides several additional requirements for establishing the citizenship of children born out of wedlock. Among these requirements is a special evidentiary test: where the United States citizen parent is the father, there must be proof by “clear and convincing evidence” of a “blood relationship” between the child and the putative father. This test does not apply to children whose parents were married at the time of the child’s birth.

Because it seems to be undisputed that Mr. Wani was a United States citizen at the times of both children’s birth and that he had lived in the United States for at least five years, at least two of which were after he had reached the age of fourteen, it would appear to follow that both children are United States citizens. According to public statements by Mr. Wani, however, the United States has not yet granted his request for certification of Martin’s citizenship² and has instead requested that he submit additional evidence, including DNA tests, to establish that he is Martin’s father.

Some supporters of Mrs. Ibrahim have suggested that the State Department might be implicitly applying Sharia law to the case. If the Department were to accept the contention that the marriage of Martin’s parents was invalid under Sudanese law -- because the husband was a Christian and the wife was legally regarded as a Muslim despite her lifelong profession of Christianity -- then it might follow that Mr. Wani would have to meet the “clear and convincing” test to establish a “blood relationship” between himself and Martin.

While I cannot rule out the possibility that this might have been what the consular officer at our Embassy in Khartoum was thinking when he or she requested a DNA test from Mr. Wani, there are at least two other possibilities that seem somewhat more likely. Both of these possibilities are suggested by the sections of the State Department’s Foreign Affairs Manual (FAM) that provide guidance to consular officers on how to determine the citizenship of children born abroad. Although these sections are intended to help consular officers correctly apply the relevant provisions of the INA -- and although a careful reading of the FAM sections in their entirety might

² Documents indicating the United States citizenship of a child born abroad include a Consular Record of Birth Abroad of a United States Citizen, a Certificate of Citizenship, and a passport. It is not clear from the materials I have reviewed which of these documents Mr. Wani has requested for Martin, or whether he has yet requested one or more of these documents for Maya.

lead to a correct interpretation of the INA provisions -- several key phrases in the FAM language would seem to encourage consular officers to apply the “clear and convincing” test for a “blood relationship”, or something very much like it, not only in cases where the child was born out of wedlock but also in cases where the children’s parents were married.

The title of 7 FAM 1131.4 is “Blood Relationship Essential.” Subsection 1131.4-1(a) explains that the laws regarding “acquisition” of U.S. citizenship through a parent “have always contemplated a blood relationship” and that “[i]t is not enough that the child is presumed to be the issue of the parents’ marriage by the laws of the jurisdiction where the child was born.” It then states that “the burden of proving a claim to U.S. citizenship, including a blood relationship . . . , is on the person making such claim.” Subsection 1131.4-1(b) then correctly explains that the “clear and convincing” test applies only to out-of-wedlock cases and that a “preponderance of the evidence test” applies where the parents were married. In defining the preponderance-of-the-evidence test, however, this subsection sets forth several requirements including that the evidence be “credible and convincing”.

Subsection 1131.4-1(c) then sets forth three illustrative situations in which the presumption that a child is the issue of his mother’s marriage might not be sufficient and in which the consular officer should therefore “investigate carefully”. These situations include when the mother or father was legally married to someone else at the time of the child’s conception or birth; when another man is named as the father on the birth certificate; and when there are “[e]vidence or indications that the child was conceived at a time when the alleged father had no physical access to the mother.”

Neither Mr. Wani nor Mrs. Ibrahim was married to anyone else at the time of Martin’s conception or birth, and Mr. Wani is listed as the child’s father on the birth certificate. The public record does not reflect any allegation that Mrs. Ibrahim had a relationship with another man during her marriage. I am informed, however, that the consular officer who requested the DNA test might have done so because he or she had a doubt about whether Mr. Wani and Mrs. Ibrahim had “physical access” to each other during the time period in which Martin was conceived.

If the consular officer’s doubts on this point were reasonable and evidence-based – if, for instance, the officer was aware of evidence that Mr.

Wani had not been in Sudan at any time during the period of weeks or months during which Martin might have been conceived – then the officer was duty-bound to investigate carefully. This does not necessarily mean that such careful investigation would require a DNA test. Indeed, 7 FAM 1131.4-1(b)(2) makes clear that even in out-of-wedlock cases “[b]lood tests *are not required*, but may be submitted and can help resolve cases in which other available evidence is insufficient to establish the relationship.” (Emphasis added.) If, however, the consular officer had first given Mr. Wani a reasonable opportunity to provide other evidence that he and Mrs. Ibrahim were together during at least part of the time when Martin could have been conceived, and if he was unable to provide such evidence, then in my view it would not have been inappropriate for the officer to ask Mr. Wani to submit either DNA tests or some other evidence sufficient to resolve whatever doubts were raised by the evidence in the record.

Mr. Wani’s public statements, however, suggest that the request for a DNA test might have resulted not from a diligent attempt to apply the law as written. Rather, he says that from the beginning he encountered what seemed to be a generally negative attitude:

NE: What kind of support have you received from the US government?

DW: Sadly, it's not the US government, when the problem began the US consul here had a very negative position on this. She was very high handed. (In English) she's very, very rude. She said – and I quote – (in English) " I don't have time." I said (in English) "listen". (Back to Arabic) Because this case is a difficult.

-- Interview of Daniel Wani by Nima Elbagir, CNN, May 30, 2014.³

This attitude, although far from universal among United States consular and immigration officers, is unfortunately all too familiar to those of us who have worked on immigration and citizenship issues over the years. In my two years as General Counsel of what was then the U.S. Immigration and Naturalization Service I worked with many conscientious officers, but we all struggled with what often seemed to be an institutional culture of

³ Full transcript is available at <http://cnnpressroom.blogs.cnn.com/2014/05/30/cnns-nima-elbagir-talks-to-husband-of-sudanese-woman-sentenced-to-death-for-christian-beliefs/>

negativity and denial. I used to say that we should either change our attitude or change the sign on the building to “Anti-Immigration and Naturalization Service.” In subsequent years, when I worked with this Committee and then within the State Department itself, I learned that the culture of denial was perhaps even more robust within the consular service than within INS.

Let me reiterate that this widespread skepticism does not come about because consular officers are bad people. On the contrary, most are decent and conscientious. Our consular officers are indeed sometimes confronted with frivolous and/or fraudulent applications. “Once bitten, twice shy” is a natural human tendency, and people who have been bitten three or four times are likely to be shy forever. Moreover, many officers spend most of their time dealing with nonimmigrant visa applications, where the law explicitly requires the officer to be skeptical: every applicant for a nonimmigrant visa is assumed to be an intending immigrant – that is, he or she is assumed to be lying – until the applicant presents evidence sufficient to convince the officer that he or she will really leave the United States in accordance with the terms of the visa.⁴ Unfortunately, some officers carry this extreme skepticism over to areas where the law does not prescribe it, including the provision of documentation and other consular services to United States citizens.

This tendency to apply factual and legal tests that are stricter and more burdensome than those required by law may be exacerbated in citizenship cases by some of the FAM language I have cited above. The FAM speaks of children born abroad “acquiring” citizenship from their United States citizen parents, although the statute makes clear that such a child, just like a child born in United States, “is” a citizen at birth. This “acquisition” language matters because it may reinforce the tendency of some consular officers to regard the child as an “applicant” for citizenship and the granting or denial of the application as a matter within the officer’s own discretion. The FAM’s importation of the “blood relationship” language from the out-of-wedlock context, and its statement that the preponderance of the evidence test can only be met by evidence that is “credible and convincing”, may further encourage consular officers – particularly the majority of such officers who are not lawyers – to insist on DNA tests and other burdensome

⁴ INA sec. 214(b): “Every alien shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer, at the time of application for admission, that he is entitled to a nonimmigrant status...”

evidentiary requirements not only in extraordinary cases but as a matter of routine.

Unlike the granting of a visa, however, the issuance of citizenship documents is not a discretionary act: rather, it is ministerial and recognitive. Denying a visa to an applicant who is eligible for such a visa may be bad policy, but refusing to recognize the citizenship of someone who is in fact a United States citizen is against the law.

Aside from complying with the law, it is important that all representatives of the United States act consistently with our values. If the consular officer did indeed react as Mr. Wani says she did to his pleas on behalf of his children – and also on behalf of his wife, who is eligible for immediate permanent residency in the United States and whose situation should in any event make us want to help her in whatever way we can -- then this conduct was squarely at odds with these values.

I am, however, proud that our government has begun to make amends in recent weeks by paying careful attention to the situation of Mrs. Ibrahim and her family and affording them all appropriate assistance and protection. It is good to know that institutional concerns can be trumped from time to time by first principles – in this case the principle that we Americans do not leave our own in harm's way.

Mr. SMITH. Ambassador Rees, thank you very much. And without objection, the additional information you would like to make a part of the record is so ordered.

Mr. Ismail.

**STATEMENT OF MR. OMER ISMAIL, SENIOR POLICY ADVISOR,
ENOUGH PROJECT**

Mr. ISMAIL. Thank you, Chairman Smith, Ranking Member Bass, and honorable members. I am honored to be here to appear before you to testify in this important case of Meriam Ibrahim, and I kindly request that my testimony be included in the record.

My testimony is going to focus on showing that this is not an isolated case. The case of Meriam Ibrahim is not an isolated case. It is a pattern of behavior that the Government of Sudan has demonstrated through the years.

Ten years ago yesterday, the United States Congress determined that the violence that plagued the Darfur region of Sudan is a genocide perpetrated by the country's own government. The brutal Janjaweed militia that is recruited, armed, and financed by the Government of Sudan rode through the villages terrorizing civilians, raping women, burning homes and markets, and destroying the livelihood of a great number of communities.

That same tyrannical government is persecuting Meriam Ibrahim and sentenced her to death by hanging because of her religious convictions. The Government of Sudan is the main perpetrator and culprit in the violence across Sudan that is visited on millions of Sudanese who this government considers enemies for no other reason than being different from the image it sponsors. This government flaunts a brand of Islam and promotes a racial identity that is exclusive and divisive and met with widespread rejection and resistance among the majority of the Sudanese people.

According to credible reports, Meriam Ibrahim was born to a Muslim father and a Christian mother, and she chose to be Christian. Meriam would not be considered a criminal in any democratic society that respects human rights because she would have the right to choose her religion and her life. The Government of Sudan, however, not only ignores its citizens' human rights, it disrespects its own constitution and the laws drawn from it.

According to the Sudanese Interim National Constitution of 2005, and I quote, "Every person shall have the right to the freedom of religious creed and worship." In practice, the Government of Sudan does anything but adhere to its own contract with the Sudanese people.

Shortly after the secession of the South of the country from the motherland became inevitable, President al-Bashir declared in Al-Gadarif in eastern Sudan in 2010 that Sudan would become a country "with no racial or religious diversity." Successive events that took place thereafter proved that this statement was not a slip of the tongue but a government policy that spares no one who opposes it.

The issue of racial diversity was dealt with by continuing the raging war in the periphery that, in addition to Darfur, witnessed unprecedented violence in the Nuba Mountains and South Blue Nile in addition to callously questioning dissent in the urban cen-

ters by killing students in cold blood and committing widespread rape and torture.

The violence has led to hundreds of thousands of displaced, in addition to refugees that have fled to the neighboring countries, including the restive South Sudan. Food is used as a weapon of war, and the fate of close to 1 million Muslims, Christians, and practitioners of indigenous religions and other faiths is in jeopardy.

The genocidal regime in Khartoum was not satisfied with the social engineering that it ushered in to distort the ethnic composition of the country, but it coupled that with a no less lethal policy of religious intolerance. In April 2012, an old church in the outskirts of Khartoum was burned down to the ground by a mob of supporters of an Islamic cleric who is a member of the government appointed Islamic Ulama Council.

In addition, many Sudanese Christians complain about discrimination in getting jobs or in the workplace when they are employed, in addition to a general atmosphere of intimidation and intolerance. In academia, staunch fundamentalists were appointed to the faculty of the universities and devised syllabi to indoctrinate the students, and they banned all opposing activities in the schools.

Furthermore, the State of Khartoum issued a decree banning all building permits for new churches and Christian schools, claiming that the capacity of the existing churches and schools is more than enough to serve the Christian minority of 3 percent of the population. This figure was not supported by any census or any credible statistics.

In the areas of the Nuba Mountains and the South Blue Nile, mosques, as well as churches, and the limited number of hospitals, are subject to indiscriminate bombing that is meant to scare civilians and drive them into the horrors of displacement. The government authorities and the security apparatus are used to harass people of different faiths other than Islam through intimidation and terror.

The case of Meriam Ibrahim has backfired by making citizens more aware of the extent of the callous behavior that the government is willing to carry out in order to achieve its objective of remaining in power at any cost. Her case is also serving as a wakeup call to all peace-loving nations that this regime should be dealt with in a manner that will force it to alter its behavior.

In conclusion, I respectfully ask this honorable institution, which represents the American people, to support the moderate Sudanese opposition that is working diligently for the democratization and the respect for human rights. The Sudanese Muslims and Christians and practitioners of other faiths deserve to live in peace among themselves and with other fellow human beings. History will look kindly at those who help them live in dignity and with the most sacred value of all, freedom.

Thank you.

[The prepared statement of Mr. Ismail follows:]

**U. S. House of Representatives
Committee on Foreign Affairs
Subcommittee on Africa, Global Health, Global Human Rights and
International Organizations
Christopher H. Smith (R-NJ), Chairman**

Testimony on The Troubling Case of Mariam Ibrahim

**Omer G. Ismail
Senior Policy Advisor, The Enough Project
Wednesday, July 23, 2014**

Ten years ago yesterday, the United States Congress determined that the violence that plagued the Darfur region of Sudan is a genocide perpetrated by the country's own government. The brutal Janjaweed militia recruited, armed and financed by the government of Sudan rode through the villages terrorizing civilians, raping women, burning homes and markets and destroying the livelihood of a great number of communities. That same tyrannical government is the government that is persecuting Mariam Ibrahim and sentenced her to death by hanging because of her religious convictions. Across the country, the government of Sudan is the main perpetrator and culprit in the violence visited on millions of Sudanese who this government considers enemies for no other reason than being different than the image it sponsors. This government flaunts a brand of Islam and promotes a racial identity that is exclusive and divisive and is met with wide rejection and resistance among the majority of the Sudanese people.

According to credible reports, Mariam Ibrahim was born to a Muslim father and a Christian mother, and she chose to be a Christian. In any democratic society that respects human rights, Mariam would not be considered a criminal because she would be granted the right to choose her own religion. The government of Sudan, however, not only ignores its citizens' human rights, it disrespects its own constitution and the laws drawn from it. According to the Sudanese Interim National Constitution of 2005, "every person shall have the right to the freedom of religious creed and worship." In spite of this, the practice of the government of Sudan is all but adhering to its contract with the Sudanese people.

Shortly after the secession of South Sudan from the mother country became inevitable, President Bashir declared in Al-Gadarif in eastern Sudan in 2010 that Sudan would become a country "with no racial or religious diversity." Successive events that took place thereafter proved that his statement was not a slip of the tongue but a government policy that spares no one that opposes it. The issue of racial diversity was dealt with by continuing the raging wars in the periphery that, in addition to Darfur, witnessed unprecedented violence in the Nuba Mountains and South Blue Nile in addition to callously dealing with dissent in the urban centers by killing students in cold blood and committing widely practiced rape and torture. The

violence has led to hundreds of thousands displaced in addition to refugees that have fled to the neighboring countries, including the restive South Sudan. Food is used as a weapon of war, and the fate of close to a million Muslims, Christians and practitioners of indigenous religions and other faiths is in jeopardy.

The genocidal regime in Khartoum was not satisfied with the social engineering that it ushered in to distort the ethnic composition of the country, but it coupled that with a no less lethal policy of religious intolerance. In April of 2012, an old church in the outskirts of Khartoum was burned down to the ground by a mob of supporters of an Islamic cleric, who is a member of the government appointed Islamic *Ulama* Council. In addition, many Sudanese Christians complain about discrimination in getting jobs or in the workplace, when they are employed, in addition to a general atmosphere of intimidation and intolerance. In academia, staunch fundamentalists were appointed to the faculty of the universities and devised syllabi to indoctrinate the students and they banned all opposing activities in the schools. Furthermore, the State of Khartoum issued a decree banning all building permits for new churches and Christian schools claiming that the capacity of the existing churches and schools is more than enough to serve the Christian minority of 3% of the population. This figure was not supported by a census or any credible statistics.

In the areas of the Nuba Mountains and South Blue Nile, mosques, as well as churches and the limited number of hospitals, are subject to indiscriminate bombing that is meant to scare civilians and drive them into the horrors of displacement. The government authorities and the security apparatus are used to harass peoples of different faiths other than Islam through intimidation and terror. The case of Mariam Ibrahim has backfired by making citizens more aware of the extent of the callous behavior that their government is willing to reach in order to achieve its objective of remaining in power at any cost. Her case is also serving as a wake-up call to all peace-loving nations that this regime should be dealt with in a manner that will force it to alter its behavior.

In conclusion, I respectfully ask this honorable institution, which represents the American people, to support the moderate Sudanese opposition that is working diligently for democratization and the respect for human rights. The Sudanese Muslims, Christians and practitioners of other faiths deserve to live in peace among themselves and with other fellow human beings. History will look kindly at those who help them live in dignity and with the most sacred value of all, freedom.

Mr. SMITH. Mr. Ismail, thank you very much.

My understanding, Ambassador Rees, you will have to leave at 4:00?

Ambassador REES. My plane is running late, so I can leave a little bit after that. Thank you.

Mr. SMITH. That is great. Thank you. Let me just begin with a couple of opening questions, and then yield to my colleagues.

First, as you said, Ambassador Rees, in your statement, in a CNN interview dated May 30, an interview of Daniel Wani by Nina Elbagir. This is Mr. Wani speaking in response to a question, "Sadly, it is not the U.S. Government. When the problem began, the U.S. consul here had a very negative position on this. She was very high-handed. She was very, very rude. She said, and I quote, 'I don't have the time.'"

If you could perhaps elaborate on this culture of denial that you mentioned earlier, because this has been a systemic problem that I and you, when you served as staff director for this committee and I have been in Congress now for 34 years, all over the world we encounter this, and I will give you a few examples.

Tony Perkins mentioned Saeed Abedini. Saeed Abedini's wife, Nagmeh, was originally told, "There is nothing we can do." Frank Wolf convened a hearing of the Lantos Commission and passionately called on the State Department and Secretary Kerry, and then they said that they will raise it, and Secretary Kerry did issue a statement.

When Nagmeh came here, she was still bewildered by the lack of engagement on the part of the U.S. Government on behalf of this American being held by the Iranians. As we hold nuclear talks, human rights fell off the page, if you will.

Chen Guangcheng, there were four hearings on Chen Guangcheng, and he was given back to the Chinese secret police under guard in a "hospital" where he could not leave, and there was an unbelievably porous assurance that Chen Guangcheng would be okay. That is what we were told.

Thankfully, he testified by way of a phone call and said, "I want to come to America," and 6 hours later that permission was granted. And we had more press here than I have ever seen before and that helped his case.

I had a couple of my constituents stuck in Abkhazia as well as in South Ossetia, so I went there. And I found out, to my shock and dismay, that the Consul General had said that this marriage, purported marriage, of an American who used to be a guard at the White House, so he had to be vetted quite effectively, and he was telling the truth, and this woman who was of Georgian origin was bogus, and, therefore, the little child who was in Abkhazia was stuck and literally was prostrate as Russian tanks went through her town, and obviously everybody was scared to death something might happen to her.

And then, finally, Jacob Ostreicher, we have had several hearings on Jacob. He is finally out because of a private extradition effort, or an effort to ferry him out of the country by way of an automobile. At first we were told, and I was told this directly by the Embassy and by top people in the State Department, at his request I asked this question: If Jacob goes to the Embassy, will he be wel-

comed? Because he felt his life was in dire jeopardy. He even had for a while Venezuelan guards, of all things, guarding him when he was in the hospital. They said, "We will put him out the door."

I made that phone call myself and heard that and just said, "Are you kidding?" An American? I mean, we are supposed to be the oasis. So, Mr. Ambassador, if you could speak to this culture perhaps a little bit more, because I think there needs to be a sea-change of attitude, which, again, the IRFA bill, the religious freedom bill, was supposed to do about religious freedom.

Part of that legislation had text in it about training Foreign Service Officers to understand the importance and centrality of religious freedom, and that trading has been very slight all these years. So if you could answer that question, I would appreciate it.

Ambassador REES. Well, Mr. Chairman, there are at least three things going on. One of them I have already spoken to, which is that you do get fraudulent applications, you do get frivolous applications. We are not supposed to grant those applications. And perhaps there is a natural human tendency when you have been snookered a couple of times to assume that the snookering level is 99 percent instead of some lower number, and that is just an occupational hazard of these kinds of jobs.

A second—but we have all seen people in customer service jobs, which is what this is, who frankly have outlived their usefulness on those jobs and ought to go find other jobs. And so I think we do need to try to inoculate people against that tendency to deny good cases simply because some cases are fraudulent. And that is particularly true where you are dealing with people who may well be American citizens.

The second thing has to do with the institutional culture of the State Department itself, broader than just consular officers. The State Department is a foreign ministry. A foreign ministry's main job is to deal with governments. With other foreign ministries, with governments of other countries. And these kinds of issues, these humanitarian issues, these human rights issues, these refugee issues, they complicate what many Foreign Service Officers see as their main job, which is to improve the relationship between the United States and that other government.

Now, I am not suggesting that they are simplistic or one dimensional. Everybody knows that we have to pay attention to those other issues. But I don't think that the natural reaction of somebody who has to go deal with the foreign ministry in the country that he is living in every day, when he hears about a Meriam Ibrahim case, he is not going to say, "Oh, boy, a chance to strike a blow for human freedom."

He might understand that is his duty. We hope he does. But it is not something that makes the State Department's life easier.

The third thing with these high profile cases where Members of Congress involved is—as you know, I have seen it from both sides. I worked in Congress, I worked in the State Department. The executive branch in general, and the State Department in particular, hate to be told what to do by Congress. And so there is this faux integrity that gets built up, that we are not going to be politically influenced, we are going to do what we would have done anyway.

Now, I don't want to say that happens all the time, and I do have to say, as I said in my testimony, that there are many fine and decent and conscientious people in the State Department, that many of them do the right thing even if it hurts their career. But I do think that institutions have institutional cultures, and that there are some of those tendencies that we need to fight.

Mr. SMITH. If you could answer that as well, but you mentioned, Dr. Jasser, about no CPCs, the fact that they have not been redesignated. And Robbie George, who was then the chairman of USCIRF, and now Katrina Lantos Swett has taken over that leadership as chairman, no CPCs have been named since 2011, which I think is a huge abrogation of duty on behalf of the administration. Hopefully, they will do it soon and do it robustly, including all of those countries that need to be so named.

But I think if you could speak to whether or not that sends a message to countries that are committing egregious violations of religious freedom, when we don't even do the designations anymore.

Dr. JASSER. Thank you, Chairman Smith, and that really was the followup to Ambassador Rees' comments, is that, you know, we started a program on prisoners of conscience, that various members have adopted, if you will, various prisoners across the spectrum in many different countries because these cases, like Meriam Ibrahim, are emblematic of deeper problems typically, not only in Sudan but in every one of these countries where prisoners of freedom of conscience, of faith, belief, that are in prison simply because of their belief are a sign typically of more systematic, egregious, and ongoing violations of religious freedom and human rights related to that.

So as a result, that is why you make the connection between these prisoners. And when we defend them, when our President, when our State Department, our Embassies defend these prisoners and say that we want them released and freed, it then sends a message that our freedoms that we defend at home, and our International Religious Freedom Act of 1998, actually means something. And we have been concerned at the Commission that there has been a stagnation, and there has been no designations of CPCs since 2011.

The lists, while there is no disparity on Sudan, we have—both the State Department and our commission agrees that they are a CPC, they have not redesignated them since 2011, and we hope that when their report comes out they follow that quickly with a designation.

So it is important that when these designations are made it sends the message that we believe that there is egregious and ongoing violations, and, as a result, it carries with it the sanctions that the law—the statute provides. And I think that is how we translate the plight of people like the brave and courageous people like Meriam Ibrahim that get translated into a process and policy that means that, then, religious freedom becomes the centerpiece.

And most studies have shown recently repeatedly that countries that honor these principles then become more successful economically and more secure and less threats of terrorism and regionally become better actors in the world. So this is why I think it is very important that this be highlighted, and they have not do so. And

we hope—their report is supposed to be coming out this week. I think it has been delayed again, and hopefully it will be followed by a redesignation of Sudan and other countries.

Mr. SMITH. I have some additional questions for Tony Perkins and Mr. Ismail, and I will go back to that in the second round. I would like to yield to Ms. Bass.

Ms. BASS. Thank you very much, Mr. Chairman.

I wanted to get a sense from the panel how widespread they think apostasy is in countries, one, where we are in conflict with, but also in countries where we are allied. And if you could respond to that, any of the panelists, I am not sure which one of you might know.

Dr. JASSER. Thank you, Ranking Member Bass. You know, the issue of the implementation, as our report on Sudan talks about, typically what happens with countries that enact more draconian forms of Sharia law, apostasy violations become a central part of that as we saw in Afghanistan and in Pakistan and in other countries in which the restriction upon the implementation of religious freedom is based upon one of the red flags for the government being that if somebody leaves his or her faith, and apostasy being one of those, but typically it is not isolated.

We see the cries of apostasy, if you look at Raef Badawi in Saudi Arabia, he is a Muslim who reports being a Muslim and yet he is in jail on a crime of apostasy because the version of Islam that he defended was not one in line with the Saudi Government. So typically where you see governments like Saudi Arabia or Iran or Sudan that implement draconian, more restrictive forms of Sharia, apostasy is often one of the centerpieces, but linked to apostasy, then, are blasphemy laws that the government controls free speech with and then crimes against especially women, controlling their ability for dress and expression and property. All of that follows the whole implementation of Sharia if you will.

Ms. BASS. So do any of the panelists know exactly what her situation is right now? I mean, I realize she is still incarcerated, but the Embassy says that there is supposed to be a hearing, it is supposed to be an expedited process. Now, I heard that a few weeks ago. Obviously, it is not that much expedited, but I wanted to know if any of you had information on her exact status now.

Mr. PERKINS. The information is not completely reliable. As the press reports one thing, Sudanese officials say something else, and we often find the two are in conflict. But she is in a safe house overseen by—

Ms. BASS. Is she under house arrest, is that what it is?

Mr. PERKINS. She is not under house arrest. She is actually under the watch care of the U.S. Embassy.

Ms. BASS. Oh.

Mr. PERKINS. And so she has been released from incarceration. When she was seeking to leave the country—

Ms. BASS. Right.

Mr. PERKINS [continuing]. And detain, she was detained for a few days in the police station, then released. They had a bond and she was released, and she has been released to the custody of the oversight of U.S. officials. So she is safe at present, as long as she stays

where she is. If she moves off of the property where she is currently residing, there is concern for her safety.

Ms. BASS. Why can't she leave the country? I mean——

Mr. PERKINS. They have not issued her documents in order for her to leave.

Ms. BASS. Her Sudanese passport?

Mr. PERKINS. Correct.

Ms. BASS. Was it correct that she was detained because she had a South Sudanese passport?

Mr. PERKINS. That is correct information based—that is correct based on the information we have.

Ms. BASS. And do we know where she got that from, why she——

Mr. PERKINS. From the South Sudanese Embassy.

Ms. BASS. You look like you want to respond. Mr. Rees looks like he wants to say something.

Ambassador REES. Well, I don't—I am not sure it was a passport. My reading of—I am just reading the same news reports everyone else is. My reading is it was probably a travel document issued by the Government of South Sudan, because Mr. Wani, who is an American citizen, has dual citizenship——

Ms. BASS. I see.

Ambassador REES [continuing]. With South Sudan. And we, the United States, issue travel documents to people who are not citizens. We issue them, for instance, to lawful permanent residents, and it was probably a document like that.

Ms. BASS. So at this point, what do you think—again, any of the panelists—what do you think that we could do to be concrete and helpful in this situation now, as it stands now? I am not talking about the broader picture but just in terms of her and getting her out of the country. Mr. Ismail?

Mr. ISMAIL. Thank you, Madam Ranking Member. I think the pressure should continue on the Government of Sudan to release her, because being there is not serving the purpose of anybody. And uniting with her family in the place that she wants to travel to is a right of all Sudanese people, and she should exercise that right. And she should be given what is called an exit visa out of Sudan, and she is free to go to the destination of her choice.

I think without that pressure her situation is going to be in jeopardy, and we don't know, because the Government of Sudan also is under pressure from some of the fundamentalist constituencies. And I would say they brought it on themselves, because it would have been one of the many, many, many cases that our normal everyday people go to court, but they made a political issue out of it.

And now it backfires and the fundamentalist constituency of the government is pushing them, and they are saying, "You shouldn't release this woman because this is a clear case of apostasy and we want to prosecute her." The government, I don't think they are interested, but also I believe there are some elements inside the government, because the government is now really not in control of everything. I believe there are some elements inside the government want to get some mileage out of this. At the end of the day, "Here, the United States, we release this person to you. What is in it for us?" And so it becomes, you know, kind of a quid pro quo of some sort.

So that is also a possibility, but I think it is not serving the larger purpose of the bad rap that the government has got—

Ms. BASS. Thank you.

Mr. ISMAIL [continuing]. As a result of this case.

Ms. BASS. Thank you very much.

Mr. MEADOWS. I thank the ranking member. I thank each of you. I am going to follow up with a few questions and would like for you to comment on this. Many people, at times, think that the voice to free people like Meriam and her family is just silent; they are just a few people, it is a few activists here or there. Mr. Perkins, would you say that—could you comment on just what you are hearing from either your listeners or people that are contacting you from the American people? Can you give us a sense of what you are hearing?

Mr. PERKINS. Congressman Meadows, I think the—what we have actually seen internationally from Great Britain and how this was really a front page story, and leading to the Prime Minister making statements on it, is more reflective, really, of where the American public is on this issue as we have seen hundreds of thousands, there was a White House petition that garnered over 50,000 people that signed that in a very short window of time, that are concerned about this.

I think people recognize that there is a correlation between religious persecution abroad and the growing religious intolerance here at home. And I also think that people realize that there was a time when it meant something to be an American, that when you were in—you found yourself in trouble someplace in the world, that you were not alone.

Unfortunately, what we are seeing increasingly is that if you are an American on foreign soil, and you are held captive, you are alone. And I think that scares people. They want to return to where it meant something to be an American, and that is why I believe people are responding to this and saying Congress should do something. I know Members of Congress have received lots of phone calls on this, and I know Congress is doing what they can.

I express my public appreciation to you for the work that you have done on this particular case, but it is a broader symptom of a greater problem with our country here today and our defense of religious freedom.

Mr. MEADOWS. So, Mr. Ambassador, your comment earlier that the State Department does not want to have Congress telling them what to do, how can we encourage them? You know, they don't express that when they come before this committee for authorization or the Appropriations Committee for their budget, so I am shocked to hear this kind of information. But what can we do to work hand in glove with the State Department? They have a difficult job, obviously.

Ambassador REES. Well, I think that recognizing a tendency, recognizing an institutional tendency, doesn't mean that you have to assume that forever after everybody who works for that other institution is your enemy. There are many people in the State Department who would be very sympathetic on this particular case, for instance.

I think there is one phrase that I remember. I have never heard it before or since, but I must have heard it 20, 30 times when I was working as a staff member for this committee some years ago, and we would be in negotiations with the State Department, and they would complain that something on human rights or on refugees that went into a little too much detail, they would say, "We know how to handle these cases. We don't have to be taught how to suck eggs." That was the favorite expression.

So I think that—and it always made me wonder, why would anybody want to learn how to suck eggs? But I think that you need to reach out, as I know the committee has, to the State Department on these issues and say, "How can we help?" But making clear that help includes an active role in the process, an active concern for the outcome.

And you are right, there are many times when the State Department is very anxious for Congress to get involved, but of course we used to do the State Department authorization bill every 2 years, and the State Department's idea of a great authorization bill was, "Here is \$13 billion. Be good." Whereas, many Members of Congress wanted paragraph after paragraph after paragraph about what to do in Haiti and about what to do in Sudan, what to do in Burma, and you need to reach a mean between those extremes.

Mr. MEADOWS. So, Dr. Jasser, let me come to you. There are those within the Muslim countries who say that all we are trying to do is export our Christian faith. And yet I know in the case of Sudan that is really not what this is about. My mother went there 51 years ago, I believe, on a medical mission. I have friends who served in the Peace Corps, very dear friends who served in Khartoum in the Peace Corps. For many years, my family and my kids have sent money to provide for relief for Sudan, Sudanese people that were in harm's way.

How do we do a good job of elevating religious freedom and liberty without it being one dimensional? Because, really, when we look at religious liberty, it is across all faiths, and yet sometimes we put a priority on one faith or another in terms of what we will or will not tolerate. So how do we do that? How do we communicate that to a predominantly Muslim world in North Africa and the Middle East?

Dr. JASSER. Well, you know, I think, Mr. Meadows, that is really a wonderful question, and I think that the wisdom of the IRFA is that it is about religious liberty for all the citizens in the countries that we review and decide their CPC status on. And if you look at the citizens, for every—as much as often, the religious freedom limitations for minorities can be a touchpoint of the conversation.

One of the things our commission always talks about is the fact that within the majority there are those in those countries, Sunnis, for example, I, as a Sunni Muslim, know that those who have a minority viewpoint within a majority population are also as persecuted, if not more, than the minorities.

And I think I would ask anyone, through not only the work of our commission but also the implementation of the IRFA abroad, in countries to see that it is not specifically related to Christian minorities, but really related to any prisoners of conscience who have wanted to express their particular practice of faith differently and

have been arrested for it or have suffered because of those expressions.

And I think that is really what we have been expressing. It has not been about advancing or protecting Christianity. I know that as a Muslim. But it has been about advancing and protecting liberty, and that is when those countries are more secure.

There is no wisdom in believing that protecting only minorities protects a country's security. It is about protecting freedom for all of its citizens, and that is the wisdom of the International Religious Freedom Act. And we hope, you know, that an Ambassador is named soon for religious freedom who can begin to advance these ideas. That spot has been vacant for some time, and I think this would allow the world to see that America is not just about protecting our own rights but protecting every citizen and their right to the free practice of faith or no faith.

Mr. MEADOWS. Right. Mr. Perkins, you made a comment in your opening statements where you said that we are here because someone that was 27 years of age had the courage to stand up for her faith. That cut deep to my heart, because in a similar situation, knowing that my kids were in a prison, knowing that a simple word would release them, I don't know that I would have had as much courage, and so it was very convicting.

I think the other part of that, though, is if a voice of a 27-year-old woman, mother, that I have never met, I have only seen pictures, can cause us to come together and cause us to start to understand that religious freedom is not only paramount, but it is foundational for who we are as a nation, what would you say to the millions and millions of Americans that are out there that many times allow us each and every day to make small concessions?

Each and every day we sometimes look the other way, when something is said, something is done. We say, "Well, that is just the way things are." But yet they continue to get worse if we are not willing to stand up as this brave young mother has so eloquently articulated. What would you say to them? What do we need to do as a nation?

Mr. PERKINS. Well, Congressman Meadows, I think just looking at this table is a reflection that is unique to America and our understanding of religious freedom. To my right, a Muslim; to my left, a Muslim and a Catholic, Protestant, Evangelical; and we are here for the same reason. We are here not in conflict, but we are here in concert. We are not here working against one another, but we are working together for someone that none of us have ever met, as you pointed out.

It is a principle. It is a foundational principle through which I would say, as former late Harvard professor Samuel Huntington pointed out, that America became an economic powerhouse in part because of its religious ethic. That provided for the ability for us to be successful as a nation.

So that silence on behalf of whether it is Meriam and that growing persecution abroad—I mean, as we see what is happening in Iraq, as it is becoming an Islamic state and Christians are being told that either they leave, convert to Islam, or they pay an impoverishing tax, or they die, that should be a concern for us as Americans. In fact, in our historical record, it has been a concern, be-

cause this indifference abroad will lead to greater religious hostility at home, which ultimately affects the well-being and the prosperity of our society as a whole.

So I believe we must advocate for individuals like Meriam. As has been pointed out, there are many more like her, but this is one we know about. This is one we cannot escape. We have no excuse not to help this mother and her family.

Mr. MEADOWS. Well, I want to thank you and your work as the American people have reached out. You have been daily, hourly, minute by minute, advocating on behalf of Meriam and religious freedom, and I want to thank you personally, but also on behalf of our Nation, for speaking up for someone who does not have a voice, because the silence that so often is deafening cannot be something that we tolerate. So I want to thank you.

Mr. ISMAIL, let me come to you. You said something earlier that said that your belief is the Sudanese Government is wanting something from this. You know, what basis—why would you say that? So you are saying that it is—the release would be predicated on Congress giving them something?

Mr. ISMAIL. It is just speculation on my side, that some of the elements inside the government might see this as an opportunity to gain something from the United States. This government is desperate to get recognition, especially from the United States, because this is the country that has all kinds of sanctions against it. This is the country that designated this government to be a sponsor of terrorism.

This is the country that is not supporting international law in the sense that President al-Bashir has been indicted by the International Criminal Court, and so on and so forth. So, and this is the country where we have a testimony like this from all these wonderful people who are trying to support this woman in need.

And in this support, I don't see the support to Meriam Ibrahim only. There are 1 million Meriam Ibrahims in Sudan that are Christians, that are Muslims, that are practitioners of other faiths, that were persecuted daily. The women that were sentenced to 40 lashes or 50 lashes because they are wearing pants, the women that were without any kind of respect, the decency of human beings, were considered indecent in public, and they were faced with all kinds of threats and harassment.

This is a case where the Government of Sudan is trying to see if they can—or at least some elements there, to see that, well, if we do this, what is in it for us? We have seen from Naivasha and even before that when the negotiations for the peace agreement, the negotiations to the secession of South Sudan, this government is always demanding something.

They create obstacles, so that when they come and they release these obstacles, somebody will say, "Oh, they did this, they are good, so let us reward them." And they do just enough to get this monkey off their back—that is called the international community—and they are not sincere in going the extra mile to make sure that they do this in good faith.

Every single step that they have done, be it negotiation with the rebels, be it through, you know, letting the South go as they boast,

it wasn't because of them. It is because of the will of the people of South Sudan that they seceded that country.

So the government is willing to do everything, including incarcerating people or detaining them by force, or put them in house arrest, so that they can get something out of this.

Mr. MEADOWS. Well, let me comment on that, because I—we met with some of the Sudanese officials here in Washington, DC, as I know Mr. Perkins has, and I think any relationship has to be built on mutual trust and respect. But negotiating for Meriam's release, with financial or other concessions, is not something that is on the table. I think we have made that very clear.

But I am hopeful that if there is a new day in Sudan, that this can be the start. And it may be very embryonic, but it could be the start of perhaps a new relationship where religious freedoms are not only held up, but a relationship that is, to both countries, mutual benefit. But to negotiate because there is a woman in prison or being held, or thousands of others, for small, incremental changes, is not what this is about.

And so, Mr. Ambassador, I want to come back to you before your plane. You know, this is the only time I have ever heard of applauding a delayed plane, but I thank you for bearing with us. You said that the State Department likes for us to say, "Okay. Here is \$13 billion; go do with it what you will and do a good job."

How can we encourage them that addressing situations like Meriam will foster more of an open, non-earmarked, non-directive way in terms of finances going forward? Because if they are truly standing up for the Meriams or the Saeed Abedini's or whomever it may be, I am more willing to look at it and say, "Well, we don't have to put parameters." How do we do a better job of working with the State Department where they can see the will of the American people?

Ambassador REES. Well, it is a very big conversation, and it is a conversation that has been going on for a long time. I remember Senator Helms when he was chairman of the Foreign Relations Committee used to say they needed an America desk at the State Department. And Secretary Albright responded by saying, "The America desk is me." And so—and I believe that you need to keep on doing what you are doing. You need to keep on having hearings like this.

I assume the State Department was invited to this hearing. Maybe if you have another one they will come and have something to say at the appropriate time. I think you need to—I think it is okay for Congress to legislate on foreign affairs matters. There are some in the executive branch who think that is unconstitutional. I don't think it is unconstitutional.

And I think that the executive branch's job is to execute, Congress' job is to make policy. The International Religious Freedom Act, the Trafficking Victims Protection Act, these are examples of cases where—the State Department resisted both of those bills. And it wasn't that they said they didn't agree with the objectives. They did agree with the objectives, but they didn't think they needed a legal framework in which to operate.

Trafficking at least, once it became law, the Department has taken that issue to its bosom. They really do the job. They really

do the reports well. International religious freedom, I think sometimes they do well, but it has taken them a little more time to get used to that idea. But you change the legislative landscape, gradually people will begin to get used to it, and sometimes even to like it.

Mr. MEADOWS. Well, I am going to yield to my good friend and the chairman of the subcommittee, and I am going to yield not only the mike but his chair back to him.

Mr. SMITH. No, no. Stay put. Stay put. Stay put. Thank you very much, Mr. Chairman, and thank you for your advocacy, because it has been extraordinary. I want the record to show that Mark Meadows has been absolutely relentless in pushing all of us—didn't take much push for a few of us, but certainly made it very clear that this was one of the highest, if not the highest priority. So I want to thank him for his leadership.

I want to thank our distinguished witnesses again for your testimonies, which were very comprehensive and I think extraordinarily incisive. You know, human rights usually is demoted in U.S. foreign policy. That has been my experience. I have probably chaired some 500 hearings over the years on human rights, and it has never ceased to amaze me how when it talked about it is usually page 4, if it is there, in terms of our priorities, somewhere at the bottom of page 4. And that is not the way it ought to be.

Recently, we had a hearing on North Korea, and our former Special Envoy to Sudan, who is also co-chair of a North Korean human rights organization, said that when the Six-Party Talks were still underway, he and so many others, including me, tried to make human rights a part of that, and it was excluded. So when those talks imploded and nothing happened on the nuclear issue, we got even less when it came to human rights.

Same goes with Iran. We have asked Secretary Kerry repeatedly to include human rights, and he has not done so. It is only the nuclear issue, and that is not going very well either.

If you could perhaps speak to the minimalist effort that I believe has been expended. I mean, the President, if he has time for golf and time for all of the other things that he engages in that would be called recreational, he should pick up the phone and call some top leadership. Maybe he wouldn't want to talk to al-Bashir. He is an indicted war criminal, and I met with him in the year 2005 with Greg Simpkins, and we had more of an argument than a conversation. But pick up the phone and say, "We want these Americans to come back." That is not a heavy lift. And the same goes to Secretary Kerry and others, to be in contact with them.

What is your thought on that? It seems to me that they measure the prioritization of administration by how up the chain of command they are admonished and even demanded of. What is your thoughts on that? Dr. Jasser?

Dr. JASSER. Thank you, Chairman Smith. You know, I think from the perspective of a commission focused on religious liberty, one of the reasons for our existence is that we hope to push the needle to emphasize the importance that the focus—the current focus, regardless of what the motivation is—and I can't speak for how the State Department chooses its priorities, but, you know, if you look at the situation in Sudan, the violence that they have

tried to address, which has been the centerpiece of their current focus, is trying to address the violence in places within the states of Southern Kordofan, Blue Nile, et cetera. It has failed. We have not done anything to address that. Why? Because one of the primary, if not the primary, reason for that violence is the use of religious repression and institutionalized mechanisms through Sharia law and other ways that have prevented religious freedom.

And if that became—if religious liberty became a focus, we may then start to make some headways in an embryonic fashion with various cases like Meriam's and others that would begin to show that we are not only looking to stop the symptom, which is violence, but the causes, which is the lack of religious freedom and whatever tools, whether it be, you know, draconian Sharia law or places like North Korea that are just repressive prisons of governments, the bottom line is that the prevention of religious freedom, as we know in our history, is the first freedom for a reason.

And, you know, I think that ultimately that needs to become a centerpiece of American foreign policy, and we think it will then change and move the needle to decrease violence. And as we have seen, as Mr. Perkins mentioned earlier, across the world from Iraq with ISIS and other places, it is not a coincidence that religiously violent organizations are beginning to fill this vacuum. And that vacuum needs to be filled with something else, and it can only be filled with the idea of religious liberty, I believe, as a step toward a solution.

Mr. PERKINS. Mr. Chairman, I think the State Department has been busy aggressively pursuing its values and human rights priorities, which have not included religious liberty. They have been exerting pressure upon foreign governments to abide by their values and their views, which are in large part inconsistent with the majority of Americans. And I think because of that, when we are talking about pushing the LGBT agenda on foreign governments and making that a priority at the State Department, religious liberty has suffered as a result.

That has been a higher priority for this administration rather than a foundational principle upon which this nation is rooted in, and, as we have talked about, the economic success of other nations have benefitted from. So I think what we are creating by our negligence is greater world instability.

Now, to verify that, all you have to do is pick up the newspaper, and the world is imploding. And what is this administration doing? Scant, little, when it comes to these core value issues that guarantee the freedom and protection of not just American citizens, but the value of human life in general and this fundamental principle of religious liberty. I think the administration is very busy, but not about the people's business.

Mr. SMITH. Thank you.

Ambassador Rees?

Ambassador REES. I do want to put in a good word for some of the people who work on these issues in our Government, including in the State Department. I said earlier that I think it took a while for the bureaucracy, if you will, to warm to this issue the way they did to trafficking. Trafficking, very early after the passage of the

Act, which the State Department opposed, they decided to implement it, and they implemented it vigorously.

The International Religious Freedom Act, you could tell the first few years they weren't very vigorous. And when I was in the State Department, I mean, a week didn't go by that we didn't get a memo telling us to do something, a cable telling us to do something about trafficking. We didn't get those about religious freedom nearly as often.

I meet with State Department officials. I do a lot of work on Southeast Asia, and I meet with—both with the regional bureau and with the human rights bureau, the DRL (Democracy, Human Rights, and Labor), and with some other bureaus. And in recent years I have sensed that the people in DRL at least really do take these issues seriously, and they really do know more about chapter and verse of what is happening to Montagnard Protestants in Vietnam, and what is happening to Hoa Hao Buddhists in Vietnam, than they did a few years ago.

And so I think the legislation is working. The work that you are doing, that Congress is doing, to highlight these issues, the work that the Commission is doing—I don't know if the Commission has had the same experience, but I think there was real hostility to the Commission a few years ago within the Department.

I think there are still people in the regional bureaus in particular who, as I said earlier, see their job as having a good relationship with these other governments. And we all hear about knock-down, drag-out battles within the Department where the Democracy Bureau, the Ambassador for Religious Freedom, may recommend that a certain country be a CPC, and the Embassy in that country, the U.S. Embassy in that country and the regional bureau come back with everything they have got and they manage to defeat that. But that happens in trafficking as well. That is just one of the realities of working in institutions is that they are not monolithic.

Mr. SMITH. Mr. Ismail?

Mr. ISMAIL. Thank you, Chairman Smith. In my view, humbly I would say freedom is indivisible. And the people of Sudan, they don't have freedom, period. There is no freedom of speech. There is no freedom of assembly. There is no freedom to choose your religion. There is no freedom to choose anything.

What we want in Sudan is that the rest of the world, including or spearheaded by the United States, helping us gain the freedom of the people of Sudan. Freedom, as it is, indivisible. Freedom in everything. That is not available today. What we need to do with this government, this honorable institution, is to push the Government of Sudan to change or else.

We have to say in the loudest voice that this government needs to open up. We need more democratization in Sudan. We need to give the freedom of the people of Sudan to choose their government, to choose whoever they want to represent them, to choose their religion, and to have absolute choice on everything.

Without that, we are going—maybe pushing just for religious freedom or maybe for freedom of speech, and the other freedoms will be curtailed, and we have a freedom that is not complete. I think the people of Sudan deserve better. They deserve to live like

the rest of people in the world, with dignity and with respect to their rights.

Mr. SMITH. Mr. Ismail, just ask you a question. It would seem to me that in any dictatorship or authoritarian government there is always people, even within the government, who could be called reformers. Very often, they stay quiet for obvious reasons. We saw it after Tiananmen Square. There were a number of people, including in the People's Daily, who showed themselves. They thought things were changing, and unfortunately, when things didn't, they found themselves in prison or in the Laogai as a direct result.

I believe there is at least some tug of war going on in Khartoum between some people who would like reform and those who do not. My hope is that if we start putting clear lines of demarcation, and the international community, and especially the U.S. Government, ratchets up significantly the importance—when I met with President al-Bashir, he spent most of his time talking about lifting the sanctions.

And I said, "That is not hard to do. There are conditionalities attached which have everything to do with respecting fundamental human rights and protecting the value and the dignity of life. And those sanctions are a goner when that happens."

We need to ratchet up, I think. And I think, Mr. Perkins, your point about other issues becoming prioritized, frankly, I have been shocked and dismayed by how many Ambassadors and foreign leaders have told me to my face that the LGBT agenda is what trumps everything in the U.S. foreign policy. So religious freedom, in a way, is seen as an impediment to the advancement of that.

And even the former head of the UNFPA, Dr. Sadik, when it came to the abortion issue, said that the last remaining barrier to promoting the culture of death worldwide was churches and synagogues and mosques, who believe in the sanctity of human life, including unborn children.

So there is a tension, I think, within the State Department. I know that DRL has pushed that issue to the exclusion of most everything else. And Secretary Clinton's statement to the Human Rights Council a couple of years ago couldn't be more clear, that that was the priority, to the exclusion, I believe, of most everything else.

So it is a very, very important issue, because now we are seeing how it demonstrates on the ground when a woman of faith is neglected, at least for several months, and I would say mistreated, as well as her children and her husband. You know, as I think Ambassador Rees said recently, they are doing things that we all can be proud of, but at first there was—and why did that—why did it take an outcry by Members of Congress, Members of the U.S. Senate, religious freedom NGOs, and others, to bring a focus upon this? It seems wrong to me that it takes that kind of pressure just to do the right thing.

So if you wanted to speak to any of that, and then I think you have some concluding remarks as well.

Mr. MEADOWS. Well, I want to thank the chairman for his words. They have actually called votes. We have got just a few minutes left, and I want to—this is defining day. It is a defining day for America. Are we willing to stand up and say enough is enough?

And I thank each of you for being here today to take time from your busy schedule.

But it is also a defining day for Sudan. They have a choice to make. Either to make a decision that will hopefully provide a foundation for moving forward or to make another decision that could cause irreparable harm to the relationship going forward.

And so with that, we pray for Meriam's safe arrival in the United States, and I thank each of you, and we will adjourn.

[Whereupon, at 4:29 p.m., the subcommittee was adjourned.]

A P P E N D I X



MATERIAL SUBMITTED FOR THE RECORD

**SUBCOMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128**

**Subcommittee on Africa, Global Health, Global Human Rights, and International
Organizations
Christopher H. Smith (R-NJ), Chairman**

July 23, 2014

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs, to be held by the Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations in Room 2172 of the Rayburn House Office Building (and available live on the Committee website at www.foreignaffairs.house.gov):

DATE: Wednesday, July 23, 2014

TIME: 2:00 p.m.

SUBJECT: The Troubling Case of Meriam Ibrahim

WITNESSES: Zuhdi Jasser, M.D.
Commissioner
United States Commission on International Religious Freedom

The Honorable Tony Perkins
President
Family Research Council

The Honorable Grover Joseph Rees
(Former General Counsel, U.S. Immigration and Naturalization Service)

Mr. Omer Ismail
Senior Policy Advisor
Enough Project

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.



COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON Africa, Global Health, Global Human Rights, and International Organizations HEARING

Day Wednesday Date July 23, 2014 Room 2172 Rayburn HOB

Starting Time 2:46 p.m. Ending Time 4:29 p.m.

Recesses 0 (to) (to)

Presiding Member(s)

Rep. Chris Smith, Rep. Mark Meadows

Check all of the following that apply:

Open Session

Electronically Recorded (taped)

Executive (closed) Session

Stenographic Record

Televised

TITLE OF HEARING:

The Troubling Case of Meriam Ibrahim

SUBCOMMITTEE MEMBERS PRESENT:

Rep. Karen Bass

NON-SUBCOMMITTEE MEMBERS PRESENT: (Mark with an * if they are not members of full committee.)

Rep. Robert Pittenger, Rep. Frank Wolf*, Rep. Tom Cotton*

HEARING WITNESSES: Same as meeting notice attached? Yes No
(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: (List any statements submitted for the record.)

USCIRF Sudan Policy Brief, submitted by Dr. Zuhdi Jasser

TIME SCHEDULED TO RECONVENE _____

or
TIME ADJOURNED 4:29 p.m.

Gregory B. Simpkins
Subcommittee Staff Director

MATERIAL SUBMITTED FOR THE RECORD BY ZUHDI JASSER, M.D., COMMISSIONER,
UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Sudan's Enduring Question: The Role of Shari'ah in the Constitution and Law

U.S. Commission on International Religious Freedom
November 2013

In December 2010 Sudanese president Omar al-Bashir declared that Sudan's new constitution will be based on his government's interpretation of Islamic (Shari'ah) law. Senior officials continue to repeat his declaration, as opposition parties and civil society representatives insist that Sudan's new constitution be based on universal human rights and reflect Sudan's commitments to international human rights standards, including freedom of religion or belief.

Concerns about Shari'ah being central to a future constitution ignore the fact that Sudan's current legal system already is based on a restrictive interpretation of Shari'ah provisions and corresponding *hudood*, or classes of crimes with set punishments. For the past 30 years, prior governments and today's ruling National Congress Party (NCP) have based many of the provisions of the 1991 Criminal Code, the 1991 Personal Status Law of Muslims, and state-level "public order" laws on their interpretations of Shari'ah and imposed these interpretations on all Sudanese, Muslims and Christians alike. The government's imposition of Shari'ah countrywide in 1983, including on the predominantly animist and Christian South, significantly contributed to the onset of Sudan's 20 year North-South civil war. Further, the issue continues to contribute to the ongoing fighting in Southern Kordofan and Blue Nile states.

Concern about the consequences of incorporating Shari'ah and *hudood* punishments into national law thus require a broader focus on both rule of law reform as well as the constitution. These provisions are at odds with Sudan's previous commitments to universal human rights,¹ including freedom of religion or belief. Addressing this divisive issue and ensuring respect for religious freedom should be a cornerstone of U.S. policy toward Sudan, to both support religious freedom and related human rights and to help stabilize the country.

The U.S. Commission on International Religious Freedom (USCIRF) recommends that the U.S. government take the following actions to address these concerns:

- Before normalizing relations or lifting the IRFA and IEEPA sanctions on Sudan, require the Sudanese government to abide by international standards on freedom of religion or belief, including by amending the 1991 Criminal Act, the Personal Status Law of Muslims, state level public order laws, and other laws and practices which infringe on religious freedom;
- Encourage and support civil society groups to monitor implementation of the public order laws and advocate for their repeal;

¹ Sudan is a signatory to the International Convention on the Elimination of All Forms of Racial Discrimination, International Covenant on Economic, Social and Cultural Rights, Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, Optional Protocol to the International Covenant on Civil and Political Rights, Convention on the Elimination of All Forms of Discrimination against Women, and Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

- Expand U.S. efforts to help ensure that the new constitution includes provisions protecting internationally guaranteed human rights, including by working to educate relevant parties about a constitutional drafting process that incorporates international human rights standards, including regarding freedom of religion or belief; and
- Urge the government of Sudan to hold a transparent and inclusive national constitution drafting process that includes civil society leaders and representatives of all relevant political parties to help ensure that Sudan's new constitution includes protections for freedom of religion or belief, respect for international commitments to human rights, and recognition of Sudan as a multi-religious, multi-ethnic, and multicultural nation, and support indigenous efforts to influence the process positively.

Background and History

Great Britain introduced the secular 1925 Penal Code in Sudan to govern criminal matters during the colonial period. The Penal Code remained in place after independence in 1956 until 1971 when legal reforms were instituted. During this period, Islamic law was confined to personal matters such as marriage, divorce, guardianship, and inheritance. After independence, pro-Shari'ah political leaders tried multiple times to incorporate Shari'ah into the criminal legal system and pressed for the adoption of a constitution based on Islamic law. They briefly succeeded in 1969 when the National Assembly passed a Shari'ah-based constitution. However, Major General Gaafar Nimeri's coup on May 25 of that year thwarted these efforts.

However, in 1971, Nimeri's increasing pan-Arab foreign relations policy led him to call for a review of Sudan's laws to bring them into conformance with Shari'ah. This review resulted in the Civil Law Act of 1971 that replaced the 1925 Penal Code. The Act was a compilation of laws from Egypt, Syria, Jordan, and other Arab countries. Legal confusion led to the Act's revocation in 1974 and a return to the 1925 Penal Code.

The 1983 September Laws

Politically weak, President Nimeri sought to extend his power by currying favor with Sudan's growing Islamist movement. In September 1983, he supported a restrictive interpretation of Shari'ah that was successfully and, in retrospect, lastingly incorporated into Sudan's legal system. The promulgation of the "September Laws," the 1983 Sources of Judicial Decisions Act and the 1984 Civil Transitions Act, made certain crimes subject to *hudood* punishments and declared that Shari'ah would be the prime source for judicial rulings in those cases in which no relevant law existed.

Article 3 of the Sources of Judicial Decisions Act states that:

“Notwithstanding what may be envisaged in any other law and with the exception of the criminal cases, in the absence of legislative provision that governs the incident: (a) The judge shall apply what he finds in Sharia provision established by the texts of Holy Book [Quran] and the Sunna, (b) If the judge does not find a text he shall exercise his own thinking and shall be guided in so doing by the following

principles where he shall take them into consideration and shall decide their order of priority on the basis of the following principles:

- 1) The consensus and the requirements of Sharia's holistic and general principles and what its directions guide;
- 2) The Analogy which is based on Sharia's provisions realising its criteria and corresponding to its parallels;
- 3) Bringing of public interests and averting of harm;
- 4) Presumption of innocence, a permissive approach towards human acts and leniency in imposition of God's commandments;
- 5) Seeking guidance from Sudanese judicial precedents provided that they do not contravene with Sharia;
- 6) Consideration of customary law of transactions provided that it does not contravene with Sharia provisions or the principles of natural justice;
- 7) Principles of universal justice prescribed by noble human laws and equity enshrined in good conscience."

Upon implementation of the September laws, floggings and amputations were shown on television, and, in a public relations move, alcohol was dumped in the Nile. In 1985, Mahmoud Mohammed Taha, a Muslim reformer and Republican Brothers leader, was executed for apostasy – the only time this *hudooh* punishment has been imposed since the pre-colonial era.

President Nimeri was removed from office in a 1985 coup by then Defense Minister General Abdel Rahman Swar al-Dahab. Later that year, Sadiq al-Mahdi, who was elected prime minister, worked with the National Islamic Front (the precursor to the NCP) to draft a Shari'ah-based criminal code.

National Congress Party and Further Implementation of Shari'ah Laws

Al-Mahdi's efforts never came to fruition because Colonel Omar al-Bashir and what was to become the NCP removed him from power in 1989. Starting in 1991, President al-Bashir and the party initiated their own efforts to expand the application of their interpretation of Shari'ah across the country at national and state levels. These laws, the 1991 Criminal Code, the 1991 Personal Status Law on Muslims, and state-level public order laws, have ensured that the NCP's interpretation of Shari'ah law regulates not only criminal matters, but also personal behavior for all Sudanese, regardless of faith and belief.

The Criminal Code

The 1991 Criminal Code Act is the cornerstone of the NCP government's implementation of Shari'ah in Sudan. The Act identifies and addresses those offenses, including *hudooh* offenses

that violate “public order.” According to the Act, *hudood* offenses are defined as “drinking alcohol, apostasy (*ridda*), adultery (*Zina*), defamation of unchastity (*qazf*), armed robbery (*hiraba*), and capital theft.” These offenses carry fixed sentences that include death by hanging, stoning, crucifixion, and whipping.²

Drinking Alcohol

Articles 78 and 79 of the Criminal Code prohibit the drinking and distributing of alcohol and provide that any Muslim caught drinking, possessing or manufacturing alcohol will be sentenced to 40 lashes. The code also states that whomever stores, sells, purchases, transports, or possesses alcohol with the intention of dealing to others or mixing it with food, drink or any substance used by the public, or advertises or propagates it in any way, shall be sentenced to imprisonment not to exceed one year or a fine.

Apostasy (Ridda)

An apostate is identified as anyone who publicly renounces Islam. Articles 125 and 126 penalize insulting religious beliefs and apostasy. Anyone who publically abuses or insults religions or religious beliefs shall be sentenced to up to one year imprisonment, up to 40 lashes, or a fine. A person found guilty of apostasy may be sentenced to death.

Adultery/Illegal Sexual Relations (Zina)

Articles 146 through 154 address the *hudood* offenses of *zina*. Articles 146 and 147 address adultery,³ providing that whomever commits adultery shall be sentenced to execution by stoning⁴ in those instances when the offender is married or 100 lashes when the offender is not married. In addition to whipping, a non-married male offender may be sentenced to one year in prison. The penalty for adultery may be reduced under two circumstances: the offender retracts his confession, or witnesses retract their testimony.

Article 149 concerns sodomy and rape and provides that whomever commits the offense of sodomy shall be sentenced to 100 lashes and imprisonment. If the offender is convicted three

² The Act includes the caveat that no person shall be whipped if he or she is more than 60 years old or if that person is sick and the lashing would endanger his life or aggravate the illness. In these cases, an alternative penalty is determined at the discretion of the judge. A whipping also can be suspended, and resumed at a later time, in case of the health of the offender.

³ According to article 62 of the 1994 Evidence Act, “the offence of adultery shall be proved by any of the following: (a) by express confession before the court, unless there is a retraction before the commencing of the execution of the judgment; (b) by the testimony of four adult men; (c) by pregnancy when the woman has no husband if there is not any doubt; (d) refusal of wife to give “Lian” oath, after husband taking “Lian” oath.”

⁴ Art. 193(2) Suspension of Executing Death Penalty on the Aged, a Pregnant or Suckling Woman provides that the prison director may suspend the execution of a woman sentenced to death for adultery if she is pregnant or breastfeeding. The term of the suspension is until after delivery, or up to two years, after lactation, where the baby is alive.”

times, he may receive a sentence of death or life imprisonment. Article 149 also states that a person shall be deemed to have committed the offense of rape whenever they have sexual intercourse “by way of adultery, or sodomy, with any person without his consent.” Whomever commits the offense of rape shall be sentenced to 100 lashes and imprisonment of up to 10 years. However, if the act of rape leads to adultery or sodomy, the crime is punishable by death.

Prostitution is addressed in article 154, which states that whomever is found practicing or in the place of prostitution shall be sentenced to up to 100 lashes or three years imprisonment.

Defamation of Unchastity (Qazf) - Offenses of Honor, Reputation and Public Morality

The offenses addressed under articles 151-153 and 157-158 relate to behaviors the ruling party and legal authorities deem indecent, immoral or contrary to public morality. Article 151 addresses the prohibition on “gross indecency” which is vaguely defined as anyone who “commits any act contrary to another person’s modesty, or who does any sexual act with another person not amounting to adultery, or sodomy.” Offenders shall be sentenced to up to one year imprisonment, 40 lashes, or a fine. A person who in a public space has committed an act or conducted himself in a manner contrary to public morality⁵ or public feelings shall be sentenced to up to 40 lashes, a fine, or both, per article 152. Additionally, article 153 states that “whoever manufactures, photographs, possesses or handles any material contrary to public morality” may be sentenced to up to one year imprisonment, up to 40 lashes, or a fine. Whomever “deals in materials contrary to public morality, or manages an exhibition or theatre, or entertainment club, or show house, or any public place that presents such materials” shall be sentenced to up to three years imprisonment, 60 lashes, or both.

Articles 157 and 158 also prohibit false accusations of unchastity, with offenders sentenced to up to 80 lashes. In cases in which the penalty is reduced, the offender shall be punished for defamation and sentenced to up to six months imprisonment, a fine, or both.

Armed Robbery (Hiraba)

Articles 168 and 169 address armed robbery and provide that if the robbery results in murder or rape, the offender shall be sentenced to death, or death and then crucifixion. If the robbery results in grievous injury, the offender shall be sentenced to the amputation of the right hand and left foot.⁶ People sentenced to other cases of robbery shall receive sentences of imprisonment of up to seven years. The sentence for armed robbery may be reduced if, for example, the offender declares his repentance before arrest. However, the victims of the robbery may still be entitled to

⁵ According to the Article an act is deemed contrary to public morality “if it is so considered in the religion or the doer, or the custom of the country where the act occurs.”

⁶ Art. 194 Health Condition of Sentenced Person to be Regarded: “(2) Every sentence of amputation, as a hud, or retribution, shall be preceded by medical examination of the sentenced person, by a physician. Execution shall be made by a competent person, and the amputated person shall remain, under medical care, at the States expense, until he is cured.”

compensation (*diya* or blood money) and the offender shall be sentenced to up to five years imprisonment.

Capital Theft

Capital theft is addressed in articles 171 and 173 and provides that an offender have his right hand amputated. Offenders convicted for a second time receive sentences of up to seven years imprisonment. If the penalty is reduced for either the first or second offense, the offender shall be sentenced to up to seven years imprisonment, up to 100 lashes, or fined.

Personal Status Law of Muslims

The 1991 Personal Status Law of Muslims or “Family Code” codified into the state legal code Shari’ah law provisions on personal matters such as marriage, divorce, child guardianship, and inheritance. While these provisions were respected during the colonial era and before 1991, the Family Code marks the first time they were codified into national law and established a discriminatory system that limits the rights of women based on a particular understanding of Islamic law.

Marriage

The Personal Status Law permits consensual marriage between a man and a woman when she reaches puberty, which could be well under 18 years of age. The woman’s guardian must approve the marriage for it to take place. The guardian also can dissolve the marriage due to a husband’s lack of *kifa’a* (religion and morals). Should the guardian refuse without justification to allow the marriage, a *qadi* (an Islamic court judge) may intervene. During the marriage, the wife is granted financial and medical support (should she be deemed obedient) and the right to visit parents and other close relatives. Polygamy is permitted.

Judicial Divorce

A wife may divorce her husband on several grounds, including if he: has an incurable and physical or mental illness that makes him a danger to the wife; is impotent; absent for at least one year; or has been sentenced to prison for at least two years. If the court determines that the wife has been disobedient, the husband may seek a divorce. Following divorce, the wife is entitled to a maximum of six months’ alimony.

Child Custody and Guardianship

A divorced mother retains custody over boys until they are seven years old, and girls until they are nine years old, although this period of time may be extended. A remarried woman may retain custody of her child, while a divorced mother loses custody after five years if her religion differs from her husband’s. A father provides child support until a daughter marries and a son earns his own living.

Inheritance

The Family Code sets fixed rules for inheritance that cannot be changed even in a deceased's will. The amount of inheritance a woman can receive is half the man's share. A man whose wife has no descendants receives half the inheritance and in those cases in which there are descendants, one quarter of the inheritance. If it is a polygamous marriage, the women equally share the inheritance and a man receives twice the proportion designated to each woman.

Public Order Laws

The public order laws are state-level laws that regulate the social behaviors of all Sudanese and are based on the government's interpretation of Shari'ah law. In practice, they disproportionately impact women and young girls, especially those from marginalized religious and ethnic communities. The most extensive is the Khartoum Public Order Act of 1998 (KPOA) which restricts the activities (in both public and private) of all of the over seven million people who live in Sudan's capital, Khartoum. The Act restricts behavior that authorities, based on their particular interpretation of Shari'ah, deem offenses of honor, reputation and public morality, including and expanding those crimes listed in Articles 151 to 153 of the 1991 Criminal Code. As defined in the Criminal Code, penalties for offenses include imprisonment, whipping, and fines.

The KPOA includes enforcement mechanisms, including a special public order police, the Police of Society Security, and special public order courts. While the KPOA is a state law, the public order police are a special arm of the national Sudan Police Force. The public order police frequently employ "sweep and arrest" operations that usually target women from marginalized communities. The public order courts enforce the KPOA as well as relevant national laws, including the Shari'ah provisions of the 1991 Criminal Code. Defendants before the public order courts are not afforded due process rights, including legal assistance or time to prepare a defense. Defendants' arrest, detention, hearing, sentencing, and penalty imposition can take less than 24 hours. And records of court proceedings are scant.

Restrictions on Public or Private Parties with Music

Article 7 of the KPOA requires government permission for parties and restricts the following: parties lasting beyond 11 p.m., dancing between men and women or women dancing in front of men, and the "singing of trivial songs."⁷ Article 8 prohibits musical parties, cinema or theatre shows, exhibitions or other such events.

Restrictions on using public transportation

Article 9 of the KPOA restricts the seating of women in public transportation. Every public transport vehicle must have a separate entry for women and at least 10 seats and/or one quarter of all seats reserved for them. The article also prohibits "writing any expression, or sticking any picture or sketches, that contradict religion morals and good taste" on public transportation, or darkening or shading of public or private vehicles.

⁷ Defined in the Act as "songs that use words or expression contradicting religion morality good taste and good conscience."

Women's Hairdressing Businesses

Articles 13 through 17 of Chapter 5 require a license to open a hairdressing business and mandates a number of restrictions once a permit is issued. These restrictions include prohibiting employing men as hairdressers and their starting or managing (but not owning) hairdressing businesses. They also require that businesses are located in a public place with entrance/exits facing the street; female employees are "righteous" and have a good reputation; managers are at least 35 years old; and license authorities and Public Order Police are allowed at any time to enter and inspect businesses.

Miscellaneous Provisions

The Act also mandates the following restrictions: women's clothing tailors must be righteous and of good reputation; men and women must form separate lines; businesses must close on Fridays from midnight to 2 p.m.; and restaurants and cafes must close during the day during Ramadan.

