



TRADITIONAL AUTHORITIES' PEACEMAKING ROLE IN DARFUR

Jérôme Tubiana
Victor Tanner
Musa Adam Abdul-Jalil



UNITED STATES
INSTITUTE OF PEACE

ABOUT THE REPORT

The violence that has raged in Darfur for a decade is both a crisis of governance and a problem of law and order. As broader peace efforts have faltered, interest has increased in the capacity of local communities in Darfur to regulate conflict in their midst. All hope that traditional leaders, working within the framework of traditional justice, can be more successful in restoring some semblance of normalcy and security to Darfur. This report outlines the background to the conflict and the challenges in resolving it.

ABOUT THE AUTHORS

Victor Tanner has worked with war-affected populations in Africa, the Middle East, and the Balkans, both as an aid worker and a researcher, for more than twenty years. He first lived and worked in Darfur in 1988. Since 2002, he has conducted field research on local social and political dynamics in the Darfur conflict, visiting many parts of Darfur and eastern Chad as well. He speaks Sudanese Arabic. **Jérôme Tubiana** is an independent researcher specializing in Darfur, Sudan, and Chad, where he has worked as a consultant for various humanitarian organizations and research institutions, International Crisis Group, the Small Arms Survey, USIP, USAID, and AU-UN institutions. He is the author or coauthor of various articles, studies, and books, notably *Chroniques du Darfour* (2010). He holds a doctorate in African studies.



The royal swords of the malik Ali Mohamedein of Am Boru, damaged by the Janjawid.



Melik Rahamtallah Mahmoud Ali al-Dadingawi, the king of El Fasher, head of its customary court and recognized *ajwad* (mediator).

Cover photo: The *shartay* Suleiman Hasaballah Suleiman, displaced in the rebel area. All photos by Jérôme Tubiana.

The views expressed in this report are those of the authors alone. They do not necessarily reflect the views of the United States Institute of Peace.

United States Institute of Peace
2301 Constitution Ave., NW
Washington, DC 20037

Phone: 202.457.1700
Fax: 202.429.6063
E-mail: usip_requests@usip.org
Web: www.usip.org

Peaceworks No. 83. First published 2012.

© 2012 by the United States Institute of Peace



PEACEWORKS • NOVEMBER 2012 • NO. 83

Native Administration ...	5
The Concept ...	5
A Short History ...	7
Impact of the War ...	23
Traditional Justice and Reconciliation ...	35
The Customary Court ...	38
<i>Judiya</i> ...	53
Government-Sponsored Reconciliation Processes ...	70
Rebel-Arab Agreements ...	79
Traditional Leaders and the Peace Process ...	80
Perceptions and Facts ...	82
Darfurian Wishes ...	82
Lessons Learned ...	85
Appendix ...	88

[The concept of justice in Darfur is rendered blurry by its very flexibility, which can actually be less a disadvantage and more an opportunity for conflict resolution at all levels.]

Summary

- The violence in Darfur is simultaneously a crisis of governance and a problem of law and order.
- The Native Administration is a century-old and evolutive system of traditional leaders that underpins the traditional justice sector.
- Traditional justice and statutory law are and have long been intertwined, but the terms of the exchange have changed.
- The Native Administration has been compromised, disempowered, and delegitimized.
- Many courts have been shut down by either the government or the rebels.
- The war has made it harder for traditional mechanisms to resolve disputes across tribal lines.
- Affiliation to tribe and party are necessary for both survival and success.
- As broader peace efforts have faltered, interest has increased in the capacity of local communities to regulate conflict in their midst.
- Darfurians believe that the first step in addressing a conflict should be a mediation and that the government should be the last resort.
- Traditional justice mechanisms are evolving rather than disappearing.
- *Judiya* is the main reconciliation and justice mechanism.
- The *ajawid* are elders or notables from a family, clan, or tribe not involved in the dispute. Government officials and judicial officers can serve. Neutrality is key.
- The principle of *judiya* is that all sides agree to abide by the recommendations before hearing them. If one party is dissatisfied, the *ajawid* may decide to review their decisions.
- Reconciliation is a central component of *judiya* and involves buy-in from both sides.
- The chief element in acknowledging responsibility is collective payment of compensation.
- Darfurians favor *judiya* over the courts in part because it is faster and in part because it is more free of governmental interference.
- Darfurians want the government to endorse and support reconciliation, but not to vet or control it.

Introduction

In early 2003, simmering violence broke out in a long-forgotten province of western Sudan. Obscure rebel groups, alleging years of neglect and repression by the central government, attacked government convoys and outposts and briefly overran one of the area's main towns. The Arab-dominated regime in Khartoum organized a vicious counterinsurgency campaign that ended up engulfing mostly non-Arab communities across the territory, including areas where the rebellion was all but inactive. Over the following twelve months, hundreds of thousands were killed and millions were displaced. By early 2004, the world had (re)discovered Darfur.¹

International aid agencies scrambled to respond to the displacement crisis. Later, peacekeepers, first from the African Union (AU) and then under the joint aegis of the AU and

the United Nations, sought to provide security across the (then) three states of Darfur, for the most part unsuccessfully.² But Darfur, remote and under the control of a pariah regime, had been a long-ignored part of the world. Among the international relief and peacekeeping personnel deployed there, firsthand knowledge of its peoples, society, and local politics was scant. There was especially little understanding of traditional leaders—key players in a territory mostly left to itself by successive governments in Khartoum.

Yet this international intervention relied heavily on community leaders, whether traditional leaders in communities of origin or leaders among the millions of Darfurians displaced by the war. Especially in the displaced camps, community leaders became the unavoidable link between the Darfurian population and international aid operation. But foreign actors tend to misconstrue the nature of what was known as the Native Administration (*idara ahliya*) system. They imagine hierarchies frozen in time that apply Darfur-wide and neglect the complex, dynamic and highly diverse history of which the *idara ahliya* is the product.³

A number of trends must be explored and understood to make sense of traditional authority and justice in Darfur. Since colonial times, parallel systems of governance and justice have coexisted: Native Administration and local government, traditional justice and modern justice, traditional reconciliation mechanisms and government-sponsored conferences. But all the while, the influence of the central government has grown at the expense of local structures. That process accelerated under the current regime.

It is difficult to integrate customary law, procedures, and systems—all of which are oral and flexible—into modern, statutory law systems that proceed from the modern state and are written and, at least in theory, driven by institutions. The process of integration has started in some domains, in particular for management of the natural habitat: the management of land, migratory routes, and water points has been unevenly integrated into local government bylaws, with varying degrees of consistency and success. This integration was a provision of the Comprehensive Peace Agreement signed in 2005 in Naivasha, Kenya, but the only one that has not been implemented.

A by-product of integration is often the quest for standardization, which is problematic. Darfur is a large territory with different natural conditions, peoples, and economic systems. Disparate customs in space and time have evolved. Standardizing customary laws can come at the price of their elasticity and flexibility, which is one of their major strengths.

A few points must be made on terminology. The term *traditional*—traditional leadership, traditional land tenure, traditional conflict-resolution, traditional justice—is highly ambiguous. Nothing is in fact traditional. Darfur has no golden age to revert to. Local traditional authority has constantly evolved, whether under the Fur Sultanate, the Turco-Egyptian domination (often called the Turkiya), colonial rule, or the influence of the modern ideologies and power lust of post-independence governments in Khartoum. What today we refer to as traditional authorities reflect the compromise between Darfurian communities on the one hand and successive governments representing the modern state on the other. A form of this compromise had already been struck by the sultans of Darfur, who ruled over diverse tribes with different leaders and customs. The compromise then shifted form to meet the needs of British policies of indirect rule.⁴ Both the sultanate and the colonial authorities had to seek alliances with leaders they could not overcome by force. When these leaders were reluctant, the authorities appointed new ones—some of the great ruling families of Darfur are often relatively recent dynasties created during the Turkiya, Mahdist, and British periods. The legitimacy of individual leaders still reflects these changes, the older and more traditional often being considered the more legitimate.⁵

As to traditional justice and reconciliation mechanisms, again nothing is truly traditional. What does seem fixed in Darfur society is the absence of a border between justice and reconciliation: both overlap to a great extent. Even relatively distinct mechanisms are sometimes confused, even by the traditional leaders and other major players. This confusion seems to have increased during the current conflict as more established practices have been abandoned in the wake of violence and displacement. It represents a major difficulty in understanding (and researching) the topic today. It is also important not to consider local justice mechanisms in Darfur as an equivalent to what is meant by justice in the West. The concept of justice is far more practical, for want of a better term, in the Darfur context than it is in the West and has been further blurred by the war. It is also rendered blurry by its very flexibility, which in this context can actually be less a disadvantage and more an opportunity for conflict resolution at all levels.

Native Administration

It is impossible to examine traditional justice and reconciliation processes in Darfur today without first understanding the Native Administration and its historical evolution, particularly over the past two decades of national Islamic rule.

The Concept

The Native Administration is and has been a key institution in the history of governance in Sudan over the last hundred years.⁶ In Darfur, the Native Administration was installed by the British repressing elements and individuals of the sultanate—the centralized state that had ruled much of Darfur since the mid-seventeenth century. The sultanate “in Sudanic terms [was] . . . a rich and well-run state with an effective and literate bureaucracy that was able to enforce its will over the administrative system.”⁷

At its core, the purpose of the Native Administration is threefold: to manage that most precious commodity (land), to render justice, and to represent both the state, in the various and diverse parts of the territory inhabited by diverse communities, and the interests of those constituencies to the authorities. The first two functions, managing the land and administering justice, are deeply intertwined in that many disagreements between individuals or groups relate, both historically and today, to land use and land ownership. The justice function also involved (and still involves) a strong reconciliation component; the land administration included management of natural resources (water, pastures, wood) as well as migratory routes. The third function, defending the area against outside attackers, in particular livestock raiders, was the particular role of the *agid* (war leader, see table 1) but became increasingly problematic under statutory law because it now fell within the responsibility of other more official institutions.

The Native Administration is a hierarchical system. Today—the titles have evolved, in particular during the colonial period—*sheikhs* (village or nomadic camp headmen) report to *omdas* (mid-level administrators), but the numbers of each vary greatly from place to place. It is said, for example, that an *omda* can preside over as many as a hundred *sheikhs*.⁸ Depending on the location and the community, *omdas* report to *shartays*, *nazirs*, *maliks*, *sultans*, *furshas*, or *amirs*. The number of *omdas* under each also vary considerably. Those *shartays*, *nazirs*, and so on can be paramount leaders, or in some areas report to other, more important paramount leaders, such as the *magdum* or the *dimangawi*.

One dichotomy is key to understanding the Native Administration—the difference between territorial and tribal leaders. Territorial leaders have control over a given territory (*dar*, pl. *diyar*). This territory is generally multi-ethnic: many tribes live in it in addition to the leader's tribe,

Table 1. Ranks and Titles

<i>agid</i> (pl. <i>ugada'</i>)	a war leader who may also, in times of peace, mobilize men of fighting age for posses (<i>faza'</i>) after livestock raiding, for work in the fields, for erecting communal structures, or for festivals; a senior <i>agid</i> with authority over all <i>agids</i> in one area is an <i>agid al-ugada'</i>
<i>dimangawi</i>	paramount leader of the Fur heartlands of southwestern Darfur; his capital used to be Kas in South Darfur but became Zalingei, now the capital of the newly created state of central Darfur
<i>dimlij</i> (pl. <i>damalij</i>)	a title historically prevalent among non-Arab groups for mid-rank leaders, most of whom are now called <i>omdas</i> (see below), sometimes used for subordinate specific functions, notably collecting the <i>diya</i> (payment for the blood's price) among members of a tribe ¹⁰
<i>faqi</i> (pl. <i>fuqara</i>)	a religious scholar or holy man
<i>fursha</i> or <i>firsha</i> (pl. <i>furash</i>)	title historically used by Tama-speaking communities of the northern part of western Darfur—Gimir, Erenga, and Missiriya Jebel—that became the name for the mid-rank leaders under the sultan of Dar Masalit
<i>magdum</i>	under the sultanate, mostly military envoys of the sultan; over time became paramount administrative leaders in southern Darfur (where they belong to the dynasty of the Fur leader Adam Rijal) and in northern Darfur (where a Meidob <i>magdum</i> replaced the Tunjur <i>takanyawi</i>); only active <i>magdum</i> is now the one of South Darfur, based in Nyala
<i>malik</i> (pl. <i>muluk</i>)	title commonly used by non-Arab groups; at the time, mostly used by local chiefs of a lesser rank than <i>shartays</i> , though today the two titles are equal in rank
<i>nazir</i> (pl. <i>nuzzar</i>)	title introduced by the British for Arab paramount leaders, equivalent to the rank of <i>shartay</i>
<i>omda</i> (pl. <i>'omad</i>)	a mid-level leader for all tribes; the rank is an Egyptian import introduced by the British; oversees an <i>omudiya</i>
<i>shartay</i> (pl. <i>sharati</i>)	the most common title for a senior-level ruler among non-Arab groups; oversees a <i>shartaya</i>
<i>sheikh</i> (pl. <i>shuyukh</i>)	the lowest level native administrator, a village-headman, or the leader of a small group of nomads

which is not necessarily the majority tribe. Thus, various leaders—some ruling smaller, often less diverse territories, and other purely tribal leaders—submit to the territorial leader, who often but not always belongs to the dominant tribe. A territorial leader may not actually own any of the land of the territory he is administering, but he is the paramount chief, and other leaders, even landowners who may have more land than he does, must defer to him. He is the one to allocate land of relatively large sizes to leaders of communities (notably looking for resettlement) while he only sanctions the allocation of smaller plots to individuals or families. Tribal leaders, on the other hand, have authority over people and may be senior and powerful but cannot allocate land.

Thus the Native Administration is deeply connected with the land-tenure system. Historically, most leaders in Darfur, at all levels of the hierarchy, were territorial leaders, and most of the territory was divided into entities administered by them. Most leaders are also often but not necessarily owners of land, sometimes equivalent to the territory they administer, but often smaller. They also play a role in resolving both intercommunity conflict over large territories, often in the context of reconciliation conferences, and individual conflicts over smaller plots of land, directly or through the customary courts.

This intermingling of power and land became increasingly problematic for the nomadic *abbala* (camel-herding) Arab tribes, whose leaders only administered a tribe or a clan, and had to submit to territorial leaders from other tribes along their migratory routes. To some extent, communities that had migrated to Darfur from other countries, in particular from Chad and other countries west of Sudan, as well as communities that had resettled inside Darfur, faced similar problems. Beginning in the colonial period, however, they began to acquire positions in the Native Administration hierarchy that enabled them to legally challenge the authority of territorial leaders (see table 1).⁹

A Short History

The Native Administration today is the result of nearly a hundred years of interaction with successive central governments in Khartoum—governments that have sought to impose their political writ in Darfur as cheaply as possible and at the same time have provided traditional leaders with their main portal to the modern world. Exposure to education and government service has been both an opportunity and a challenge for traditional leaders. But the last twenty-odd years of repressive national Islamic rule in Sudan have deeply transformed the Native Administration in Darfur from an institution that administered land, taxes, and justice—often neither very efficiently nor very equitably—to a group of leaders largely beholden to the current regime in Khartoum. Darfur's traditional leaders have had to either submit to the ruling party or pay onerous consequences.

Since colonial times, and over the last twenty years in particular, successive governments in Khartoum have relentlessly manipulated and undermined the traditional administrative system throughout Sudan. Darfur has been a special target because the enduring power of traditional Darfurian leaders, as well as the region's relatively late incorporation into modern Sudan, have historically constrained Khartoum's writ in the region. The destabilization of the traditional leadership systems witnessed today in Darfur is nothing new, but rather the result of a progressive and deep-seated process.

Colonial Period

In 1916, the British invaded Darfur, hunted down and killed Sultan Ali Dinar, and brought down the sultanate. This was a rearguard action carried out at a time when Britain's focus and brawn were engaged on more pressing fronts. British aims in Darfur were to pacify the region on the cheap, counter rising Egyptian nationalism and other unpleasant modern ideologies, and resolve the western border issue with France.¹¹ On the ground, because British-led forces lacked the military power to challenge powerful local leaders, they established alliances with those leaders they could not overcome. Relying on a policy of indirect rule through local leaders reduced the need for more costly British or Egyptian administrators. This met the twin goals of keeping budget outlays low and countering Egyptian influence, but resulted in often inadequate governance and sowed the seeds for future conflict.

Breaking with the Sultanate

A common misperception is that the British merely removed Sultan Ali Dinar and confirmed the prerogatives of the traditional leadership system that existed under the sultanate, with the exception of the sultan himself, under the name Native Administration. In fact, despite the element of continuity, in that many administrators from the sultanate rapidly submitted to the British and continued in their functions, the change the British introduced to traditional leadership structures was momentous.

The destabilization of the traditional leadership systems witnessed today in Darfur is nothing new, but rather the result of a progressive and deep-seated process.

First, under the newly created Native Administration, so-called traditional leaders carried out a number of formal functions they had not filled before the fall of the sultanate and the arrival of the British. These included administrative powers (and involvement in the delivery of new services such as education and health), judicial functions through the so-called native courts, the management of land and natural resources (including pastures, water, wood, and migratory routes), tax assessment and collection, community labor conscription for roads and other infrastructure, the oversight of markets, and border control.¹²

Second, when the British encountered resistance, armed or otherwise, they did away with recalcitrant individuals, promoting new leaders and establishing new dynasties. Predictably, in so doing, they also created internal power struggles, some of which continue to this day.¹³

Third, when a given Native Administration set-up proved too intricate for practical political control, the British sought to simplify it, introducing new hierarchical structures that were generally more pyramidal and thus easier to control. In particular, they united territories seen as too small or disparate to be viable for rule and taxation. For instance, Dar Dima, one of the most ancient of the sultanate, was made up of eighteen chieftaincies each held by a *malik* and capped by the *dimangarwi*. Colonial archives show that the British merged the eighteen into four larger entities, and appointed a Fur *dimlij* (the Fur are the largest ethnic group in Darfur), chosen among and by the *maliks*, to head each one. Similarly, in Dar Masalit (the Masalit are another major ethnic group), they gathered *maliks* (also called *dala* in the area) into small groups of five or six, and appointed one of them to be a *fursba* above them.¹⁴

Fourth, the British also sought to afford greater and more systematic representation to the main Arab groups as a way of controlling the fractious Arab tribes. Until this period, some of the large Arab tribes were largely decentralized and led by *sheikhs*, whose power was often limited to a camp or a village. The first of a series of laws reorganizing the Native Administration was the Powers of Nomad Sheikhs Ordinance, passed in 1922, which gave judicial powers to nomad *sheikhs* within their tribes.¹⁵ Although no administrative powers were mentioned, this ordinance was clearly the start of a process to separate Arab and non-Arab communities, their leaderships, and their justice systems.

Another policy was to create new titles. The British introduced that of *nazir* for several Arab paramount leaders, equivalent to the traditional rank of *shartay*. They also created *omdas* as mid-level leaders for all tribes, from which the Arab tribes especially benefitted because they were in principle gaining leaders of the same level that their *sheikhs* had previously depended on. Under the sultanate, most traditional leaders—mostly Fur leaders, but also others who were in essence deputized—held sway over all communities living on the territory under their control, even those who belonged to other groups. Leaders allocated land or delegated its allocation to lesser chiefs beholden to them. As mentioned, the consensus on their control over land was one of the few factors of stability in precolonial Darfur. Brutally or gradually, the newly created *omdas* and *nazirs* stopped reporting to the old *shartays*, which led to confusion and competition between territory leaders and community leaders. The seeds for the tribalization of local leaders and subsequent conflict in Darfur were thus sown under the British.

Even when the British sought to establish more modern governance institutions, such as technical committees and courts, they did so only in the towns. Policy was a de facto dual system. Towns benefitted to some extent from the new institutions, later regularized under the local government ordinances of 1937 and 1951, leading to the creation of the Ministry of Local Government in 1954.¹⁶ By giving them greater autonomy, these policies institutionalized the historical tendency of the powerful Arab dynasties of southern Darfur to thumb their nose at the authority of the sultan and his surrogates. More generally, the push for local

government as well as electoral democracy contradicted the initial support to dynastic, often uneducated leaders.¹⁷

Local British administrators couched their indirect rule approach in terms of bold experiments in local governance. But budgetary miserliness remained in fact the driving force behind the reliance on the Native Administration, and both the Great Depression and World War II did as much as anything to keep indirect rule in place.¹⁸ “Despite the radical language, only three native administrations in Darfur (Dar Masalit, the ‘Zalingei Emirate,’ [a colonial invention] and the Rizayqat Nazirate) had budgets of their own on the eve of the Second World War.”¹⁹

Myth of Indirect Rule as Good Governance

The preternaturally competent British administrator in Darfur is a myth. Indirect rule may have addressed colonial budgetary concerns, but the governance that the British and their local surrogates provided was poor, inefficient, and often iniquitous. Indirect rule was in fact a policy of “institutionalized neglect,” both “panacea and problem.”²⁰ Subservience, rather than competence, was the key to acquiring titles and establishing dynasties. Leaders the colonial authorities did not hold in high regard stagnated or were removed.²¹

The British were particularly consumed by a fear of a revival in Darfur of Mahdism—the messianic Islamic movement that originated in the early 1880s and, with strong support from Arab tribes in Darfur, ended Turco-Egyptian rule in Sudan. As a result, the British were ready to excuse the worst excesses on the part of traditional leaders who opposed the Mahdi’s descendants. In a twist of circular logic, they also ascribed to Mahdism revolts such as the bloody 1921 revolt in Nyala in which the British resident was killed—uprisings very likely triggered by the consequences of their own inept administration, including high taxes, local conflicts, and so on.

In Dar Masalit, the British resident forced the Masalit sultan to reorganize his administration in ways that sometimes resulted in double taxation: dismissed leaders continued to levy taxes, as did new leaders named in their stead.

In 1934, a “taxpayer’s strike” finally revealed the [colonial] Government’s ignorance of a dynamic system in which position, titles, blood relations, and personality interplayed and in which the theoretically aloof [British] resident, like a bumbling anthropologist, was a major factor.²²

Dar Masalit is often quoted as the laboratory of indirect rule in Sudan: it “had a ‘resident,’ that is, a British official who ‘advised’ the Masalit sultan following Indian or Northern Nigerian models, the only such official in the Sudan.”²³ However, James Morton argues, in the rest of Darfur, neither of the two theoretical models of indirect rule was ever implemented. The one that was, in South Sudan—gathering tribal units “into larger, more manageable units”—was to some extent also implemented in some areas in Darfur. One model did seem to especially suit to an area like Darfur where a precolonial state had functioned—to have a colonial resident acting as an adviser to existing institutions. It was not implemented outside Dar Masalit, however, except once, in a brief and unsuccessful attempt to revive the Fur sultanate by appointing a descendant of the late sultan, Ibrahim Garad, as *amir* of Zalingei. “Once the Fur Sultan was gone . . . the British were left with the institutions but no state in which to put them . . . with a workable *idarat al ahlia* [sic] but no Indirect Rule.”²⁴

The real achievement of the first twenty years of colonial rule in Darfur and of indirect rule was not good administration and governance. It was security—not a small contribution, one might add, given the four or five brutally dismal decades that had preceded the arrival of the British.

After Independence

After Sudan gained independence in 1956, the policies of successive central authorities in Khartoum progressively eroded the influence of local leaders. This reflected the will, both ideological and practical, of the central government to build a modern Sudan and to establish control over the periphery of the country—notably over long-restive Darfur. These policies reached their peak during the Marxist period of the military regime of Ja'far Nimeiri in the late 1960s and early 1970s. The past forty years, then, have been stressful for traditional leaders in Darfur.

At the start of the second half of the twentieth century, Islamists and communists emerged as powerful players in Sudanese politics. Although highly different and bitterly opposed, both groups were ideological. They presented themselves as modern forces—*quwat haditha*—that were alternatives to the two dynastical, Sufi-inspired, and Arab-dominated parties that had long lorded over Sudanese politics. These were the Umma Party with its Mahdist tradition and influence in western Sudan, and the Democratic Unionist Party (DUP) so deeply rooted in the Khatmiyya Sufi order (*tariqa*). Communists and Islamists thrived. The Sudanese Communist Party grew into one of the most powerful in Africa—at least until Ja'far Nimeiri decapitated it in 1971. The Sudanese Muslim Brothers have been among the most politically successful radical Islamists in the Muslim world, having succeeded in capturing power in 1989. Communists and Islamists both saw themselves as advocates of social change. They shared an ideological hostility to traditional leaders as incarnations of a feudal past. One of the few things the secular and religious modern forces agreed on during the October 1964 revolution was the need to abolish the Native Administration. Ultimately, the interim government did not follow through on the measure. The Umma Party prevailed in the 1965 elections and shelved plans for abolition. But emerging educated elites in Central Sudan kept pushing against the *idara ahliya*, which they saw as both archaic and a colonial legacy.²⁵

Beyond the ideological motivations lay political ones. Traditional leaders in Sudan overwhelmingly support the Umma and the DUP. The Native Administration has been historically instrumental in securing votes for the two parties, and especially for the Umma in Darfur. The modern forces were also opposed to the Islamic *tariqas* (Sufi brotherhoods), which were very close to the religious parties and instrumental in getting popular support to them. For the modern forces, doing away with the Native Administration was both an ideological struggle and a political necessity.

At this time, even the educated scions of traditional leaders who had moved to the cities themselves condemned the institution or remained ambivalent, creating tensions in leading ruling families. One of the early political groups to focus on the issue of Darfur, the Darfur Renaissance Front (*jabhat nahdat darfur*) of the mid-1960s, was against the Native Administration.

Military strongman Ja'far Nimeiri seized power in 1969 with the help of the Communists. In keeping with his then leftist leanings, he simply dissolved the Native Administration with the stroke of a pen by signing the People's Local Government Act in 1971.²⁶ A year earlier, the Unregistered Lands Act had formally abolished the traditional land tenure system, which, as explained, is closely connected to the traditional leadership system. The act was a legislated land grab. It “transferred to the Government in full ownership of unregistered lands, whether waste, forest, occupied or unoccupied, which had not been registered before the commencement of the Act on 6 April 1970.”²⁷ It abolished the rights of traditional authorities to allocate land and bequeathed them on the state. A string of laws over the past four decades had made it possible for “investors” to expropriate rural communities in South Kordofan, Blue

Nile, Gedaref, and Upper Nile.²⁸ Darfur, however, managed to escape the mechanized farming schemes because of the enduring power of traditional leaders and the strong social and political consensus around community control over land that underpins their authority. Darfur farmers thus never had to deal with the aggressive encroachment of mechanized farming schemes that Nuba villagers faced. But the Unregistered Lands Act nevertheless strengthened the trend of landless tribes and their purely tribal leaders gaining greater autonomy, and the land leaders and landowning tribes losing it. This created tensions that remain unresolved.²⁹

In abolishing the Native Administration, the Nimeiri regime deprived traditional leaders of the government resources and local taxes they relied on to operate. But Nimeiri only formally abolished the most important leaders, that is, the *shartays*, sultans, and *nazirs*. The mid-level and lower-level ranks—the *omdas* and *sheikhs*—remained. Nimeiri's move was not so much an abolition as an attempt to politically sideline native administrators. The attempt proved not to be practically viable inasmuch as the so-called modern state administrators had neither the knowledge nor the ties in the community to replace the Native Administration. True, some rare traditional leaders retreated from public life, recalling the early 1970s as a period of inactivity.³⁰ And certainly the government's move to abolish was a symbolic blow. The abolition "lessened the dignity of the *idara ahliya*," one Mararit sheikh recalled.³¹ But many local leaders, even the paramount ones, retained substantial influence. They continued to perform certain functions, in particular with regard to land, because of their knowledge and the respect they commanded in their communities. "Officially there was no more *idara ahliya*, but in an indirect way (*bil-liffa*) we were running our affairs as if Nimeiri [had] said nothing."³²

As early as 1960, the Local Government Act had made the basis of local administration not the Native Administration, but instead local councils provided with an executive staff recruited by the ministry of local government in Khartoum.³³ But, even twenty years afterward, local leaders kept benefitting from the fact that the authorities (commissioners, but also police and army commanders), lacked resources, staff, and knowledge of the communities, and continued to consult them and associate them with their decisions, especially with regard to land, justice, local conflict, and reconciliation.

The dearth of resources also affected the judicial system, and, as early as 1976, the government asked many traditional leaders to serve as court staff in the new popular courts (*mahakim sha'biya*). For instance, the then *malik* of the Zaghawa territory of Am Boru, Ali Mohammedin, who had left his area, was called back by the government to resume his job "because the new people could not run the court," a Zaghawa *sheikh* in Chad explained, "the old ones had a long history and experience."³⁴ The terrible droughts of the 1970s and 1980s increased local tensions, and local administrators became even more reliant on traditional leaders to help them solve these conflicts.

In the early 1980s, Governor Ahmed Direij, the first native governor of the then-unified province of Darfur and himself a Fur *shartay*, began to advocate for a formal restoration of the Native Administration system.³⁵ The regional governments installed by Nimeiri in 1981 under the regional governance reforms (*al-hukm al-iqlimi*) gave governors some autonomy, and Direij was able to reinstate the upper tier of the *idara ahliya* in Darfur in 1984. The Native Administration was also reinstated in Kordofan and in the east in 1982, but not in central Sudan. The *idara ahliya* was in fact never reinstated at the national level, which is why there is no homogeneity across Sudan.

In 1986, during the so-called Second Democracy, then Prime Minister Sadiq al-Mahdi enacted the Native Administration Act, which reinstated certain powers of the Native Administration. In 1988, he appointed Tijani Sese as governor of Darfur, himself the son of

dimangawi Sese Mohammed Atim and the brother of the present *dimangawi*, Fadil Sese, who was active in restoring traditional leaders. The concept of elections for the appointment of new leaders at level of *omda* and above was introduced: *sheikhs* elect their *omda*, *omdas* elect their *shartay* or *nazir*, and the *shartays* potentially elect a paramount leader above them, either *dimangawi* or *magdum*. In principle, these elections all took place within the established tribes and dynasties, but as will come to be seen, the Islamic regime later manipulated this practice to reshape the Native Administration in accordance with its needs.

After 15 years, we understood we could no longer continue, and we decided to return backwards [restore the Native Administration]. Unfortunately, many chiefs were very old or dead. We have named young leaders to replace them, but they are unable to control their people. This is one of the causes of the conflict.³⁶

The National Islamic Regime

In 1989, the Islamists of the National Islamic Front (NIF) overthrew Prime Minister Sadiq al-Mahdi in a bloodless coup. On seizing power, the NIF formally disbanded, leaving power to a Revolutionary Command Council for National Salvation (RCC), headed by an army general, Omar Hassan al-Bashir. The new regime is known in Sudan as the *Ingaz*, or Salvation.³⁷ Behind the RCC, however, real power was wielded by the ideological leader of the Sudanese Islamists, Hassan at-Turabi.³⁸ Like most other governments in Khartoum, the Islamists have defended the interests of the Nile valley elites. And, in keeping with central governments in Khartoum since the Anglo-Egyptian Condominium was established in 1899, starting with British colonial authorities, the regime's priority in Darfur has been clear: to maintain control, on the cheap, over populations the center does not trust.³⁹

The Sudanese Islamic movement had originally advocated the abolition of the Native Administration. But, once in power, it rediscovered tribalism. The evening news would show a governor or a minister or even the president meeting with a delegation of such-and-such a tribe, where before only the area of origin would have been mentioned. The images included pictures of educated elites and senior Native Administration members sitting side by side, both co-opted by the government. The new regime understood how valuable a tool the Native Administration could be. It focused on reshaping the Native Administration to suit its needs, at the same time ensuring that it was weakened through manipulation and co-optation. The regime has, over the past twenty-odd years, ceaselessly created new positions and abolished others, reorganized territories and lines of reporting, bought off and intimidated individual leaders, and imposed illegitimate leaders on local people. This has led to major changes in the structure of traditional leaders, in particular in the early 1990s.

Life under the Islamic nationalist regime has been difficult for Darfurian traditional leaders. They are caught in a vise between the needs of their people on the one hand and the requirements of the central government on the other. Political tensions are aggravated by local rivalries—at the tribal, clan, and even family level. Conflicts arise over shrinking resources, primarily land, water, and grazing. Social tensions are also acute—for example, rich and educated versus poor and uneducated—as well as intergenerational tensions. The government plays on all of these conflicts to undermine local leaders and assert its power, forcing people to focus more on local rivalries than on national politics or on the struggle for their collective rights.⁴⁰

Conflicts arise over shrinking resources, primarily land, water, and grazing.

Na'ima and Soba Conferences

In October 1992, the NIF organized a discreet conference in the remote village of Na'ima, near Geteina in White Nile province, to discuss what should be an Islamic approach to the Native Administration. The Na'ima conference was followed in 1995 by a more public follow-up

conference in a large complex in Soba, south of Khartoum—a venue where traditional leaders and government officials used to receive reeducation in so-called Islamic values from Islamist ideologues. The Soba conference brought together traditional leaders, government officials, politicians, and Islamist intellectuals.

The conferences concluded that, rather than abolishing the Native Administration, the regime would gain politically from controlling it, and ideologically from incorporating it into the NIF so-called civilization project (*al-mashru' al-hadhari*), the overarching strategy of which was to Islamicize Sudan and areas beyond. Key to this was a redefinition of the role of the native administrator in clearly religious terms: the Islamic traditional leader was to be both a leader and have a missionary (*risali*) role. The “new” traditional leaders would lead people in prayer, teach in mosques, collect state-imposed “religious” taxes, and mobilize the community for jihad. At the time, jihad referred to the wars in South Sudan and the Nuba Mountains. Later, during the war in Darfur, some leaders fulfilled the military aspect of their role, but often with less religious connotation, because the enemy was Muslim. As is true of all ideologically motivated policies, implementing these new roles implied a need to reeducate traditional leaders.

Beyond the emphasis on ideological realignment, the three “most important recommendations” issued in Na’ima all had to do with the functions of the Native Administration: “the mobilization of citizens,” “the maintenance of security in cooperation with the relevant security agencies,” and “an active participation in the collection of public funds.” These recommendations leave little doubt as to the political intent of the conference organizers.⁴¹

A central idea of the Soba conference was to standardize “the many names used for the members of the Native Administration in the various states.”⁴² The conference suggested using a single title, that of *naqib*, a term referred to in the Quran that also refers to the rank of captain in the Sudanese and most Arab armies.⁴³ The double meaning—Islamic and military—is telling in its echo of the regime’s double intent—ideological and political—for the Native Administration. But equally telling is that the term *naqib* was, for all intents and purposes never heard of again, bearing witness to the resilience of tradition (subsequently the term *amir* was adopted). The conference also recommended that the rank of *omda* be eliminated as unnecessary, another recommendation that remained moot.⁴⁴

This religious redefinition came in sharp contrast with Darfur culture. In Darfur, traditional leaders, even the sultan, were not religious leaders. Historically, they had often converted to Islam before the bulk of their population, but they did not lead prayers or teach Islam—a role left to *faqis*, or religious men. They also had to remain neutral about surviving pre-Islamic practices and to accept syncretism, notably in induction ceremonies for new traditional leaders, as well as in the cohabitation in their entourage between Muslim *faqis* and pre-Islamic religious leaders. In sum, a traditional leader in Darfur is a temporal rather than a spiritual leader.

The NIF also promoted new rules for appointing leaders. Traditionally, new leaders were required to be the son of a former leader who had held the same position—generally the son, brother, or paternal uncle of their predecessor. This mechanism tended to create competition for the post, competition most often resolved within the family—by consultation, consensus, through some manner of vote, or sometimes simply with a power play. The will of the former leader was typically also taken into account, especially if he was still alive and had decided to step down, or had expressed it before his death. A common practice was to designate a *khalifa* (pl. *kbulafa*, deputy and possible successor) among his sons or brothers, whom he would mentor.

The Condominium, in place from 1899 to 1955, had introduced the idea that the lower-level leaders should be consulted on the appointment of a new leader above them. Ruling

lineages were, however, mostly respected, and ethnic and tribal belonging even more so. But the NIF emphasized that all leaders above the rank of *sheikh* were to be elected by lower-rank leaders. The Soba conference called for “the selection [to take place] by way of election and not in a hereditary manner, so as to guarantee that [the native administrator] is the best qualified and the most capable,” with no mention of right of inheritance or tribal origin.⁴⁵ In a number of *dars*, newcomers, mostly Arabs and Zaghawa from North Darfur, had often achieved a numeric majority, sometimes acquiring more *sheikhs* and *omdas* than those of the tribe of the ruling dynasty. Elections raised the possibility of breaking up dynasties, even opening the door to new leaders outside the ruling family or even the ruling tribe.

Moreover, whatever the results of the consultations and elections, the government, in the person of the *wali* (governor) or the local commissioner, or sometimes central government, retained the power to dismiss sitting traditional leaders and approve newly elected ones. The NIF began to co-opt new leaders, sometimes without even consulting lower-level leaders. For the most part, governors and commissioners respected the lineages, vesting power in someone with at least the theoretical legitimacy to serve as a leader, which often gave rise to bitter intrafamily quarrels. Other times, the government simply appointed new leaders from outside the lineages of chiefs.

The regime also sought to reinforce the security function of the Native Administration. The Na’ima conference in particular recommended “grant[ing] of police powers to Native Administration guards in order to provide them with protection in the performance of their duties.”⁴⁶ This led to an increase in the numbers of guards, in particular for Arab tribes.

As the 1990s wore on, the Islamists tended to give up on the more radical of their ideological recommendations with regards to the Native Administration as in other arenas, for instance, total jihad in the Nuba Mountains. This was a reflection, among other things, of the Bashir-Turabi split. But the desire to harness and transform the structures of the Native Administration was unmistakable, in Darfur and elsewhere.

Controlling the National Capita: *Nizam Ahli* in Khartoum

One novelty the regime did successfully carry through with was outside Darfur—and momentous. Concerned with the explosive population growth in Khartoum, especially by rural migrants from the west and the south of the country, the government set up a system of tribal leaders that mimicked the Native Administration but was not part of it. The initiative, reportedly the work of Majzub al-Khalifa when he was governor of Khartoum in the latter half of the 1990s, is called this *an-nizam al-abli*, the traditional or native system—a term that echoes the Arabic for Native Administration (*idara ahliya*). The purpose of the *sheikhs* and *omdas* of the *nizam ahli* is solely to control the swelling population of the national capital, and mobilize them—for elections, for jihad, for rallies. They typically have an office and government-issued cards, can serve as witnesses for the issuance of ID cards, and are readily summoned by state security services. Bureaucratically, they report to the Native System Department (*qism an-nizam al-abli*) at the Khartoum governorate offices, and later obtained a liaison office in the Directorate of Federal Affairs (*diwan al-hukm al-ittihadi*, which replaced the Ministry of Local Government). While these leaders are tribal by definition, they are not part of the structure of the Native Administration of their respective tribes, and certainly do not report to the paramount leaders of their tribes. Of course, more genuine traditional leaders exist among these communities, but they are most often not government sanctioned, though they may claim allegiance to paramount traditional leaders who are sanctioned by the regime and are often regime supporters.

Change on the Ground: 1994 and Beyond

In the mid-1990s, at the time of the Soba Conference, the NIF's Darfur policy had begun to focus on an alliance with the Arabs. This was a reversal from a decade earlier, and especially from before the 1986 parliamentary elections, for which Hassan at-Turabi had sought to build an electoral base among the non-Arab tribes by campaigning on how little the Umma had done for them over the years. The effort had failed, and Turabi was said to be very bitter.⁴⁷ Once in power, the NIF swung toward the Arabs of Darfur. South Darfur Arabs had also been using their lead role in the 1987 to 1989 war with the Fur to argue for favorable changes to the Native Administration—changes that are now permanent in local political life in Darfur. When these same South Darfur Arabs helped defeat an SPLA foray into Darfur in 1991 by a Fur former NIF activist, Daud Yahya Bowlad, their demands increased. The regime began favoring them, and this was the beginning of the end of the South Darfur *magdumiya*. In the mid-1990s, in West Darfur, landless Arab groups and newcomers from Chad demanded, as price for their support to the regime, a restructuring of the *idara abliya* and land tenure systems in a way that would challenge the historical domination of the Masalit and the Fur. Specifically, some Arab groups demanded more traditional leaders in higher positions, and insisted that these leaders be granted land rights.⁴⁸ The result was that a number of locations witnessed extensive changes in Native Administration structures.

Fur leaders, as the historically dominant group, were the first victims of those changes. In 1992, partly in response to the Bowlad raid, which the government feared might embolden the Fur, the regime began looking for allies in the Fur community. It found support in the effort by pro-regime Fur intellectuals to create a Fur *shura*, or consultative council. The first president of the Fur *shura*, Hussein Ayoub Ali Dinar, a grandson of the last sultan of Darfur, Ali Dinar, appointed himself sultan of the Fur (*sultan al-Fur*), and was endorsed by the government. But the new sultan had no court, no land, no *omdas*—in short, no power. Whether the government led Hussein Ayoub's moves or simply endorsed them, his claims to be sultan for all the Fur of Sudan suited Khartoum's desire to tribalize—and deterritorialize—the Fur traditional leadership. The position was purely honorific and ended up not amounting to much politically. Since then, Ibrahim Yusuf Ali Dinar, who reportedly does not speak the Fur language and has never lived in Darfur, succeeded Hussein in this position and pushed things further: with the support of the government, he calls himself the sultan of the nations of Darfur (*sultan umum Darfur*).⁴⁹

Multiplication of Omdas and Regional Changes

The NIF policy to create new *omdas* was, on the face of it, a follow-through on the recommendations made by the reconciliation conference that followed the Fur-Arab war of 1987 to 1989. This bloody conflict in and around Jebel Marra pitted Fur farming communities against an unprecedented alliance of twenty-seven Arab tribes, supported by the Sudanese government. It was in many ways a forerunner of the current conflict: it involved the wholesale destruction of Fur villages and agriculture (orchards, irrigation channels, pumps), and deliberate murder and rape to terrorize and restrict people's movement.⁵⁰

The reconciliation conference called for new *omdas* for all the tribes. The Fur also received new *omudiyas*, but the agreement especially benefitted smaller Arab groups, which had had little previous weight within the existing *idara abliya* system (such as the Ta'alba and Hottya around Kas) or no *omdas* at all (such as visiting *abbala* from northern Darfur). With the new *omdas*, these groups were now on the map, and they could offset Fur power in the Fur heartland. The theory was that all the *omdas* would report to more senior leaders—*maliks*, *shartays*, and *nazirs*—who had tenure rights over the land. But today, the

great majority of Arab *omdas* no longer defer to the *shartays* and *maliks*, and have done so even less since the current conflict spread in 2002 and 2003. The new *omdas*, often formerly *sheikhs*, of course no longer follow the *omdas* who once had authority over them and to whom they are now equal in rank.

The creation of new *omudiyas* intensified the schism between tribal and territorial chiefs. The power of the new leader extends over a given group, members of which may be established on the territory and using the land of another, longer established traditional leader. The multiplication of *omdas* allowed the tribal leaders (often Arab) to find emancipation from the territorial leaders (often Fur or Masalit) and claim their own territory.

Having more senior leaders is one way for groups to claim greater access to land rights. *Baggara* (cattle-herding) Arab groups—Rizeigat, Habbaniya, Bani Halba, and Ta'aisha—who had *dars* in southern Darfur under the sultanate had received the title *nazir* from the British in the 1930s—and since then this title has been associated with the detention of land rights. Similarly, the appointment of new *omdas* among landless Arabs allowed those to separate from landowning leaders to claim their own territories.

Dar Dima

In 1994, the Sudanese government divided Darfur into three states: North, South, and West Darfur.⁵¹ The division cut the Fur territories, Darfur's center of political and demographic gravity, into three parts. It also wrought havoc on territories such as Dar Dima.

Kas locality, in the plains south of Jebel Marra, became part of South Darfur, as did most of its traditional territory, Dar Dima. Some Fur in South Darfur actually supported the move because it increased their numbers and power within the new state. But the move also cut Dar Dima from its historical traditional leader, the *dimangawi*, whose capital Zalingei was now in West Darfur, as was much of his territory. This suited the ambitions of the local Fur chief, Mansur Abdel-Qadir, also known as Abu Mansur. His story illustrates how a minor chief can rise by gaining the endorsement of the central government, as well as the impact of such changes on power relations between tribes.

Abu Mansur's grandfather had been one of the eighteen *maliks* of Dar Dima. His father had ingratiated himself to the British, who then made him one of the four *dimlijs* when they restructured Dar Dima in 1931. Abu Mansur, also popular with the British, became *shartay* of Dar Dima in 1951. When the Native Administration was reinstated in 1983, the historical owner of the *hakura* (land estate) that included Kas town, rather than Mansur, was named *shartay*. But in 1994, Mansur, now close to the NIF regime, made his comeback. During a government-sponsored conference of local leaders, he was elected—following the still-experimental principles for appointing leaders—as *amir al-gaba'il* (prince of the tribes) of Kas locality, making him the leader of all the tribes in the locality.⁵²

The title of *amir* is not new in Darfur. Military leaders were *amirs* during the Mahdiyya, and the British had tried to create an emirate in Zalingei in the 1930s. But in the mid-1990s, when the NIF began appointing *amirs* across Darfur, mostly among Arab tribes, the ring of the word was unmistakable: it both echoed the Mahdist military term and sounded foreign, Arab rather than Darfurian. In Kas, as in Dar Masalit at the same period, the creation of emirates gave the Arab tribes what they were asking for, more power. Arab leaders of Kas locality had decided to vote for a Fur and not to challenge yet the Fur historical domination. In reward, Abu Mansur had chosen an Arab leader as his deputy (*na'ib*), outranking the region's three Fur *shartays*.⁵³ And, in 2008, Abu Mansur, by now quite old, stepped down in favor of his son. A number of Arab chiefs have challenged this, arguing that the function

is not hereditary and even claiming that, in virtue of an agreement struck in the mid-1990s, Abu Mansur's successor should be Arab, and his deputy, Fur.⁵⁴

NIF policies, playing on intra-Fur rivalries, had managed to call into question Fur control over a part of the Fur heartland.

The *Magdumiya*

The *magdum* of southern Darfur is one of the most powerful traditional leaders of Darfur, along with the *dimangarwi*. Both are historically Fur, and embodied the power of the sultan. The *magdum* was a commissioner or military commander appointed by the sultan for a fixed purpose and "who operated over and above the old-established territorial administration."⁵⁵ As time went on, the office tended to become more permanent and even hereditary. In southern Darfur, continuous wars with the *baggara* in the nineteenth century, and the continuous campaigns, led by successive *magdums*, led to the establishment of a more permanent entity, or magdumate, in the South.⁵⁶ It was established by Sultan Ali Dinar in 1900, when he named his long-time military chief and chief minister Adam Rijal as the *magdum*, replacing another high-ranking traditional leader, the *umangarwi*.⁵⁷ The office was dismantled with the fall of the sultanate, but the British revived it in 1928, plucking a little-known Fur prince from Kosti on the White Nile to serve as the new *magdum*. Some initial success was clearly linked to the personal qualities of the new *magdum*, and on his death in 1934, the situation in southern Darfur quickly deteriorated.⁵⁸

Although chosen in a Fur dynasty, the *magdum* is traditionally a multi-ethnic leader. He ruled over a broad swath of the Fur and non-Fur—the Birgid, Dajo, and Beigo communities across the fertile lands of southeastern Darfur—as well as over small groups of *baggara* Arabs, mainly Missiriya and related groups. In 1958, Mohammed al-Fadul Adam Rijal was chosen as *magdum*, within the dynasty, by leaders of the various tribes of the region.

After 1994, the government renamed the magdumate the *magdumiyat al-Fur*—symbolically limiting the *magdum's* power to his sole tribe. In the new arrangement, under the *magdum* were only five *shartays*, all Fur: the three previous Fur *shartays* and two Fur *omdas* who were promoted to the rank of *shartay*. Non-Fur leaders holding rank of *shartay* or *nazir* who had been under the *magdum*—the Dajo, the Birgid, and the Missiriya Arabs—became independent. The leader of the Dajo, an ancient community said to have been the founders of the first sultanate, assumed the title of sultan in 2006. The Bego also obtained an independent sultan. And Tarjam Arabs, who historically controlled no territory, were given a *nazir*. Finally, the *abbala* Rizeigat, who had come from northern Darfur fleeing drought and seeking pasture, obtained six *omdas*, of which four behaved as self-standing leaders, despite living in Fur *shartayas* and *dars*. The Fur managed to resist the demands of Sa'ada Arabs and Mararit for independent leaders, and, in response to the appointment of new Arab *nazirs* and *omdas*, obtained new Fur *omudiyas*.

Thus the result of the breaking up of the magdumate has been the creation of independent leaders at the expense of the *magdum* and, in general, a multiplication and fragmentation of local chieftaincies. Not only did this policy aggravate and create conflict, between Fur and Arabs and between competing Arab tribes, it also created parallel and competing administrative and judiciary systems, complicating the resolution of intertribal conflicts, and ultimately making the administration and the provision of justice in territories with a unique ethnic diversity (as is clearly the case of the lowlands south and east and Jebel Marra) virtually impossible.

Dar Masalit

The Masalit are a farming people who live in the fertile lands of western Darfur, traditionally at the fringes of the Darfur sultanate. In the mid-1800s, the Fur sultan appointed a *magdum*

there to serve as liaison with Masalit leaders. In the 1880s, during the Mahdiyya upheaval, a local holy man, Tajeddin, carved out an independent Masalit sultanate.⁵⁹ After the fall of the sultanate, Dar Masalit became a central feature of the British policy of indirect rule.

The Masalit sultanate is traditionally highly hierarchical. Before 1994, the sultan oversaw twenty-one Masalit *furshas*, nine *furshas* from other non-Arab communities (five Erenga, one Missiriya Jebel, one Gimir, one Mararit, and one Marasi), and five Arab *omdas* with the rank of *fursha* (one Tarjam, one Hotiya, one Otriya, one Mahadi, and one Darok). These Arab communities were long settled, mostly in eastern Dar Masalit, near Saraf Umrā.⁶⁰ Certain nomadic Arab communities were also granted *omdas* by the Masalit sultan—cross-border communities that historically moved between Chad and Sudan, but in the 1980s and 1990s increasingly began to settle in Dar Masalit for both livelihood and political reasons.

After 1994, the government asked the Masalit sultan to take the title of *amir al-umara'* (prince of princes)—although the title of sultan never ceased to be used, including officially. Some of the *furshas* and senior *omdas* below him became *amirs*. Of the twenty-one Masalit *furshas*, six became *amirs* and the others remained *furshas* under the six *amirs*. Nine Arab *amirs* were appointed, chosen mostly among the leaders of newcomer Arab communities—groups that had come from Chad since the 1960s. Only one, the Mahadi *amir*, was an established community leader in Dar Masalit; the leaders of other long-settled Arab or non-Arab communities came under the Mahadi *amir*.

This change in structure was a massive political and social development. It elevated Arab leaders in terms of salary, protocol, and prestige. It also gave the Arabs in Dar Masalit a clear majority over the Masalit in the electoral college, composed of all the *amirs*, which was supposed to elect the *amir al-umara'*, that is, the sultan. It also had an impact on land: the newly appointed Arab *amirs* were tribal leaders, not territorial leaders, yet they now held sway over territories on which the Masalit *amirs* had in principle authority. In short, some parts of Dar Masalit were now no longer controlled by a Masalit leader—a revolutionary change.

Take the example of a newly named Arab *amir* who assumes control in an area. He will manage the affairs of the Arabs in that area. But, as the highest ranking traditional leader, he will also have his say in overseeing disputes between Arabs and non-Arabs. This was very upsetting to the Masalit: they did not want their affairs, especially with regard to land, adjudicated by someone who did not belong to them, and whose fealty to the sultan was unclear.

The resulting tensions, and the political and military support given to Arab militias, almost immediately triggered the 1995 to 1997 wars between Masalit and Arabs.

Dar Rizeigat

The large Arab *dars* of southern Darfur were also affected by NIF changes, in particular, Dar Rizeigat. Traditionally, all the southern Rizeigat, who are *baggara* (cattle herders), came under the rule of the old and powerful Madibbo family. The Madibbo, from the Mahariya Um Dahiya clan and based in ed-Da'ain east of Nyala, have presided over the *baggara* Rizeigat since the nineteenth century. In 1928, the British attempted to carve out a single *nazirate* in an unsuccessful attempt to unite the southern and northern (*abbala*) Rizeigat in one political unit under the leadership of *nazir* Ibrahim Musa Madibbo of the southern Rizeigat.⁶¹ The *abbala* (camel-herding) Rizeigat groups remained in northern Darfur under their *sheikhs*, and their unresolved claims to control over land have been one of the single most powerful driving factors in the current conflict.

In 1992, the regime in Khartoum initiated a plan to carve out three new *nazirates* from the existing southern Rizeigat *nazirate*: two for the two other main branches of the Rizeigat, the

Mahamid and the Nawayba, and one for another clan of the Mahariya, the Um Ahmad. This was clearly a bid by the NIF to consolidate political power by targeting the Umma party, of which the Madibbo family is a historical supporter and a strong source of power. But Rizeigat leaders, including some affiliated with the NIF, rejected the NIF proposals.

In 2003, Khartoum gave an independent *nazir* to longtime rivals of the Rizeigat, the Ma'aliya of Adila, who until then had only one of the three *wukala'* (sing. *wakil*, representatives) under the Rizeigat *nazir*.⁶² As in other dars, the NCP regime has multiplied the nomination of *omdas* in Dar Rizeigat as well. In 1970, Dar Rizeigat had thirteen *omdas*, including three Ma'aliya. In 2010, it had sixty-three.

Politicization and Tribal Polarization

Since colonial times, although not part of the civil service, native administrators have been virtual government employees. They received salaries, notably to discourage them from plundering the taxes they collected, one of their most important functions since the sultanate. As early as the 1920s, leaving *omdas* and *sheikhs* to continue paying themselves on shares of the taxes collected (a practice that continued until today for leaders of all ranks, legally or not), the colonial administration began to pay fixed salaries to high-rank native administrators.⁶³

After independence, to ensure continued political and material support, traditional leaders would gravitate toward the party in power, as well as keep the government from supporting rivals. This became even especially vital under the NIF/NCP government. It was only under the current regime that it has become acceptable to hold an *idara ahliya* position and government office at the same time, though it remains unclear what the law is.⁶⁴

The current regime has many tools of control over the Native Administration. The commissioner or the *wali* appoints or approves traditional leaders. Leaders receive salaries—in North Darfur, since 2004, it is 1,500 Sudanese pounds (SDG) for a senior leader (*shartay*, *malik*, *nazir*) and SDG 300 for an *omda*. But the perks of the job are what really make the positions worthwhile on a personal level—perks both tangible (vehicle, fuel, a *thuraya* phone, phone credit, travel costs) and intangible (connections, opportunities for education and health care, business and per diem prospects, jobs for family members, and so on). The regime dispenses and can of course withdraw these perks at will. As increased exposure with the modern world has brought leaders to develop greater needs, they have become more dependent on government largesse.

One important feature is the permission to employ a small retinue of armed men (*gbafir*, pl. *ghufara'*), who serve as bodyguards. They also played an important role in traditional leaders' judicial functions: delivered summons, kept order during mediation meetings, and on occasion helped enforce the traditional leader's judgments; they were officially incorporated into the civil service under Nimeiri. In these more uncertain times, leaders increasingly feel that they need *ghufara'* to demonstrate authority and get their decisions implemented. In the 1990s, leaders supported by the NIF/NCP regime were allowed to employ larger number of *ghufara'*, who formally organized as *haras al-idara al-ahliya* (Native Administration guard). Their numbers increased, and the process paved the road for recruiting militias during the war.

Shartay Suleiman Hasaballah of Kidingir, in east Jebel Marra, described the situation in the 1990s: "All the traditional leaders have armed guards, but Juma'a Dagolo [a new Mahariya Arab *omda* recently arrived from North Darfur who had set up in the *shartay's* land] had sixty of them, much more than normal, armed with G3 and AK [assault rifles], and horses and camels. I only had three guards, with *garabina* [old bolt-action rifles]. And so, in the early 1990s, the Mahariya started attacking us Fur, raping women, looting our camels, and taking our land."⁶⁵

Since colonial times, although not part of the civil service, native administrators have been virtual government employees.

As non-NCP leaders increasingly tended to be considered as rebels and many, including some of the most important ones, were thus sacked to be replaced by clear NCP members, chosen among their rivals or not, traditional leaders feel they more than ever need the support of the ruling party to prosper, and even survive (personal security is a real issue).

Idara Ahliya and Party Politics

To view the Native Administration and party politics in Darfur as separate spheres would be a serious misperception of the current political reality. The two are in fact closely intertwined. Traditional leaders embrace or reject a given party, and sometimes do both, based on tradition, interest, fear, or loyalty. Many leaders, including non-Arabs, have remained members of the NCP despite the latter's appalling record in Darfur—a clear symptom of their weakness. But at the same time, their legitimacy is an asset that the ruling party covets and seeks to harness for its purposes—by cajoling, co-opting, constraining, and intimidating traditional leaders.

The Magdumiya of South Darfur is a case in point. The Magdumiya has historically been favorable to the Umma. However, as the Umma was preparing to run (and win) the 1986 elections, the Adam Rijal lineage was offered no winnable seat in parliament. The unionists, however, did offer a seat, and the family switched its support to Sayyid Mirghani's DUP. *Magdum* Ahmad Abder-Rahman Adam Rijal, in office since 1997, was thus DUP. He was in clear opposition to the NCP, notably during the first years of the war, and Khartoum dismissed him in 2006, so that he joined the Sudan People's Liberation Movement (SPLM) in 2008. His successor, his cousin Salaheddin Mohammed al-Fadul Adam Rijal, was chosen by the governor of South Darfur and appointed by the government after consulting the elders of the family, but without an election. Salaheddin had been close to the Islamists since his student days; he joined the NIF in 1996 on being offered the position of commissioner in Lagawa, West Kordofan. He chose the NCP after the split between Omar al-Bashir and Turabi. According to him, "we respect the party which brought our family to government because we want a share of power, so as to solve the problems of our people." Many traditional families have similar speeches and stories.

Education

Education has been a critical issue in Darfur. Under the Condominium, British administrators in Darfur pressured leading families to receive some education so that the next generation of traditional leaders could perform the minimal functions of indirect rule.⁶⁶ Many traditional leaders in Darfur initially rejected British schools, which they saw as non-Muslim, and refused to enroll their children. But the authorities pressured them to educate at least some of their children—first, so that the next generation of traditional leaders would be itself educated, and, second, to have members of influential families working in the colonial administration. Under this pressure, and because they soon grasped the benefits of having their sons working within the colonial administration, some leading families took to sending their boys, and sometimes their girls, to elementary school.

This was notably the case of some of the main Zaghawa dynasties, in particular the sultan of Tina and the *malik* of Am Boru, as well as the *shartays* of Kornoy and Dor. In the 1930s, sultan Dawsa from Tina sent his sons Mahmoud and Bishara (the latter eventually became sultan) to the elementary school in Kutum. *Malik* Mohammedin sent his son Ali, later to become sultan, to school in El Fasher at the same time. This first generation of educated Darfurians did not continue after elementary school; there was no intermediary school in Darfur

at the time, and their fathers did not want them to leave Darfur. They wanted them only to receive enough instruction to be able to read and write, officiate and serve as clerks in traditional courts, and interact with the British. Sons would learn the skills deemed important to become leaders—land knowledge, mediation—from their elders.

During colonial times and in the years after independence, when education was harder to come by, families would sometimes establish a division of roles. Some sons stayed in the Native Administration, and others joined more modern sectors of society. Sultan Dawsa, for example, sent his sons to school, but among them, he chose Bishara as his *khalifa*; Bishara thus went on to become sultan, and the others became government employees and physicians.

From the 1960s on, as more scions of illustrious Darfur families gained access to university, divisions began appearing within leading families. Some of the educated youth continued to support the Native Administration institution. Others were influenced by more modern ideas from the political left and right, and rejected the *idara ahliya*. Since the 1990s, however, as the Islamist regime has consolidated its power in Sudan, the interests of the educated elites and the traditional leadership have increasingly merged. The political domination of the NIF and then the NCP—and the heavy hand they had in their dealings with the *idara ahliya* in Darfur—meant that traditional leaders who wanted to retain access to resources and government recognition had less choice but to support the ruling party.

The notion of fracture between the old elite of traditional leaders and new, educated elite must, however, be carefully nuanced. Elites in Darfur today—professionals, intellectuals, politicians, army officers—come largely from the leading traditional families.⁶⁷ At the same time, today's traditional leaders are increasingly chosen from among the more educated of the chiefly families. Before becoming leaders, they often have exercised professions of administrators, government employees, army or police officers, businessmen, teachers, and so on. Some can be reluctant to leave their positions and the towns where they have settled to go live with their communities in rural areas. Even when they accept an appointment, senior traditional leaders increasingly want to spend more time in the state capitals, or Khartoum, where they often keep a house and enjoy greater access to modern amenities, medical care, and politics.⁶⁸

One example of recent *magdums* illustrates the evolution of the relationship with education in a leading Darfurian family. Mohammed al-Fadul Adam Rijal, the *magdum* between 1958 and 1979, attended only elementary school—his desire to serve in the military under the British was opposed by his brother and then *magdum*, Abder-Rahman Adam Rijal, who instead made him clerk of his court. By contrast, Ahmad Abder-Rahman Adam Rijal (*magdum* from 1997 to 2006) was one of the first Darfurians to graduate from Khartoum University (1956), then served as administrator in various parts of Sudan. His successor and cousin, Salaheddin Mohammed al-Fadul, the present *magdum*, studied Islamic law at the Islamic University in Omdurman, where he was a student leader active in Islamist circles. He is a career politician and, shortly after graduating in 1981, became the youngest member of the (then) Darfur Legislative Assembly.

Education remains a hot topic in Darfur today. The NCP government has, since the 2000s, opened a number of schools and even small universities, but these efforts fall well short of the massive investment necessary to provide even basic schooling to a majority of children in Darfur. The lack of schooling facilities and the poor state they are in is a painful symptom of the neglect of the province by the central government. Even groups that are pro-government, such as the *abbala* Arabs, demand greater opportunities (in their case, boarding schools that suit their nomadic lifestyle) and explain elements of the present conflict by the lack of education of their people.

Tribal Polarization

The tribalization of the Native Administration is one of the most important trends in Darfur since the early 1990s. As mentioned, with the exception of a few ethnically homogenous areas, most traditional leaders in Darfur had been the leaders of multitribal territories. The NIF/NCP created many new leaders and provided them political and often military support. These *amirs*, *nazirs* and especially mid-level *omdas*, ceased to follow the older, established land leaders.⁶⁹

This has led to an increase in conflict over land, both at the local level and at the broader *dar* level. The new leaders wanted the positions precisely because they believed the titles would lend legal support to their claim on land. At the same time, the established territorial leaders are increasingly also becoming tribal leaders as they lose control over other tribes living in their territories: many now have authority only over their tribe and small minority groups who live in their territory. This is a huge transformation in local power relations: the traditional land-based consensus that cut across ethnic lines has been replaced by a norm of confusion and lawlessness in which anyone with a gun can lay claim to land.

Tribal *Shuras*

The *shura* councils (*majlis ash-shura*, pl. *majalis ash-shura*) or consultative councils, are an invention of the current regime. As with many NIF initiatives, their aim is both to mobilize and to repress: the *shuras* help the regime further the ideological goals of the Islamic movement in Sudan, as well as impose greater control over society, particularly over the educated elites. The term *shura* carries a strong Islamic connotation. There are different kinds of *shura* councils: the Islamic Movement *shura* (*shura al-baraka al-islamiya*), which is the *shura* of the National Congress. Tribal *shuras* are conferences or federations that cover a given ethnic group across all of Sudan. According to Suliman Baldo, “tribal associations, built around traditional tribal leaders and other influential community elders are known as the Consultative Councils and are seen as the traditional custodians of the collective interests.”⁷⁰ They bring together not only traditional leaders, but also educated elites, politicians from all parties, civil society organizations (themselves increasingly monoethnic), and members of the diaspora. To progress in society—in government, politics, the armed forces, and business—educated individuals increasingly feel they need the support of their tribe, and are reverting to their tribal affiliation. Claiming affiliation to one’s tribe and gaining its support requires the support of the Native Administration. For leading politicians and intellectuals, coming from a traditional dynasty—as most of them do—remains important ingredient for success. Tribal *shura* councils have a council of elders (*majlis al-a’yan*), most if not all of whom also belong to the Native Administration, which elects the *shura* council president. It is nonetheless the educated elites who tend to dominate in the *shura*, including the many new senior traditional leaders who are educated and have moved away from their ancestral lands. For practical reasons, the *shuras* tend to be very Khartoum-centric—thus modeling the centralist pattern of the Sudanese power system—and headed by people living in Khartoum, most of the time not members of the Native Administration.

The tribal *shuras* address the dispersion of tribes to other parts of Darfur and even outside Darfur—Khartoum, the Gezira and central Sudan, and Gedaref and eastern Sudan. The great droughts of the 1970s and 1980s triggered widespread migration, and some tribes have fewer people in their home area than outside. In the past, members of these migrant communities tended to lose their tribal affiliation. They became more generically Sudanese: they forwent indigenous cultural practices such as dance and brewing, turned to more orthodox versions of Islam, and privileged Nile valley Arabic over their native languages. They were key drivers in a process of Sudanization that swept over Darfurian towns.⁷¹ But in the 1990s and 2000s, the return to

the tribe has been unmistakable. The Zaghawa *shura* was headed for several years by an educated member of the Zaghawa Kajmar, a branch of the tribe settled in Kordofan before colonization. The Darfurian Native Administration now stretches well beyond Darfur and has come to the towns: the Zaghawa *omda* in Umbadda, a suburb of Omdurman with a strong Zaghawa population, for example, is now part of the new *nizam ahli* (native system) described earlier.

The tribal *shuras* do not, however, provide protection from interference by the regime. If anything, they make leading members of various tribal groups more vulnerable to political pressure by gathering them in a centralized institution. Nor are the *shuras* a source of unity within the tribe. One of the purposes of the regime's policy of retribalization is to ensure that, through manipulation, the ruling party can divide and conquer. Until 2011, the Fur elite had been divided into three *shuras*. One headed by *magdum* Salaheddin of the NCP also included various Fur opposition politicians. The other two were closer to the NCP: one headed by sultan Ibrahim Yusuf and supported by *shartay* Ja'far Abdel-Hakam, the NCP governor of West Darfur until January 2012, and the other headed by Mohammed Yusif, an NCP member of parliament from Zalingei. The three finally managed to unite in the summer of 2011.

Recent years have also seen a proliferation of tribally based student associations. As with the *shuras*, the student associations are a tool with which the regime can both mobilize support and control dissent. Like many other universities, al-Nilein University in Khartoum boasts many associations representing different Darfur tribes and approved by the general student union, which is controlled by the NCP. Purportedly, the role of these organizations is to help students from a given region navigate life in the big city, as well as channel assistance (in the form of cultural events, small development programs, technical support) to their home areas. But their real purpose is control and mobilization: the associations help the government monitor the students, as well as organize them for rallies, elections, military service, and so on. The names of these associations are telling. The Zaghawa organization downplays its tribal affiliation by calling itself *rabitat abna dar wadi hawar* (the Association of the Sons of Dar Wadi Hawar), Wadi Hawar being a large seasonal river that runs through Dar Zaghawa—perhaps a reflection of the difficulty of being Zaghawa in times when the main rebel groups in Darfur are Zaghawa. Other tribes, on the other hand, assert their tribes even though they come from mixed areas, such as the Birgid *rabitat abna al-birgid* or the Dajo *rabitat abna ad-dajo*. The ruling party monitors these groups carefully, encouraging NCP students to seek top positions and giving them resources when they do.

Impact of the War

The current conflict broke out in earnest in the early 2000s with a spate of rebel attacks on government targets, but earlier conflicts in the 1980s (Fur-Arab) and 1990s (Masalit-Arab) foreshadowed the violence to come. By the time the world took notice of the conflict in 2003 and 2004, large areas of Darfur had been in a state of open war for several years. The violence of the past decade may have been new in scale, but it was not unprecedented.⁷²

After the Sudan Liberation Army attacked and briefly held El Fasher in April 2003, the government responded with a vicious counterinsurgency campaign that mobilized *abbala* Arab nomads to attack non-Arab communities—predominantly Fur, Zaghawa, and Masalit. In western Darfur, where rebel activity had been limited, the violence was more land-grab than counterinsurgency—a continuation of a decade of government-sponsored Arab attacks on the Masalit.⁷³ The high-water mark of the violence lasted from April 2003 through late 2004, during which as many as two million people were displaced, including 200,000 refugees in Chad. By 2005, one Darfur resident in three had been forced from his or her home. In

subsequent years, despite occasional spikes, the violence ebbed somewhat; in essence, most of the good land had been vacated and few people were left to usefully displace. One such spike was the bloody intra-Arab violence of 2007 and 2008. There have been no large-scale permanent returns.

The war that has so brutally affected communities has also deeply affected community leaders. For traditional leaders in Darfur, the upheaval has further aggravated the tribalization and politicization of the Native Administration. More than ever, affiliation to tribe and party (the NCP) are necessary, not only for success but also for survival. Traditional leaders have also been displaced, imprisoned, and sometimes tortured and killed. They have had to find a *modus vivendi* with rebel groups that sometimes exercised control over their territories, but still engage with NCP-dominated government institutions.

Aggravated Tribal Polarization

The war has enhanced the decline of the territorial leaders already under way, to the benefit of purely tribal chiefs. This process itself leads to conflict, as was the case with the fierce intra-Arab violence Darfur has witnessed since 2007.

A striking example of how the upheaval of past years has triggered change that leads to future conflict is the emergence of a pan-Darfur Missiriya chieftaincy. The Missiriya Arabs are mostly present in Kordofan and Chad, with only small pockets in Darfur around Niteiga, north of Nyala. The area had been part of the *magdumiya*, but is now the center of an independent Missiriya *nazirate*. A number of small Arab groups claim a Missiriya connection, particularly in southern and western Darfur—the Ta'alba (Kas area), the Hotiya (Kas and Zalingei), the Sa'ada (Gardud, north of Nyala), the Nei'mat (Kas), and others. To these must be added the Missiriya Jebel of Jebel Mun, north of Geneina; they speak their own language (Milerinkiya) and are traditionally considered non-Arab, but some of their leaders have of late begun to stress a link with the Missiriya Arabs. Some Missiriya leaders claim that united, the Missiriya would be the most powerful Arab group in Darfur, more numerous even than the Rizeigat.

One of the more outspoken has been Haroun Imam, a Missiriya Jebel from an Umma family in Kas, whom *nazir* Tijani Abdel-Gadir of the Missiriya has named deputy *nazir*. *Nazir* Tijani's authority is limited to the Missiriya community of Niteiga; the choice of a Missiriya Jebel as his deputy seems to be a move to broaden his base, which is challenged by other Missiriya. Haroun Imam, on his end, claims to be the *nazir's khalifa*, or successor designate, and to have authority over all Missiriya between Kas and the Chadian border. His brother Hassan Imam, an Umma politician, has engaged on a similar though more peaceful path with the creation of one of the many Darfurian civil society forums, the Darfur Peace Block (*kutlat salam darfur*), which seeks to mobilize smaller tribes that are less involved in the conflict into a sort of antiwar front. Both initiatives have run into the opposition of autonomous Missiriya branches who do not consider Haroun Imam to be true Arab, let alone defer to his leadership. The Ta'alba in particular hope for a *nazirate* of their own to be headed by Adam Hamza Teirab, son of the Ta'alba *omda* of Nyala and an NCP member. The Ta'alba even have ambitions of dominating other smaller neighboring groups of Kas locality, Arab (Awatfe, Bani Hussein, Ruhas) and non-Arab (Gimir, Borgo, Masalit) alike. Missiriya ambitions have contributed to bloody clashes with the Rizeigat in recent years.⁷⁴ These developments all show how tribal identity is an increasingly valuable a tool for political ambitions, to the point of becoming an end in and of itself.

Government Control and Politicization

The war has also heightened another trend of the NIF/NCP years: the politicization of the Native Administration. With the violence, the political stakes are higher and everyday life less

The war has enhanced the decline of the territorial leaders already under way, to the benefit of purely tribal chiefs.

secure. The choice between being with or against the regime is starker and more necessary. "We have to follow all governments. Even if the power is taken by the communists, we will have to follow them, because the system obliges us to do so," a non-Arab chief interviewed in 2004 said regretfully. "We are chiefs because our ancestors were chiefs," he added, "but with this government, we cannot say what we are thinking, or they would destitute us."⁷⁵

At the beginning of the conflict some traditional leaders suspected of pro-rebel sympathies were imprisoned, such as *shartay* Sherif Adam Tahir of Dar Sueini in North Darfur, after he had complained of the destruction of his *dar* and his town of Dor, including his own house.⁷⁶ Non-Arab traditional leaders, as well as their houses and possessions, were particularly targeted by government forces, in particular *abbala* Arab militias. This was notably the case of the house, royal drums, swords, and archives of the Zaghawa *malik* of Dar Tuer, which were burnt, destroyed, or looted during the attack of Dar Tuer's capital Am Boru in January 2004. That destruction of the symbols of the traditional power were clearly seen by the victims as designed to collectively humiliate the community and to erase its history.⁷⁷

Many anti-NCP or simply non-NCP leaders are suspected of pro-rebel sympathies and sacked, to be replaced by NCP members, often chosen among their rivals. Examples include that of *magdum* Ahmad Abder-Rahman Adam Rijal, who often received international visitors and was very critical of government violence; *shartay* Mohammed Siraj of Shattaya, displaced since 2004 and a member of the opposition Islamist Popular Congress Party (PCP), was replaced in 2011 by Omar Ganduli, who is pro-NCP but not from the dynasty; *dimangawi* Fadul Sese Mohammed Atim of Zalingei was sacked after the 2010 elections for lending his support to the DUP candidate. Some sacked leaders remained more respected by the communities than their official replacements, which is adding to the general confusion undermining the Native Administration system as a whole.⁷⁸

To get ahead, local notables must play on all political fronts, modern and traditional, local and national. The legitimacy and local support that comes with a Native Administration position can help launch and sustain a political career. Recent developments in West Darfur illustrate the complex interplay between modern politics and intrigue over traditional leadership positions. During the 2010 elections, competition for the position of *wali* (pl. *wulah*), or governor, of West Darfur was intense. The NCP candidate was the outgoing governor, *shartay* Ja'far Abdel-Hakam, of the Fur tribe. The local NCP had reportedly elected the Masalit sultan Sa'd Bahreiddin as a candidate, so that Ja'far had to be imposed by a decision from Khartoum. He had then to compete with As'ad Bahreiddin, brother of the Masalit sultan and DUP candidate. The *dimangawi* of Zalingei, one of the most senior Fur traditional leaders and a longtime Umma supporter recently turned NCP, nevertheless lent his support to the DUP Masalit candidate—to oppose Ja'far, his kinsman and subordinate, as *shartay* in the Native Administration hierarchy who had been openly undermining his authority. The election period had seen renewed government attacks on local leaders who openly supported traditional parties, and the *dimangawi* was soon sacked, in early 2011, by the newly elected Ja'far Abdel-Hakam, who pushed Fur *shartays* to oppose their leader to justify the sacking.

The *dimangawi* position now open, in mid-2011, the new governor managed to get himself named leader of the Fur *shura* council of West Darfur. He tried to have this council elect him as *dimangawi* and worked to change West Darfur law to make the move legal. This move was significant because Ja'far is only the son of the *omda* of Dileij, the capital of Dar Kule, a Fur chieftancy in the Wadi Saleh area. In 2000, on the death of the then *shartay* of Dar Kule, himself an Umma man and the scion of a long-established dynasty, Ja'far was commissioner of Mukjar (Wadi Saleh) and thus had the power to appoint a new *shartay*. He pressured

local *omdas* to name him *shartay*, despite the fact that he did not come from the original royal lineage.

His attempt to become *dimangawi* has so far failed, not least because of the return to Sudan of Tijani Sese—former governor of Darfur, brother of the former *dimangawi*, and leader of the Liberation and Justice Movement (LJM), and sole rebel signatory of the July 2011 Doha Document for peace in Darfur (DDPD). Sese was also appointed as chairman of the Darfur Regional (formerly Transitional) Authority in September 2011—of which Ja'far was a previous chairman. After failing to become *dimangawi*, Ja'far did manage to get himself named as president of the Fur *shura* council of Zalingei, a politically influential position. Ja'far was also recently relieved as governor of West Darfur and replaced by Haydar Galukoma, the main LJM Masalit leader, in accord with the Doha agreement. After the separation of the Fur area from West Darfur to create the new state of Central Darfur in January 2012, it would have been difficult to maintain a Fur governor in what is now essentially a Masalit state.

The tale may be complex and multilayered, but its very intricacy shows how political leaders compete in a wide range of arenas—village, state, party, and rebel group, and national and even international levels—to achieve power. Each sphere serves as a platform to perform in the other spheres. But the Native Administration remains a key tool with which to build constituencies and mobilize support.

Urbanization of Traditional Leaders

Another consequence of the war is the urbanization of the main traditional leaders, displaced or not. Because of insecurity, most senior leaders spend most of their time in the state capitals and even in Khartoum, handing off their local administrative and justice functions to their *na'ib* (deputy), *wakil* (agent), *mandub* (representative), or *khalifa* (successor). Senior leaders have become intermediaries with the central government. This is not necessarily negative: local communities need to be represented at the centers of power, at the state and national levels, especially in these uncertain times. But it has also changed the way ordinary people, especially those who have been displaced, relate to their leaders.

In the past, the native administrators lived in their areas and reflected the concerns of their people to outsiders. Now, they are out, in contact with party politics. They are more aware and also more ambitious. They draw on their local base to pursue political careers (see also box 1).

Conversely, ambitious educated elites who live in the cities fall back on their home areas, seeking alliances with traditional leaders to make them more credible in their pursuit of political positions in the center—the state capitals and Khartoum. This is a recent development: in the 1960s and 1970s, educated elites, often Communists or Islamists, were usually against the Native Administration.

At the same time, tribal groups now increasingly require their senior leaders to represent them in the big cities. They select educated individuals to replace those who have died, even seeking individuals who are long established in the state capitals or Khartoum and have weak roots in the home areas. The recent leaders of the Berti of northeastern Darfur are an eloquent example of this. The previous *malik*, Husein Ahmaday Adam Tamim, was a long-established merchant in Omdurman before he was selected. When his people approached him, he said he did not want to go to Mellit, the Berti capital. But the Berti elders told him that it was perfectly acceptable for him to stay in Omdurman, to name a deputy who would reside in Mellit and handle affairs there while he visited Darfur on occasion. The elders' goal was representation and status at the center—in Khartoum. Husein's son Yassir, the new king

Tribal groups now increasingly require their senior leaders to represent them in the big cities.

Box 1. Will Women Become Traditional Leaders?

On January 1, 2011, Fatima Mohammed al-Fadul Adam Rijal was appointed by the governor of South Darfur *omda* of Nyala city to be the first and sole female member of Darfur's Native Administration, a new position. She has a strong familial legitimacy as the daughter of former *magdum* Mohammed al-Fadul Adam Rijal and the sister of the current *magdum* Salaheddin, under which she is placed in the hierarchy. She has also a strong political legitimacy, having been elected three times a member of the federal parliament since 2000, the last time in 2010 on the women quota. She is also educated, having earned a master's in sustainable development from Ahfad University for Women in Khartoum—one of the earliest education facilities for women in Africa.

Under her are five (male) *sheikhs* transferred to her from the *shartay* of Gusanjamat. She said that some of those *sheikhs*, as well as some higher members of the Native Administration, initially disagreed with her appointment, but that others said, "There are already women judges who can draft laws and put men in prison, so why not women in the Native Administration?" In 2011, she explained that women need to fight to change the law: "Since the British, the law speaks about the 'men' of the *idara ahliya*, and the latest South Darfur law specifies women can't be part of the native administration. Women members of the state parliament want to change this, but the men are reluctant. The women wrote to the governor [Abdel-Hamid Musa Kasha] and obtained a new discussion of the law. If it remains as it is, it would be a problem for other women to become chiefs. I want to make a law which will ensure that my successor can be a woman only."

Fatima's experience demonstrates that the government, or at least some (male) officials, understand well how gender-friendly policies might also be media-friendly, and useful in terms of relations with international players. The traditional system is not about individuals, however, but about communities and dynasties representing them—and Fatima is first and foremost the heir of one of the most important families. Thus even if women are not necessarily leaders (or customary judges or mediators), it would be simplistic to believe that male leaders do not represent them as members of their communities, in particular, in justice and reconciliation forums. Quantitative data are not available, but our observations (including those from the customary court of El Fasher), show that women often win cases of conflict between a man and a woman and that the male judges who preside over such cases are thus not necessarily a disadvantage to the women. The gender inequalities in those forums seem much less prevalent than the ethnic divides (in particular in this war) and even more the social hierarchy. Thus currently a woman from a big family or a powerful tribe has certainly more chances at court than a man of poor origin or from a tribe labeled as pro-rebel.

However, it is likely that Fatima's appointment is a step in a slow process of women's empowerment, though for the time being this empowerment generally involves women taking care of their own affairs, and only rarely ruling men. Thus, in parallel to her male *sheikhs*, Fatima also appointed some women as *sheikha*, in charge only of women's affairs—a development mirrored in the emergence of similar *sheikhas*, also generally in charge of women's affairs, in the displaced and refugee camps. This latter development was clearly made possible by the higher proportion of women in the camp populations—many men having stayed behind, joined the rebel movements, or been killed. As often in wars, the conflict thus gave women new opportunities, particularly in displaced communities. Uncertainty on the future role of women once the displaced return to their homelands, however, is considerable.

Source: Interview with Fatima Mohammed al-Fadul Adam Rijal, Khartoum, August 2012.

of the Berti, is a Khartoum-raised electrical engineer, and will clearly never live in Mellit. He is married to the daughter of General Ibrahim Suleiman, a powerful and respected Berti army officer, formerly federal minister of defense, chief of staff, and the last pre-war governor of North Darfur. The lavish wedding, held at the Khartoum international fairgrounds in late 2011, saw an unusual move: Berti elders brought the sacred drum (*nabas*) of *malik* Ahmaday to Khartoum. Beating the drum outside Berti territory, and in the national capital, was a powerful symbol of self-assertion at the center. The wedding, clearly staged to impress, reversed the old idea of Darfurians keeping a low profile in the towns and symbolized a momentous political transformation: people are now aware that politics is not made in their area and that they need representation in the center.

This trend started before the war, but the conflict strongly accelerated it. The war heightened the desire to achieve representation at the center because failing to be represented during a time of conflict could be fatal.

Leaders Displaced and Not Displaced

Many traditional leaders have been displaced, some with their communities, some because they were targeted, by the government, the militias (*janjawid*), or the rebels (especially Minni Minawi's group in their home area of Dar Zaghawa). They were almost all unable to provide protection to their people. Once displaced, many senior and mid-ranking traditional leaders shunned the displaced camps and took refuge in government-controlled towns, where some already had houses, for both security and comfort. They have better resources or contacts than ordinary citizens and live safer and more comfortable lives. But this creates additional distance with their people, in that travel between towns and the neighboring camps can be expensive and dangerous. The war has driven a physical wedge between many traditional leaders and their people in the displaced camps. According to an *omda* living in a displaced camp, "The *sheikhs* and *omdas* in the towns are on the side of the Government; the displaced want their leaders with them, but they live in the towns"⁷⁹ (see also box 2).

Among the most senior leaders, at-Tahir Adam Abdul-Jalil, the Tunjur *malik* of Inga in North Darfur, is exceedingly rare in that he has a wife in Abu Shok camp (near El Fasher) and maintains a house there.

Many displaced also view their old leaders as pro-regime—because they are in fact so, because they are on the government payroll, or because they live in the towns and seldom visit the camps. The camp *sheikhs* are, by contrast, often closer to the rebels, especially SLA-Abdel-Wahid (SLA-AW).

But it is important not to overstate the tension between the displaced and their senior traditional leaders. Many international actors believe the latter have no longer any influence on the displaced. This is not the case: many displaced retain strong ties—often through family or clan links—with the older traditional leadership.⁸⁰

At the same time, new leaders have emerged in the camps. Some were already *sheikhs* or *omdas* before the conflict, but many are not. They have achieved greater power because they were better educated than the junior chiefs they had been subordinate to, or had skills that were more useful in the context of displacement and relief programs: better literacy, numeracy, and basic management skills, better Arabic and sometimes even English, and generally greater exposure to the world beyond rural Darfur.⁸¹ A *sheikh ash-shuyukh* (head *sheikh*) of a displaced camp explained,

I am stronger than the traditional leaders, the *sheikhs*, the *omdas*, the *shartays*. They have government salaries and cars, and they don't come see the displaced. They are guilty for letting the problems get worse. A camp *sheikh* has nothing, no salary, only his ration card to get relief food, he lives in the camp, he works for the people for free, he spends all his time resolving problems. That's why I'm stronger than the old leaders. I live with the people night and day, I know what each person has to deal with.⁸²

But when it comes time to return, the new *sheikhs* will not know how to handle certain issues, especially those related to land—allocating land, granting access to pasture, where to sink a well and how to manage it, negotiating the timing and location for the passage of nomads and their livestock, disputes, and so on. In this sense, the war has accelerated in Darfur a trend present across the continent by which community leaders emerge among migrant communities in large towns but often do not assume leadership positions when they return to the village.

Idara Ahliya and the Rebels

Anecdotic evidence from many years of research and countless conversations in Darfur shows an evolution in how non-Arab Darfuri traditional leaders, and intellectuals, have viewed the rebels since the beginning of the violence. In the early years of extreme brutality, 2003 and 2004, non-Arab leaders supported the goal of bringing more development to Darfur

Box 2. Abu Shok Leaders in Prison

Over the years, a number of traditional leaders living in the displaced camps and camp leaders have been threatened or arrested for their opposition to the government. A notorious case was that of *omda* Ishaq Yahya Hussein "Saju," a Fur *omda* from Kutum area who became the *omda* of *omdas* (and thus the paramount leader) of the Abu Shok displaced camp in El Fasher and was always vocal in his criticism of government policies, especially with the international community. The government started by supporting rival leaders, a common technique Khartoum adopts with leaders considered hostile. In 2008, Saju and two other *omdas* were victims of an assassination attempt by a pro-NCP camp youth leader. Saju was wounded and another *omda*, Ahmad Hajar, killed. In August 2009, Saju and some twenty other camp leaders were accused of the murder of Omar "Sarukh," a rival leader who enjoyed both government and UNAMID (African Union/United Nations Mission in Darfur) support. Saju and Adam Yahya, his counterpart in neighboring Al-Salam camp, remained in prison in El Fasher despite public calls for their release by the civil society gatherings during the Doha peace negotiations. They were released later in 2011.

Source: UN Security Council, "Letter dated 24 January 2012 from the Panel of Experts Established Pursuant to Resolution 1591 (2005) Concerning the Sudan," <http://bit.ly/lxp1ba> (New York: UNSC, 2012), 27. For a portrait of *omda* Sajo, see Tubiana, *Chroniques du Darfour*, 50–57.

and bitterly condemned the regime's violence. But they also blamed the rebels for starting a war that would predictably bring violence on civilians. By mid-2006 and the regime's cynical response to the ill-fated Abuja peace agreement, views had changed. A fleeting union among the rebel groups led to a stunning string of military victories over government forces, and many Darfuri leaders started believing that, because the government would never work for a return to peace in Darfur, the rebels were the only hope. But the rebels rapidly fragmented and their military might dissolved, allowing government forces to gain the upper hand. Non-Arab traditional leaders are now deeply skeptical of any rebel enterprise.⁸³

Non-Arab leaders feel that they are targeted by the security forces and militias. They also come under strong government pressure to act as government policy agents—pressuring the rebels to accept a negotiated solution, encouraging the return of displaced people, and facilitating the movement of Arab herds through non-Arab territory. Some have resisted, often silently, but others have been more acquiescent in the face of government threats. The pliancy of some leaders has created tensions between the Native Administration as a whole and the rebel groups: rebels initially suspected any leader living in government-held territory of active collaboration with the regime. "Some traditional leaders are part of the problem. The government buys them off and they give information on us," an SLA leader said in 2004.⁸⁴ Some traditional leaders voiced open hostility to the rebels: "These people who started the war, they didn't consult with us. They don't respect us, they don't even talk to us."⁸⁵ In the beginning of the conflict, traditional leaders clearly felt trapped between two evils: "if we speak like the government, the rebels blame us. And if we speak like the rebels, the government arrests us," one of them complained in 2004.⁸⁶

Relations were especially tense between rebels and traditional leaders. Not only because the Native Administration is appointed and paid by the government, many leaders, without necessarily being pro-government, opposed a rebellion they saw as a violent choice for solving local conflicts they were themselves trying to resolve over the past decade or two (often without much success)—conflicts in which many rebels had fought as local militias. The rebels were largely recruited among uneducated youth from low-rank clans or class; to this day, the chieftain families are underrepresented in the rebel movements. "Some of the rebels are poor, they don't like the chiefs and think there's no need for chiefs anymore."⁸⁷ These tensions echoed discord between elites and lower classes, as well as intergenerational and interclan competition, and led to a series of kidnappings and murders—many by the Zaghawa faction of SLA, later known as SLA-Minni Minawi (SLA-MM), who were especially hostile to the elites.

In Dar Zaghawa, for instance, the rebel-traditional chief divide obscured long-simmering interclan rivalries. *Malik* Abder-Rahman Ali Mohammadein, the king of Am Boru, was

killed in 2004 by Minni Minawi's forces, who accused him of being pro-NCP. The backdrop, though, was perhaps more telling: an old conflict for the chieftaincy between the royal clan of the *malik*, the Agaba, and Minni Minawi's clan, the Awlad Digen.⁸⁸ Similarly, *shartay* Adam Sabi Tijani at-Tayyib of Kornoy was abducted by the SLA in 2004 and only released on payment of a ransom. Again, though, the real background was a conflict between the Kaliba, the royal clan of the *shartay*, and the Geligerge, one of the most prevalent clans in the SLA.

On other occasions, attacks against traditional leaders seemed motivated by greed. *Omda* Hamid al-Manna of Dor, for instance, was abducted by the SLA in 2003 and released for a ransom; he remained in the rebel area, with his people who had been displaced by the violence.⁸⁹

In yet other cases, the violence was motivated by suspicions of collaboration with the government. In Jebel Marra, the SLA killed two successive *shartays* of Rokero: Yusef Yahya in 2003 and his nephew Yahya Suleiman; Rokero is an enclave in the middle of the Jebel Marra that government forces hold in part thanks to a local Fur militia, which both *shartays* were accused of mobilizing for.⁹⁰

At times, rebel violence was driven by intertribal differences. Abdallah Ali Ishaq Jiddu, the Tunjur *shartay* of Dar Kherban, a small territory near El Fasher, was arrested by the SLA in 2003 for sending taxes to the government; his family paid a ransom equivalent to what he had given the government (SDG 5 million) but the rebels still executed him. One explanation given for his death was that the SLA supported demands from Berti villages in Dar Kherban to obtain their own *omda*, a demand the *shartay* had countered by arming the Meidob, traditional enemies of the Berti.⁹¹ Similarly, various non-Zaghawa (in particular Birgid) chiefs were killed by the Zaghawa faction of the SLA in She'eria area, in Dar Birgid, which is one of the reasons for the ongoing conflict between Zaghawa and other non-Arab tribes in the area.

Many of these abuses were committed by the Zaghawa faction of SLA (later SLA-Minni Minawi), which was especially hostile to the elites. Minni Minnawi signed the Abuja peace agreement in 2006 and joined the government, leaving it again in late 2010. Interestingly, since then, NCP Zaghawa encouraged the family of *malik* Abder-Rahman of Am Boru to attack Minni in court for his murder; the family seems more inclined to revenge.⁹²

The Justice and Equality Movement (JEM), also initially dominated by Zaghawa members, had a much more friendly attitude toward the Native Administration. Many JEM leaders and founders are related to the family of the sultan of Tina, and in spite of their animosity toward the current sultan Mansour Dawsa, they have been cautious not to confront the Native Administration as a whole. In addition, the JEM, unlike the SLA, never took control of important areas and thus did not have to compete with the traditional authority over the administration of those areas.

Despite rebel hostility, some Native Administration leaders have remained in rebel areas, often with part of their population. This is especially true of leaders whose people have stayed or even fled to rebel areas rather than to the displaced camps in government territory—especially the Fur in Jebel Marra and the Zaghawa in Dar Zaghawa. Among the Fur are two paramount chiefs—the *shartay* of Kidingir, south of Jebel Marra, and the *shartay* of Suni, east of Jebel Marra. Others include the *omdas* of Tur, Torong Tawra, and Tore, south of Jebel Marra, as well as various *sheikhs*. These are strong personalities who have had to juggle both their traditional functions and the political realities of the conflict, and at the same time adapt to the changes wrought by the violence and displacement.

The *shartay* of Kidingir, Suleiman Hasaballah Suleiman, was especially famous among the Fur SLA rebels (SLA-AW). The longest-ruling *shartay* in Darfur and the most prominent

traditional leader in the rebel areas, he was appointed by the SLA-AW as “sultan of Darfur” in an attempt to revive the memory of the Fur sultanate.⁹³ He played a role in rebel-Arab negotiations despite his history of conflict with Arab newcomers in his *shartaya*.⁹⁴ He also participated in the failed SLA reunification conference of Ammaray (Dar Zaghawa).⁹⁵ Reports in late 2011 indicated that the *shartay* was disappointed by Abdel-Wahid and thinking of supporting LJM.⁹⁶

Omda Khidir Ali Abder-Rahman of Tur also played an important role in negotiations between SLA-AW and Arabs. Despite having himself been a prisoner, for one year, of Arab militia leader Musa Hilal in his stronghold of Misteriha, *omda* Khidir became chairman of the SLA-AW Committee of Tribes (*lajnat al-gaba'il*) which presided over the negotiations.⁹⁷ After the internal SLA-AW conflict of January 2010, between commanders critical of Abdel-Wahid's dogged refusal to join any peace talks and others unwaveringly loyal to him, *omda* Khidir and several commanders left the Jebel to join the LJM in Uganda.⁹⁸ Similarly, *omda* Hashim Abul-Bashar from Tore joined a splinter faction that ultimately joined the government.

In Dar Zaghawa, only one of the eight paramount leaders, *malik* Abbakar Hassab an-Nabi of Dar Artaj, remained in his homeland.⁹⁹ Some sons of other paramount leaders—including *malik* Ali Mohammedin of Am Boru, *malik* Adam Mohammed Nur of Dar Beire, and former *malik* Bakhit Yaqub of Dar Artaj—have joined the rebels. Some *omdas* and *sheikhs* remained, but not many.

The leaders who remain in rebel areas retain strong influence with the population (displaced and not), not least because of their ties to SLA. Not only has the SLA endorsed them as their Native Administration, but some of these Native Administration members are even military commanders of the SLA.

Emergence of the War Leaders

The conflict has also undermined traditional leaders by causing the rise of traditional military leaders (*agids*) at the expense of *sheikhs* and *omdas*, a common occurrence in wartime Darfur. This shift is seen especially in SLA areas, where the *agids* played a critical role in the initial rise of the group and the mobilization of fighters. Many were subsequently incorporated into SLA structures.

Pre-war, most tribes had a military structure that mirrored the civilian *idara abliya*. Villages had *sheikh*-level *agids*. They mobilized men and especially youth for *nafir*—community work that can include terracing, harvesting, well-digging, house building, and other activities. They organized festivals in time of peace, raised posses against livestock rustlers (*faza'*), and fought in time of war. Above the village, *omudiyas* and *shartayas* (*fursbarwiyas* among the Masalit) had their own *agids*. There was often an *agid al-ugada*, or head *agid*. Among the Fur, Masalit, Dajo, and Borgo-Waddayans in Darfur and Eastern Chad, the *agid* is often known as a *warnang* (or *ornang*).¹⁰⁰

Many *agids* became leaders of tribal militias and later joined rebel movements where some became commanders, especially in the SLA. Some also backed government-sponsored militias, and some were given officer ranks in paramilitary forces or the army.¹⁰¹

Omar Mohammed Yusif, the Fur *agid al-ugada* of Torang Tawra, in south Jebel Marra, became *agid* in 1988, chosen by the entire community, men and women, and was named head *agid* in 1989, during the Fur-Arab war. He has about twenty *agids* under him. “Sometimes, in war time, the *agid* here is more powerful than the *omda*. When there is peace, it is the other way around. Now all the *shartays* and the *omdas* ran away, they left the villages to the *agids*. Then the *agids* started supporting the SLA.”¹⁰²

Abdel-Latif Ishaq Ali Abdullahi Omar, the *agid al-ugada* of the Masalit tribe, became a refugee in Chad where he helped recruiting fighters for JEM. He became a *warnang* in 1989,

The conflict has also undermined traditional leaders by causing the rise of traditional military leaders (agids) at the expense of sheikhs and omdas, a common occurrence in wartime Darfur.

an *agid* in 1993, and was made *agid al-ugada* of all Dar Masalit in 2002 after his predecessor Saleh Dakuru was killed by the government.¹⁰³

There was no *warnang* when there was no problem. But after the looting of the animals by the *janjawid* and the rape of the girls, we brought many complaints to the government. But they did not care. And the traditional leaders were afraid of the government. Some had been bought by the government. We, the villagers and the imams, had a meeting to choose a *warnang* to defend ourselves. [JEM leader] Dr. Khalil said if you join me all the refugees and displaced will find their rights, and the *warnangs* will be named first lieutenants, the *agids* would be named colonel, and the *agid al-ugada* grade would be a major general.¹⁰⁴

The war also triggered a militarization of the official Native Administration, especially among Arabs (box 3). The process started in the mid-1980s when the government of Sadiq al-Mahdi started relying on traditional leaders to mobilize Arabs to fight in South Sudan under the banner of the Popular Defense Forces (PDF). These are paramilitary militias that operate alongside the military, mostly to harass and subdue civilian populations considered hostile. They have been used extensively by the current government in Khartoum, mostly in southern Sudan, but also in the Nuba Mountains and Darfur, at times in the tens of thousands. President Bashir is said to have used them extensively when he was military commander of the Muglad area in South Kordofan in the late 1980s; the newly installed RCC made their existence official with the Popular Defense Act of late 1989.¹⁰⁵

In the current conflict, the government encouraged competition between leaders as to which one would be able to recruit more *fursan* (knights, in the NCP's exalted terminology) for pro-government militias.

Smaller traditional leaders, including those from non-Arab tribes, also saw their functions militarized during the years of the conflict. The non-Arab leaders of Shangal Tobay, an ethnically mixed area of North Darfur south of El Fasher, are a recent example. The area "belongs" to *shartay* Adam Abbakar Rashid, from the Tunjur (non-Arab) tribe and close to the NCP. The *shartaya* includes some thirty tribes, represented by twelve *omdas*: one Tunjur, three Zaghawa, three Arab (Ereigat, Bani Fadl, and Jime), two Fur, one Mima, one Fellata, and one Mararit. The three Zaghawa *omdas* reflect the demographic importance of Zaghawa migrants in the area, even if the other tribes still view them as newcomers. Zaghawa began settling the area in waves (the 1940s, 1970s, and 1980s), because of drought in Dar Zaghawa, but also because they wanted to escape the authority of the traditional leadership in their homeland. In particular, many of the Shangal Tobay Zaghawa came originally from Dar Tuer and Dar Artaj—areas of Dar Zaghawa where people were unhappy with the *idara abliya* clans who held power—and belong largely to nonroyal clans of those areas. When the SLA first formed, it recruited heavily among some of these Zaghawa clans that had been cut out from power, such as the Awlad Digein, Lilla, and Bideyat Boronga in Dar Tuer.¹⁰⁶ When Dar Zaghawa came under heavy attack from the government in 2003 and 2004, the Zaghawa part of the SLA (to become later SLA-MM) expanded out of Dar Zaghawa to the same *goz* (sandy grassland) areas of eastern Darfur, which had been heavily populated by Zaghawa migrants in the 1970s and 1980s. The SLA took control in Shangal Tobay in early 2004, relying on the support of the Zaghawa population there. Other communities suffered taxation, looting, arrests, and killings at the hands of the rebels—even though those same communities had suffered the attacks of Arab militias and had initially been open to the cause of the rebellion. Zaghawa *omdas* gained power, and other leaders were forced to take refuge in government-controlled towns. After Minni Minawi signed the Abuja agreement in May 2006, Khartoum left SLA-MM in control of the area. Abuse against non-Zaghawa continued, feeding growing anti-Zaghawa hostility.¹⁰⁷

At the end of 2010, SLA-MM left the government and abandoned the area of Shangal Tobay, ending its patronage and protection of the Zaghawa community. The Tunjur *shartay*

Box 3. Musa Hilal, Monster or Leader at War?

Some traditional leaders became war leaders. The Arab militia leader Musa Hilal is himself the *nazir* of the Mahamid (northern Rizeigat *abbala*)—although he and his followers, like many Arab communities and leaders, prefer to use the old term *sheikh*, which Hilal inherited from his father. In 1997, he was arrested with other Arab and Fur traditional leaders and notables for his involvement in a murderous Arab-Fur conflict. In 1998, he was accused of helping organize a notorious bank robbery in Nyala and was replaced by a weaker rival, Ahmad al-Badur. In 2003, he was released from prison following the SLA raid on El Fasher; after reclaiming his position of *nazir*, he was asked by the government to recruit and coordinate militias (the so-called *janjawid*) from his tribe and other *abbala* Arabs, mostly in North Darfur, around Kabkabiya, Saraf Omra, Kutum, and all around Jebel Marra. Later he received more formal government positions—to reward him, but also no doubt to control him. In 2008, he was appointed as special advisor to the minister of federal affairs—in charge of tribal and local affairs. “I initially refused to come to Khartoum as the responsibilities were unclear,” Musa Hilal explained. In 2010, he was elected to the federal parliament. “I didn’t want to be candidate, but my community started to blame me and pushed me to come. I felt guilty and came.” He appears to view his role in Khartoum as an extension of his role as a tribal leader. Musa Hilal has always retained autonomy and has even been critical of the government—the behavior a tribe expects of traditional leaders. From 2005 on, he was in touch with all rebel movements, contacts which the government never cleared and which earned him a measure of credibility with civilian and rebel leaders in Jebel Marra, and even among UNAMID officials and Western diplomats. It also earned him the distrust from the government. In late 2011, he told visitors, “In spite of everything, I am a tribal leader and whatever peace process can emerge on Darfur that does not involve me means nothing. Many people follow me and keeping me outside of the scope of political initiatives is equivalent to refusing to involve all the people I represent [as *idara ahliya*].”

Musa Hilal has also maintained the typical behavior of a traditional leader in both “eating” and redistributing to his tribesmen the considerable resources obtained from the government and other backers—including, reportedly, Chadian president Idriss Déby.* (In early 2012, Déby married Musa Hilal’s daughter in a lavish ceremony at a Khartoum hotel; Sudanese newspapers reported that Déby paid Musa Hilal a dowry of \$25 million.) But he has gone about it in a destructive manner, showing the inherent difficulties of bringing the two functions—tribal leader and militia leader—together. He has excluded tribes who followed him militarily but did not defer to him as a traditional leader (the Mahariya and the Awlad Rashid, for instance). Within his own tribe, the Mahamid, he favored his clan, the Awlad Mablul, and even his family, triggering dissent. The government has encouraged such interclan conflict to counter the power of leaders such as Musa Hilal.

Even in a militarized context, when leaders are militia commanders, ordinary people can follow the traditional pattern of switching allegiances if a leader proves too oppressive. As Morton rightly notes, “Another key word [in Darfur history] is *zulm*, or oppression. Communities which wished to overthrow their leader might claim he was an oppressor, *zalim*, and they were oppressed, *mazlumin*. . . . The British were sensitive to these accusations, but never quite sure what constituted oppression. It is not ‘eating’ which is bad. It only becomes *zulm*, or oppression, when it is unfair; above all, when the ‘eater’ does not share the results with his constituency.” *Zulm* is actually the concept used by ex-militia members from the Mahamid tribe, protesting Musa Hilal’s unfair doling out of government money or positions in the border guard corps (*haras al-hudud*). Thus, *jundi mazlum* (Oppressed Soldier, sometimes weakly translated as Neglected Soldier), a diffuse antigovernment protest movement of former *janjawid* actually began in reaction to Musa Hilal’s oppression in 2005 and 2006.

Sources: Interviews with Musa Hilal, date and location withheld; Rebecca Hamilton, “The Monster of Darfur,” *The New Republic* (December 3, 2009); Emily Wax, “In Sudan, ‘A Big Sheik’ Roams Free,” *Washington Post* (July 18, 2004); Julie Flint and Alex de Waal, *Darfur: A Short History of a Long War* (London: Zed Books, 2005), 35–40, 64–66; UN Security Council, “Letter from the Panel,” 33–34; *Sudan Tribune*, “Wikileaks: Janjaweed leader slams VP Taha & Nafie, blames NCP for Darfur crimes,” September 3, 2011, www.sudantribune.com/Wikileaks-Janjaweed-leader-slams,40033; Jérôme Tubiana, “Seule une tortue peut mordre une tortue’: accords entre groupes rebelles et communautés arabes au Darfour,” *Politique Africaine* 118 (June 2010): 205–24, 216–17; Claudio Gramizzi, Michael Lewis, and Jerome Tubiana, “Report of Former Members of the Panel of Experts on the Republic of Sudan” (unpublished report, January 24, 2011), 47–48, <http://bit.ly/Ijpkqj>; interviews with Chadian rebel leaders, various locations, 2010; James Morton, “How to Govern Darfur,” (lecture, Durham University, Sir William Luce Publication Series no. 12, 2011).

*Note: Sudanese Arabic, like so many other African vernaculars, uses the verb to eat (*akal/yakul*) to refer to graft or the taking of wealth by force, and especially by abusing formal powers. See Jean-François Bayart, *L’Etat en Afrique: la politique du ventre* (Paris: Fayard, 1989). James Morton describes at length how traditional leaders in Darfur eat in “How to Govern Darfur.” “‘Eating’ is another loaded word. For some reason British officials always translated this one into English. On face value it means the embezzlement of tax and court revenues” (9).

and some non-Zaghawa *omdas* began to mobilize their communities and recruit militias, with the help of local *agids*. This was a new trend in an area where local inhabitants say that self-defense traditions had been lost. The *shartay* obtained training and material support from the North Darfur governor, enough for a militia several hundred strong. Tunjur politicians close

to the governor supported the process. Fighters who volunteered through the non-Zaghawa Native Administration were then integrated into the Popular Defense Forces. The *shartay* and some *omdas* were the de facto leaders of these units. The *shartay* is also a member of the recently established Security Committee of Shangal Tobay, alongside representatives of the security agencies present on the ground (the army, the police, the PDF, and National Intelligence and Security Services). In addition, more than five hundred private citizens of Shangal Tobay, mobilized by the *agids*, have acquired weapons for which the *idara ahliya* was able to obtain government licenses.

These non-Arab militias have since violently abused Zaghawa communities in the areas, forcing most to flee. In the first half of 2011, seventy thousand to eighty thousand displaced people, almost exclusively Zaghawa from Shangal Tobay, fled to the Zamzam displaced camp, south of El Fasher, and to Abu Zereiga town, the only remaining Zaghawa stronghold south of El Fasher.¹⁰⁸

The International Community

Many international entities working on Darfur—aid outfits, human rights and advocacy groups, UN agencies, analysis and press groups—have little depth of understanding of the history, politics, and social dynamics of Darfur. Their views of traditional leaders tend to be unrealistically optimistic and their approach unabashedly utilitarian.

The prevailing expatriate view of traditional leaders is that they are weak but mostly committed to peace, a throwback to some vague and idealized past—before the conflict, before the NIF, under the British, under the sultan—when “natural” relations were the norm and peace somehow prevailed under the wise stewardship of traditional leaders. International views often underestimate the responsibility of traditional leaders in the violence.

Consider the following example. *Voices of Darfur* is a glossy monthly magazine put out by UNAMID in English and Arabic, with striking color photographs, “designed to present the everyday life of the people of Darfur.”¹⁰⁹ After the violence in Shangal Tobay, *Voices* published an interview with the Tunjur *shartay*, under the sunny title “Shangil Tobaya—A Town of Social Harmony.” When asked, “There has been some fighting lately in Shangil Tobaya that has been of concern. What exactly happened there?” the *shartay* replied simply, “I cannot say whether or not the attack was organized against certain groups as I wasn’t in the place when the attack happened, but during armed conflict anything can be expected.”¹¹⁰ This is not at all what he told various interlocutors throughout 2011. In those interviews, he claimed responsibility, and that of the government, in the creation of the militias. He also defended the targeting of Zaghawa communities, but condemned (though not very energetically) certain killings.¹¹¹

Foreign organizations in Darfur also view traditional leaders in crudely utilitarian terms. Aid groups in particular want to use the Native Administration as an entry point to communities, whether to implement programs, or pass on messages to the community or the outside world (for instance, UNAMID’s relentless message that progress in being achieved), or canvas communities on their views, or build acceptance for an international initiative.

On their side, as during colonial times, traditional leaders have used the external interloper to gain support, financial or political, including in the context of rivalries for chieftaincies. Although the British understanding of local dynamics and personalities was imperfect, it was clearly far better than that of foreign actors in Darfur today.

One of the main problems encountered by international actors even since colonial times is the difficulty in understanding the complexity and the fluidity of the Native Administration, which leads to clumsy attempts at simplification.

One of the main problems encountered by international actors even since colonial times is the difficulty in understanding the complexity and the fluidity of the Native Administration, which leads to clumsy attempts at simplification.

For example, the UN Security Council Panel of Experts on the Sudan recommended that a Ta'alba *omda*, Mansour Ishaq Tuer, be subjected to individual sanctions, calling him the "chief *omda*" of the Ta'alba tribe.¹¹² The truth, however is that *omda* Mansour is only one of four Ta'alba *omdas* in the Kas area. The allegation that he led "hundreds of armed men" who attacked local displaced camps is based only on the testimony of displaced people. This raises the question of whether it is appropriate or effective to sanction a traditional leader living between the small town of Kas and his village of Tabufoto, north of Kas, with an international travel ban and asset freeze.

Last is the other reason international actors, humanitarian and political, often fail to understand the complexity of local leadership dynamics: they do not speak to the more representative leaders. Internationals typically seek out interlocutors who are available during their short visits to given locations and neglect more important leaders who may not be present at the time of their visit. Internationals tend to focus on the new leaders in the displaced and refugee camps that are easy to visit or are near main towns—the plastic sheeting bias may be Darfur's answer to Robert Chambers' tarmac bias. Low- and mid-rank old native administrators may be lying low in the camps, or the war may have separated them from their people, or they may have remained in their area of origin, or they may oversee a vast territory or a nomadic population. International interlocutors prefer dealing with individuals who have some education, who speak articulate Arabic or even English—but who may not have the best knowledge of traditional dynamics. They often do not know how to identify representative leaders, and they do not always know how to engage them. In the meantime, mere contact with the international actors empowers new leaders. Their prestige and power increases when they are integrated in relief programs on distribution committees, or hired as local staff. This can aggravate tensions within a community, between the traditional leadership and new leaders, a dynamic that is viewed with alarm by local observers: "The NGOs should be very careful with this type of conflict, they should not be trying to create new leaders."¹¹³

Morton notes that two UN projects have attempted "to address issues [that] would come under the banner" of the Native Administration. One is the Darfur Rule of Law Program, which is described as "blind" to the Native Administration and its judiciary role. The other is the Darfur Community Peace and Stability Fund (DCPSF), under which NGOs are working with native administrators, in some cases funding their activities. Morton remarks, "It took the British many years to achieve a rather imperfect understanding of the institutions underlying the *idarat al ahliya* [sic], and the highly political personalities which led it. An NGO which was working on humanitarian aid until last year, and which is only funded for two years anyway, cannot hope to achieve the same. The result is the embarrassing sight of Darfuri *shaykhs* and *omdas*, who have been brought up in a centuries-old tradition of conflict management, being taught 'How to Work with Conflict' out of a glossy manual printed in Birmingham."¹¹⁴

Traditional Justice and Reconciliation

It is difficult to separate traditional justice and reconciliation in the context of Darfur. The mechanisms are the same, but needs are different at different levels. Five levels can be defined:

- within the family;
- within the village, for sedentary communities, or the *damra* or *feriq*, for nomads or semi-nomads;¹¹⁵

- within a broader geographic or even identity community spread out over several locations;
- within the tribe; and
- between different tribes.

Nuances, of course, are countless: a problem can occur between two villages or even two individuals of different tribes. Some tribes are more hierarchical. Others, in particular among the nomads, are scattered over large territories that may straddle provincial or even international boundaries.

Several key definitions and concepts both underpin and are critical to understanding traditional justice in Darfur and to putting the conflict and reconciliation there in context.

The *mabkama ahliya* is a traditional, customary, or native court that operates under customary rather than statutory law. It typically handles disputes over land, damage to farms and livestock, minor violence, family problems such as inheritance and divorce, and small commercial matters.¹¹⁶ It is presided over by traditional leaders who deal with individual cases. The term *ahliya* comes from *ahal*, or family, and denotes something local, customary, or tribal. It can also refer to a settlement that does not involve an official court or the presence of a government official (*ittifagiya ahliya*).

Traditional courts have a variety of names, which causes confusion, even among local users of these courts.¹¹⁷ Under the Nimeiri regime, the traditional courts were given a new name, *mabkama sha'biya*, or popular court, in deference to leftist leanings of the regime's early years. Under the present Islamist regime, the 2004 Town and Rural Courts Act describes a traditional court as being either a rural (*mabkama rifiya*) or a town (*mabkamat al-madina*) court, according to its location. The term *mabkama ahliya* is the most commonly used, though *mabkama sha'biya* remains used, even officially (the adjective *sha'bi* now carries the connotation of popular, as in nongovernmental, rather than of the people in the political sense). Some higher courts carry the name of the presiding authority: *mabkamat al-malik*, the king's court, or *mabkamat as-sultan*, the sultan's court.

The lowest court is that of a *shartay* or, in Dar Masalit, of a *fursha*, as well as of some *omdas* in charge of large territories.¹¹⁸ In conversation, people may also refer to the court of a lower level leader—*mabkamat al-omda* or *mabkamat ash-sheikh*—not referring to a place, but rather to a traditional leader's authority, and by extension, the action of adjudication: "the *omda's* court decided that." In other words, the *omda*, acting in his capacity as a holder of judicial authority on minor disputes, rendered a decision.

The court structure in Darfur is hierarchical. The customary courts normally defer to the court of the most senior paramount chief in the state: the court of *malik* Rahamtallah Mahmoud Ali ad-Dadingawi in El Fasher, the court of the sultan in Geneina, and the court of the *magdum* in Nyala. The recent creation of the new states of East and Central Darfur will likely result in the courts of *nazir* Madibbo of the Rizeigat in ed-Da'ein and that of the *dimangawi* in Zalingei being de facto elevated or re-elevated. Those paramount courts have been labeled by the 2004 Act "central rural courts," which give them powers of appeal, though their older names are often more commonly used.¹¹⁹

The *mabkama wusta* (middle court) acts as a sort of appeals court for first-tier customary courts and is convened by higher level Native Administration leaders on an ad hoc basis whenever a complex case arises that requires attention based on customary law, something that neither the customary court nor the statutory court can resolve. The cases concerned especially to complex land disputes (such as on land straddling territories) for which the statutory judge is not trained, or intertribal cases that are outside the jurisdiction of the statutory

judge. Also, litigants who refuse a ruling by the customary court and whose appeal to the statutory judge cannot be resolved go to the middle court. One infamous land case has dragged on for a decade in El Fasher and is sent back again and again to *malik* Rahamtallah. Middle courts do not have a physical location.

Judiya is the main term for traditional justice and reconciliation mechanisms in Darfur. The term is derived from *jud*, which translates to generosity or magnanimity in Arabic. The *judiya* process is facilitated by *ajawid* (sing. *ajwad*). The central tenet is that of a consensual mediation that brings together a commonly acceptable outcome for the parties. Problems are not solved by punishment, but by a common acceptance of social ties.

The term *judiya* has now become a generic term for mediation, to the point of being confused with other processes such as *musalaha* (reconciliation) or mediation conferences involving government. It is true that such conferences often involve individuals who are recognized *ajawid* in the community—precisely because they are recognized as skilled and experienced mediators—but they do not perform exactly *ajawid*-like functions during reconciliation conferences. When Darfurians want to say that a mediator is good, they will label him an *ajwad*, and when they want to indicate that a conference was good, they will call it a *judiya*. Both terms are strongly positive.

A *rakuba* is, literally, a modest, open wooden structure. Figuratively, it is a customary precedent between two parties, normally set by a successful past *judiya*, that is applied to future disputes between the same parties. The *rakuba*, in essence, dictates subsequent agreements—often keeping blood money and compensation to minimal levels. The word *rakuba* itself can be used to design the specific amount of a discount on what would be a normal compensation for a given offence.

Musalaha or *suluh* are the most commonly used terms for reconciliation. By extension, they also refer to reconciliation conferences (*mu'tamar suluh*), in particular the larger, more formal intra- or intertribal events organized by the government. A *musalaha* process will often involve government officials; ideally the government is a guarantor of the agreement and compensation, and contributes to the compensation payments. The present government's failure, in the late 1990s and early 2000s, to either enforce or contribute to compensation owed by Arab *ab-bala* groups to Zaghawa in North Darfur—out of neglect and parsimony, but one must assume maybe also by design—was an important trigger to the formation of the rebel movements, especially the SLA.¹²⁰

The foundational component of customary justice and reconciliation is material compensation: the offending party must compensate the aggrieved party for the offense. If there was loss of limb or life, the compensation comes in lieu of blood. Compensation is also, and implicitly, the recognition of responsibility, and can therefore lead to reconciliation. Compensation can be ordered by the court, recommended by *ajawid* or other mediators, or agreed by consensus by the parties. It comes in three forms: *diya* (blood money), *ta'wid* (compensation for nonhuman losses), and *kbasarat* (costs).

Diya is paid only in compensation for human injuries or death. It is based on sharia (Islamic) law, but as is the case in most traditional Muslim societies, it has in practice merged with local customs. A typical *diya* amount is SDG 100,000 or one hundred animals (usually expressed in terms of camels) to compensate for the death of a man, and fifty for a woman. Historically, variance was considerable from area to area and tribe to tribe. This began to change as sharia spread before, during and after colonial times. The British wanted to standardize varying customs and saw Islamic law as a useful tool. The homogenizing trend continued after independence. The hundred- or fifty-animal rate for the death of a man or a woman respectively

holds, for example, on both sides of the Chad-Sudan border despite very different colonial and postcolonial histories with regard to judicial policies (and everything else). The amount in SDG is purely Sudanese, and is official. Subsequent devaluations and revaluations of the Sudanese currency over the past two or three decades, as well as switches from pound to dinar and back again, mean that Sudanese are able to continue to calculate the cost of daily life, from a glass of tea in the market to the amount of *diya*, in pounds.

Traditionally, livestock served as a yardstick for practical purposes, because livestock were the main source of wealth. But because of price variance, the ratio of SDG 1,000 per animal was established by modern courts when they began to incorporate sharia into the Sudanese code after the adoption by the Nimeiri regime of the so-called September laws in 1983.

The anthropologist Ladislav Holy found that among the Berti, the term *diya* can be used for compensations for damage to property or the loss of livestock, such as the killing of a camel.¹²¹ During the war, stronger groups claimed *diya* for animals, but this was considered an abuse by the weaker groups being forced to pay. For example, recently, in Millagat, north of Kutum, pro-government Arab militias arrested Tunjur and Fur civilians and accused them of looting Arab camels. They demanded payment of SDG 50,000 per camel. The non-Arabs did not see this as compensation, *diya* or otherwise, as much as ransom for a kidnapping. It was also seen as a break of the security agreement that existed between Arabs and non-Arabs in the area.¹²² There is no individual *diya* during larger conflicts, be it tribal affrays or war. “In war, no one says ‘you killed my son.’ That is war.”¹²³ Losses, compensation, and *diya* will be addressed between groups at reconciliation conferences.

Ta’wid is compensation for material or livestock losses, stolen, damaged, or destroyed. The rates depend on the estimations made during the *judiya* process or reconciliation conferences, by *ajawid* or mediators, and agreed to by the parties. Bargaining and discounts at the demand of the mediators or the parties, also affect the final monetary outcome.

Khasarat (sing. *khasar*¹²⁴) are costs the victim incurred related to the offense, especially medical treatment for injuries, as well as travel and food costs for the mediation meetings or peace conference. *Khasarat* are due immediately on reaching an agreement, whereas payment of *diya* is made on a timetable. Although the amount of *diya* to be paid is in principle limited by law and custom, the stronger party may ask for excessive *khasarat*—knowing that the weaker party will either pay to avoid further violence, or not be able to pay—thus creating a semilegal *casus belli* for the stronger party to take by force what it could not get through negotiation.

The Customary Court

The current legal foundation for customary courts is the Town and Rural Courts Act of 2004, which mirrors the Local Government Act.¹²⁵ North Darfur currently has seventy-two of these town and rural courts, South Darfur ninety-four, and West Darfur forty-one. At the end of 2011, thirty-two were functioning in North Darfur, sixty-nine in South Darfur, and twenty in West Darfur—the others are “stopped” (*mutawaggifa*).¹²⁶

The judiciary function is among the most important of the Native Administration. The Native Courts Ordinance of 1932, which came at the tail end of a series of ordinances passed by the British in the 1920s, formalized the customary justice system.¹²⁷ Customary courts were given a legal base in official law, but it would be wrong to think that they were left uncontrolled by the central authorities. The colonial authorities monitored native administrators carefully. Moreover, “in all the Ordinances right up to the 1932 Native Courts Ordinance the ultimate responsibility for enforcement lay with the Government, not the *idarat al ablia* [sic]. . . . The Native Court had the full power of government behind it.”¹²⁸

*The judiciary function
is among the most
important of the
Native Administration.*

The continuity between the foundational NCP Act of 2004 and the colonial ordinance of 1932 is striking: “The District Commissioner,” the ordinance stipulated, “may enforce the execution of any sentence or judgement of a Native Court on the request of the court or of the aggrieved party in the same manner as if it were a sentence or judgment of an ordinary court of law.”¹²⁹

Even during the Nimeiri regime, when in the early 1970s the government dismissed senior traditional leaders and the customary courts were replaced by so-called popular courts, the customary courts quickly resumed, either officially or unofficially. One example is that of then Zaghawa *malik* of Am Boru, whom the government asked to resume his job because the new court was not functional.¹³⁰

Today, as noted, the rural and town courts—the customary courts—are legally part of the formal court system, the lowest tier. Some court members are native administrators, thus appointed by the government. Moreover, all customary court members are appointed by the chief justice on recommendation of the district judge and after consultation with the local Native Administration (which will generally propose names) and the state governor. The chief justice has the power to replace members.¹³¹

The trend seems to be toward a weakened role of the judiciary in favor of the executive. For instance, the 2007 South Darfur state law on customary courts gave the governor the right, after consulting the state judiciary, to form a customary court anywhere in the state.

Judges of local statutory courts (the district judges) supervise the work of the rural and town courts. Although these customary court decisions have to be endorsed by the statutory judges, their records, in return, are maintained for possible examination by representatives of the justice system.¹³² Thus the formal justice system, from local courts up to the Supreme Court in Khartoum, has “powers to check” all customary court proceedings.¹³³ Parties in traditional court cases can appeal these cases in the formal courts.¹³⁴

Those local courts are customary in that they use custom, but only if those customs do not contradict either statutory law or sharia. The customary courts also use statutory law, as well as sharia.¹³⁵ The courts adjudicate everyday disputes, personal matters, and petty criminal cases. Darfur is a rural society, and the most common cases are conflicts over land, disputes over farming, grazing or watering agreements, and claims for damage to farms (commonly by migrating pastoralists), pasture and livestock. The centrality of the traditional leaders to the judicial system reflects the agricultural nature of many of the disputes. Other common cases include family matters (inheritance disputes, domestic violence, divorce), minor violent offenses that include no serious injury (a market brawl, fisticuffs between neighbors), minor financial or commercial issues (an unpaid debt, a dispute over a lease), and petty crime.¹³⁶

The courts have the power to issue summons and arrest warrants, including when someone fails to reply to a court summons. They can sentence convicted parties provided the sentences contradict neither formal statutes nor sharia.¹³⁷ Punishments include fines that can go to a maximum of 400,000 dinars (SDG 4,000), corporal punishment (with a maximum of twenty-five lashes, forty for the consumption of alcohol), and imprisonment (in government prisons) for up to seven years. The seven-year limit on imprisonment is in line with the fact that offenses that could lead to more than seven years in jail are referred to the formal court.

Sharia

Since the sultanate, all courts have had a *faqi*, or holy man, among their members. Known as the sharia member (*al-'udu ash-shari'i*), his function is to oversee cases such as divorce, inheritance, and paternity cases where sharia applies. The judicial system thus confirms the division

of labor between religious and traditional leaders: *maliks* and *shartays* do not typically have the required knowledge in Islamic law.

The Condominium had established sharia courts in the towns, separate from the customary courts and the statutory courts, which were specialized in inheritance and other personal cases and handled only sharia matters. When the Nimeiri regime introduced sharia in 1983, the town-based sharia courts merged with the statutory courts. Statutory judges received sharia training. Sharia courts, like statutory courts, had general jurisdiction. At the same time, both statutory and customary courts were allowed to handle usual sharia matters. In rural areas, the sharia member compensates for the lack of sharia courts.

Structure

The chair of a customary court is almost always a member of the Native Administration—even though the 2004 Rural and Town Courts Act states only that the president and vice president “shall be aware of the customs and traditions of the citizens who are resident in the area.”¹³⁸ For instance, the *mabkama ahliya* of Kutum in North Darfur is chaired by *malik* Adam Mohammed Nur of Dar Beire, northeast of Kutum, which belongs to the Kaytinga.¹³⁹ *Malik* Adam became chief in 1953 when he was fifteen years old and is the longest-ruling chief of the area. His deputy is the younger *malik* Hassan Mohammed Abder-Rahman, known as *malik* Fathi, the Tunjur chief of Dar Hamra, just south of Kutum. In the Kutum *mabkama ahliya*, both the head and his deputy are among the most senior native administrators in the area, but some among the pool of ten members of the court are not from the *idara ahliya*. Rather, they are, in the words of court chair, *malik* Adam Mohammed Nur, “wise people who know the traditions of their tribe,” echoing the language of the 2004 act.¹⁴⁰ The members of the Kutum *mabkama ahliya* belong to both non-Arab tribes and small Arab tribes, such as the Tarjam, who are settled and well integrated among non-Arab communities.¹⁴¹

The court members function as a pool. Some courts have an established rotation system, others function on an ad hoc basis with whoever showing up constituting the court that day. In many cases, however, the president of the court, or often the president and the deputy, must be present, or otherwise a deputized member. The rotation is seen as important to ensure that the tribal diversity of an area is represented. Members other than the sharia member do not have specific functions. There is no quorum required. They function as a group in the court—when in session, anyone can talk. Decisions are taken by consensus (*ijma*).

A court can operate with only two-thirds of its members present and without the head. For example, El Fasher’s *mabkama ahliya* operates with three members (including its chair, *malik* Rahamtallah), chosen among some twenty-five potential members, all traditional leaders (box 4). Membership in the court shifts every three months, when two new members sit (the chair remains the same). In theory, according to the 2004 act, courts need at least three members—the chair or, in his absence, his deputy and two members—to function.¹⁴² But, as observed in the summer of 2011, the court in El Fasher was operational with only the deputy and one member present.

A Day in Court

The chair, *malik* Rahamtallah Mahmoud Ali al-Dadingawi, is absent. In his stead, his *wakil* or *na’ib* (representative or deputy), Ibrahim Mohammed az-Zubeir, presides. He sits at a large desk in the middle of the small room that constitutes the court, in the compound gathering all El Fasher-based judiciary institutions. Only one other member of the court is present today: a very old man, *omda* Ishaq Abbiker Ahmad, of the Dar Hamid Arabs. He sits on a bench to the

Box 4. The El Fasher *Mahkama Ahliya*

The customary court in El Fasher was ratified by the Native Courts Ordinance in 1932 as a *mahkama ahliya*. It was renamed a *mahkama sha'biya* (popular court) under Nimeiri and is still referred to as such, though the chair of the court, *malik* Rahamtallah, gently indicates that "we like *ahliya* more than *sha'biya*." But local people also call it the *mahkama raisiya*, or head court. Another court in El Fasher is *mahkamat al-madina*, which is more statutory than customary and with the city is its sole jurisdiction, whereas the *mahkama ahliya* covers all the localities (districts) around El Fasher. The two courts coordinate informally, sometimes using each other as an appeal court.

The El Fasher *mahkama ahliya* is headed by *malik* Rahamtallah Mahmoud Ali al-Dadingawi. *Malik* Rahamtallah is the longest serving native administrator and court chair in Darfur—he succeeded his brother as both *malik* and chair of the *mahkama ahliya* in 1943—and is the heir of an old dynasty (he is the twelfth of his line). This makes him one of the most respected traditional leaders in Darfur, along with the *magdum* of Nyala and the *dimangawi* of Zalingei. He belongs to a small Fur subgroup, believed to be originally from South Sudan, which makes him less threatening to other groups. His *wakil* (representative) and *na'ib* (deputy) is his cousin Ibrahim Mohammed az-Zubeir.

Below him, the members of the court are chosen among twenty-four people, all members of the Native Administration of the El Fasher area, including important territories around the state capital—Korma, Tawila, Simeyat, Shangal Tobay, Dar es-Salam, Wada'a—most of which are under the authority of *malik* Rahamtallah, although his authority is more moral than real. The El Fasher court covers all these areas. In principle, the leaders of the group can all chair smaller, more local courts. The number of members varies: there are currently twenty-four, but can easily change. People may be added if they are believed to be good judges, or when there is a need for someone from a particular area or tribe. They are likely to remain on the list until their death. A dead member may be replaced by a son or a relative, or may simply not be replaced.

Before the war, the leaders based outside of El Fasher town did chair smaller courts in their respective areas, and in the past the court of El Fasher was their court of appeal. However, since the war, these courts have generally ceased to function.

Among the twenty-four native administrators, six are *shartays*, a senior rank. They are all non-Arab and include three Tunjur.^a Seventeen are *omdas* (mid-level rank): the majority (eleven) from various non-Arab tribes, and five from small Arab tribes originally from Kordofan (Dar Hamid, Jawa'ma, Bani Fadl) or central Sudan (Jallaba) who settled in and around El Fasher during the sultanate and have long held *omodiyas*.^b Only one of the *omdas* is from a Darfurian Arab tribe, the Ereigat, who hold a special position among the *Abbala* Arabs of North Darfur. An Ereigat *sheikh* is also a member of the court.

Source: Interview with *malik* Rahamtallah, El Fasher, August 2011.

a. The Tunjur are believed to have been the rulers of the second kingdom of Darfur in the sixteenth century, after the Dajo and before the Fur. In the seventeenth century, according to oral history, the Fur overran the Tunjur and founded their own sultanate the same way many Sahelian kingdoms were founded, mixing violent displacement of some Tunjur communities (for example, in Shangal Tobay), the replacement of some of their main leaders by Fur leaders (for example, in the Ain Siro area), the disappearance of the Tunjur language, and the co-optation of other Tunjur dynasties in the new Fur sultanate hierarchy, with the appointment of the Tunjur *takanyawi* as ruler of the northern part of the sultanate, where the Tunjur kingdom was originally based.

b. In present-day Darfur as well as South Kordofan and South Sudan, *jallaba* is a term with a strongly pejorative connotation that refers to riverine Arabs and even sometimes non-Arabs, such as the Nubians, all foreign to Darfur. But the word also refers to communities of people from central Sudan who settled in Darfur, and especially around the sultan's capital El Fasher (*al-fashir*, the encampment of the Sultan), as merchants, bureaucrats, soldiers, and so on. These communities are recognized as Darfurian and have their place in the Native Administration.

c. The Ereigat are the only group among the *abbala* Arabs of northern Darfur to have settled before colonial times. They were given small *hakuras* (royal estates) by the sultan, in particular around El Fasher. Having been more sedentary, the Ereigat also received better access to schooling during the colonial and early independence periods.

right of the judge. The plaintiffs sit on another bench to the left of the judge. Defendants stand before the judge. The session starts shortly before eleven, and lasts three hours.

First case—Dispute over a farm¹⁴³

The judge, Ibrahim Mohammed az-Zubeir, the deputy head of the court reads the petition. A woman, Asha, accuses a man who has a six-acre farm to the east of El Fasher town of having taken her land. She says she has been farming this farm for forty years. She mentions the names of her neighbors: Adam A. to the east, Abubakar I. and Hamid S. to the north, and Adam Y. to the south. She claims she fell ill and had to travel to Khartoum to seek treatment.

Before traveling, she entrusted the land to the defendant with the promise he would farm it only during her absence. But when she was back, he refused to return the farm.

Judge: Now let's listen to the statement of the plaintiff.

Plaintiff: I gave this man a farm for one year, until I came back from Khartoum. Now I want it back.

Judge: Are there any witnesses?

Plaintiff: Yes, I have the *sheikh* of the land, and another man, Ahmad I., and Mohammed D., and Idris A.¹⁴⁴ Those are the *sheikhs*.

Judge: Now we want to hear the defendant. You can sit down.

Defendant: This is not true: she didn't give me this farm, Ismail A. is the one who gave it to me.

Judge: First introduce yourself.

Defendant: My name is Ibrahim O.

Judge: Who is this man who gave you this farm. Is he a *sheikh*?

Defendant: Ismail is not a *sheikh*, but he says the farm belongs to him. He told me to pay *'ushur* [a customary tax of one tenth of the harvest] to *sheikh* Musa for three years.

Judge: The court will adjourn the case until the plaintive brings her witnesses and the defendant brings Ismail. You have to be back here on September 12.

Second case—Inheritance problem

A man claims to be the heir of a woman. First the judge takes a Quran from his desk and asks that the man swear on it, "to tell the truth, the whole truth and nothing but the truth." The judge questions him rapidly.

Judge: When did she die?

Man: In 1998.

Judge: What's your name?

Man: My name is Khalil A.

Judge: Where? She died at home?

Man: Yes.

Judge: Her father and mother are alive? Her husband?

Man: No.

Judge: She has brothers and sisters alive?

Man: Her sister died.

Judge: She left a house in district 5?

Man: Yes.

The judge writes a note and gives it to Khalil. It seems that, on the basis of the oath, the judge accepted the claim, and Khalil can now use the note from the judge to claim the legacy from the state administration.

Third case—Dispute over the registration of a piece of land

A dozen men enter the room, mostly young men, who appear quite self-confident against an old man, who is accompanied by his family. The young men, represented by a lawyer who carries a leather suitcase full of documents, accuse the old man of farming part of a land par-

cel they had registered as an agricultural scheme, or project (*masbru*). In an aside, the judge explains that, during the rainy season, the courts receive many cases of conflict for land between farmers, including conflict between people who took care to register land as commercial agricultural projects and others who did not, and conflicts between displaced and newcomers occupying land they had to leave.¹⁴⁵ The judge begins with a roll call:

Judge: Abdallah A.?

Answer: Yes.

Judge: Abdelkarim M.?

Answer: Yes.

Judge: Mohammed A.?

Answer: He left to search for gold.

And so on.

The judge notes many of the people who should be there, mostly from the accused side, are not present.

Judge: We will call these people for a later session.

A plaintiff: This is the fourth time this case is adjourned, but those people just don't want to come.

Judge: I am issuing an arrest warrant for them all. If they don't come, we will take them to prison. [To the defendant] Tell them to come to court! Try to convince them so that we can end this case. You always come and then the case is adjourned, is it not a damage to you? I can't hear people when some are absent. Who didn't come? Fatima A., did she come? No.

A man: Four of them didn't come.

Other man: Six didn't come at all. [He quotes six names, all women.]

Judge: Let us hear the statements of the three who came.

Most people are asked to leave the room; the defendant and two young men from the plaintiffs' party remain.

Judge, to the defendant [the old man]: Bokor A.? This man came and found you were cultivating his farm?

Defendant: The land is ours, and the right to farm is also ours.

Judge: You claim the land is yours, and he claims the land is his.

A young man from the plaintiffs' party: Let him bring his witnesses.

Judge, to the defendant: Who gave you the land?

Defendant: The land is mine, and the [agricultural] project is mine. I have my neighbors as witnesses. Since my grandfather, I inherited this land.

Judge: Who are your neighbors?

The defendant gives names.

Judge: What's the name of your land?

Defendant: Laoda.

The judge, pointing to the plaintiffs: Are they your neighbors?

Defendant: No, I don't know them.

Judge: Let us hear all witnesses. Is your project registered?

It seems only the young men, the plaintiffs, had bothered registering their land.

Judge: Let's call the first witness. Abdel-Karim!

Abdel-Karim enters the room. He is a witness of the plaintiffs, but seems to also be one of them.

Abdel-Karim: The land is our land. We are cultivating our project.

Judge: What's the name of your project?

Abdel-Karim: Gobo.

Judge: When did you register it?

The lawyer takes a document from his suitcase and shows it to the judge.

Judge: Did you trespass on the project of the accused?

Plaintiffs: No. We didn't farm his land.

Judge: Does he have a project near you?

Plaintiffs: No, his project is in Wadi Gara and Laoda.

The judge, to the defendant: Do you have witnesses?

The defendant hands a paper to the judge.

Defendant: These are the witnesses.

It seems most of them are absent.

The defendant, pointing at the plaintiffs: Those guys came to my farm and threatened to kill me.

The lawyer for the plaintiffs: This is [my clients'] farm. I brought the plan of the project, the feasibility study and a letter from the *shartay*.

The judge, to the defendant, looking at the *shartay's* letter: *Shartay* Tijani [Tijani Mohammed Saleh Mindi, the Tunjur paramount leader of Korma area, also a member of the court], is he not your *shartay*? Why did he write this letter [supporting the plaintiffs' claim], if it were not true?

Defendant: We need justice. We're living together in the same village.

A plaintiff: No, we don't know him.

Judge: How big are your farms?

Defendant: My area is 307 *feddan* [about 129 hectares].¹⁴⁶

A plaintiff: Ours is 2,200 *feddan* [924 hectares].

Defendant: They've taken their people and their children, they farm all together and threaten to kill me. [To the lawyer] You, if you're defending those people, you're not doing respectable work!

The judge, trying to calm the assembly: People, you're people from the same land, don't let the land divide you.

Defendant: They are my people, we live in the same area.

The judge asks them to leave. The case is adjourned once more.

A young man from the defendant's side threatens as he leaves the room: It's a conspiracy, they want to start war again!

Fourth case—Unpaid debts

A vegetable seller, a woman, accuses another vegetable seller, a man, of owing her SDG 1,020. He says he owes her only SDG 820.

Judge: Will you swear on the holy Quran you don't owe her those 200?

Defendant: No, I won't swear.

Judge: Then the court will order you to pay the whole amount.

The judge firmly informs one of the authors that "any person who refuses to swear will lose his case."

Judge: The court will give you seven days to pay.

Defendant: I'm ill. . . .

Judge: The court doesn't care whether you're ill or not. On August 29, you have to bring the money or you'll go to prison. [To both the accused and the plaintiff] You two have [business] relations with each other, don't let money spoil your relationship.

Both seem satisfied when they leave the room.

Fifth case—Unpaid debt

The defendant owes SDG 4,000 to the plaintiff. The same (customary) court has already sent him to prison for this. During a Ramadan visit by the governor to the prison, the defendant was able to tell the governor about his unpaid debt. The governor agreed to pay for it, taking the money from a fund called *kis as-sa'im*, generally used for those who do not have enough money for the fasting month. The plaintiff is now receiving payments.

Judge: So, do you realize prison is sometimes useful? Had you not been in prison, you wouldn't have found the money to pay your debt. . . .

The convict remains silent.

Judge: How long were you in prison?

Convict: Six days.

The judge, to the plaintiff: Is all the money there?

Plaintiff: No, it is not. I received SDG 4,755 instead of 4,855.

A woman working with the court, who gave the money to the plaintiff, addresses him: Do you know where this money comes from? Leave what's missing!

The plaintiff agrees to forgo the remaining SDG 100.

Judge: The same plaintiff also claims SDG 2,000 from the same accused, but in this case, the accused swore on the Quran it was not true.

The plaintiff, leaving: You will see, it's another falsehood. But God will see to this.

Sixth case—Burglary

A man comes with his chains on his feet, escorted by two policemen, one behind him and one beside him. He stands where the defendant usually stands. He is not the accused, however. He was condemned to two months in prison for another case, but today he is the plaintiff. He is a displaced man from the Zamzam camp, close to El Fasher, as is the defendant.

Plaintiff: While I was in jail, they broke the door of my house in Zamzam camp at night and stole some of my belongings.

He is asked to swear on the Quran. A policeman puts the holy book before him.

Plaintiff: I swear on God to tell the truth, the whole truth, nothing but the truth. They left nothing in my home—they took bricks that were inside the house and sand for construction. [Fingering the defendant] I don't know whether it's him or somebody else, but my suspicion is that it is him.

Judge: Do you have witnesses or proof?

Plaintiff: Yes, both.

Judge: Who are the witnesses?

Plaintiff: Adam Daw-al-Beit, Ismail, Hamid. Four *omdas* have made a report on my case.

Judge, to the accused: Ibrahim, he said you broke into his house.

Defendant: No, he's living in a place that doesn't belong to him anymore. He left it and went somewhere else. I know this well, I'm a *sheikh* of Zam Zam camp, I was the one who divided all this area of the camp into plots. At that time, the plaintiff was

absent. His sons were there, they made some problems. I gave this house to his father-in-law.

Judge: Did you break into it?

Defendant: No, I didn't. They just left the area. Then when he left he was put in prison. On the same day, his wife came and broke into the house. He and his wife don't have good relations. I didn't know what she intended to take in the house but I asked people to be witnesses.

Plaintiff: No, my wife didn't break into the house.

Defendant: How do you know? You were in prison. You talk too much. Do you have documents proving this house is yours?

A policeman repeatedly enjoins the gathering to soften their tone.

Judge: Please calm down. We are here to solve problems and render justice, for you and for any other. About the witnesses: who are those *omdas*? They are not registered as *omdas* here. Are they *omdas* for the displaced?

Defendant: Yes.

Judge: His wife had moved to another place. The question is now whether she or someone else has entered the house after this.

The case is adjourned to allow further investigation. The plaintiff carries his chains as he walks out the room.

Seventh case—Trespassing

Abdallah, the owner of a farm in Um Marahik, east of El Fasher, accuses a man of having threatened Isma'il, a laborer working for him on his farm. All are from the same ethnic group, the Berti Simeyat. The laborer stands before the judge, in front of the landowner. The defendant sits.

Judge: This case was sent to us by the prosecutor. The prosecution had examined this case and found it could fall under two articles: Article 183, attack, and Article 144, terrorism. But according to us, it's just a simple case.

The laborer: The story is true. I was clearing the land. He came and told me to stop working in this place. So I left and didn't come back.

Judge: Are there any witnesses?

Laborer: No.

Judge: To whom belongs the land?

Laborer: Abdallah is the one who took me to that place.

Judge: You need another witness.

Laborer: He told me to leave!

Judge: "Go" is not a threat. If a person comes with a stick or a knife, that's a threat.

Laborer: He was carrying a sword on his donkey.

The owner, Abdallah, intervenes: His brother also threatened me.

Judge: It's not an attack. You can't say this is an attack. It's normal for farmers to pass through the fields of each other.

Defendant: His field is on the road, I was just passing by.

Laborer, to the accused: Did you not tell me: "This field is my grandmother's field, don't work here"?

For the first time that day, the judge consults the sole member of the court present today, the old *omda* Ishaq Abbiker Ahmad, of the Dar Hamid Arabs.

Judge: It's not his right to go to other people and prevent them to work.

Member: It's a very simple case, just fine him SDG 50.

The judge turns inquisitively to the policeman sitting on the other side of the room, opposite the member.

Policeman: No, fine him SDG 150 and, if he's unable to pay, four months in prison.

Judge: That's too much. [To the accused] The court condemns you to pay the plaintiff SDG 100 or, if you are unable to pay, fifteen days in jail.

The accused man protests. The judge notices a stone in his hand; it might be an amulet to protect him or cause harm to his enemies.

Judge: Put that stone in your pocket and leave the room.

Eighth and Ninth Cases

A woman wants to bring a complaint.

Judge: Come back tomorrow, today is not the day for petitions, only for cases.

Another woman brings a complaint.

Judge: Bring witnesses and come back tomorrow.

Analysis

The judge conducts court sessions at a swift pace. The process appears messy, with a wide range of practices used on what appears to be an ad hoc basis. Similar cases seem to be addressed in remarkably different ways. For instance, an oath on the Quran (see the fourth case), which was apparently quite effective, is not resorted to systematically.

The connection between the court and state institutions—especially the police—is evident, for instance, in the judge's issuance of arrest warrants for people who fail to obey his summons to appear in court (see the third case). Additionally, the seventh case was referred to the *mahkama ahliya* by the prosecutor's office, but the customary judge challenges the formal justice's appreciation of the case, and gives a much milder opinion. It is also interesting, in the same case, that the judge canvasses other officials present—the sole member of his court and a policeman—before offering a decision halfway between the two opinions. The other member of the court, the Arab *omda*, speaks only once.

The third case is especially interesting in that it is not only a land conflict, but also a conflict between the traditional land tenure system based on communal ownership and modern practices and laws encouraged by the government. The government favors the registration of land as agricultural projects with a commercial value. Another conflict at play here is generational, between young people who were careful to register their farm, and an old man with a smaller farm who was oblivious to the statutory land regulations. (One of the plaintiffs has left "to search for gold," another highly destructive extractive practice enabled by modern laws at the expense of rural populations, which saw a rush in South and North Darfur in 2011. Clearly, the plaintiffs are economically ambitious young men.) In remarks to one of the authors, the judge also recognized that conflicts between modern investors and traditional farmers, as well as between customary and modern land law, are common in his court. But the case may have a darker side: a land grab by individuals with political connections. This is something the judge also recognized as commonplace. The old man (the defendant) belongs to the Fur tribe who, with the Tunjur, are the landowners in the Korma area. The young investors on the other hand, are Tama—a landless, non-Arab group generally seen as newcomers from Chad, who have generally sided with the NCP and, during the conflict, with pro-government militias. Although the judge recognized these aspects of the case, he remained focused on evidence of who owned the land, which was to the disadvantage of the old man who could rely only on oral wit-

nesses who were absent. On their side, the young men had not only modern law behind them—registration of their project, written documents, a lawyer—but also customary law, with a letter from the *shartay*, the traditional administrator of the area. *Shartay* Tijani Mohammed Saleh Mindi is Tunjur and is generally considered pro-government. In this context, the parting comment of one of the defendant’s relatives—“It’s a conspiracy, they want to start war again!”—is ominous, showing how quickly tensions rise and how much Darfurians believe that the conflict has been about land.

It is common practice for the *mabkama ahliya* to ask parties to produce letters from traditional chiefs of all ranks, or even ask them to appear as witnesses, regardless of whether some may be members of the court or hierarchically above members of the court. But it can be difficult for the displaced to do so: their camp *omdas* and *sheikhs* are often not part of the official Native Administration (as the judge noted in the sixth case), and their original leaders may be displaced elsewhere, or dead, or simply lack the means to come to the court on a regular basis. Conflicts among displaced are not uncommon in the court, though the displaced often prefer to rely on their own unofficial justice and reconciliation mechanisms in the camps—it is cheaper for them and they believe they will get a better hearing.¹⁴⁷

That the judge repeatedly calls for reconciliation and social harmony is significant.

Impact of the War

Many traditional courts have been shut down, either by the government or by the rebels, or are simply frozen by the violence and displacement. For instance, the *mabkama ahliya* in Kutum, chaired by *malik* Adam Mohammed Nur from Dar Beire, was closed for about a year after the SLA’s attack of Kutum in August 2003, which damaged the court furniture and archives. Most functioning customary courts are in towns; the rural customary courts (*mabkama rifiya*) have been largely abandoned.

Of the seventy-two courts in North Darfur, two are town courts: one in El Fasher and one in Mellit. Eleven are middle courts (*mabkama wusta*), and many of these are new. Thirty-two are functioning and forty are idle, especially around El Fasher, rural Kutum, and al-La’eit south of Taweisha. The functioning customary courts are in the main government towns, run by some of the most important paramount leaders of the region: El Fasher, Kutum, Mellit, Malha, Kutum, Kabkabiya, Taweisha, and Um Kaddada. In the greater El Fasher area—including Korma, Tawila, Shangal Tobay, and Dar-es-Salam—twelve customary courts were functional before 2003. Now the only working court is in El Fasher. Cases from the outlying localities are adjudicated in El Fasher as a first court, whereas before the war, parties came to El Fasher only on appeal. In the western part of North Darfur, all the courts in Dar Zaghawa are shut, as is the one in Fatta Borno, near Kutum. The customary court in Kuma, the center of the Zayadiya Arab nomads in northeastern Darfur, is still working—indeed, there is no formal court in El Kuma. The nomad courts in the *damras*—Masri, Damrat ash-Sheikh Abdel-Bagi, Um Sayala, Ghreir, Bor Said—are also idle. By contrast, all the courts of Kabkabiya locality are operating, at least according to the judicial offices in El Fasher.¹⁴⁸

In South Darfur, all the courts in the *magdumiya* have been shut down, including those of the *magdum* in Nyala and of the five *shartayas* whose leaders have been either displaced into government towns or remained in rebel-held areas of eastern Jebel Marra.¹⁴⁹

Of the forty-one courts in West Darfur, two—one in Geneina and one in Kulbus—are town courts. Only twenty are functioning. Most of the idle courts are in Fur areas, which implies a heavier conflict-resolution gap in Fur areas.

Conflicts among displaced are not uncommon in the court, though the displaced often prefer to rely on their own unofficial justice and reconciliation mechanisms in the camps.

Rebel Courts

In some areas they controlled, the rebels allowed the old customary courts to continue operating. Thus, in Jebel Marra areas controlled by SLA-AW, the most important traditional leaders who had remained on their land have continued to chair their courts. Three kept operating: that of *shartay* (sultan) Suleiman Hasaballah, whose venue had only moved from government-controlled Kidingir to rebel-held Feina; that of *shartay* Adam Suleiman in Jawa; and that of *omda* Ibrahim Suleiman in Dirbat. SLA-AW was clearly playing the government's role in overseeing and sometimes interfering in court proceedings.¹⁵⁰

In rebel areas, the rebels often replaced the customary courts with military-like courts that judged fighters and civilians alike. Some customary courts were still allowed but essentially abandoned because the complaints went only to where the power now was—the new SLA courts.¹⁵¹ In some areas, the old courts were stopped by the rebels, sometimes brutally. A Zaghawa *omda* who chose to remain in the rebel area complained that since the SLA takeover of Dar Zaghawa in May 2003, “they stopped the customary court to replace it by an SLA court,” thereby weakening the traditional administration.¹⁵² Another *omda* in the rebel area, Hamid al-Manna, used to be the vice president of the customary court of Dor, north of Kutum, which was chaired by *shartay* Sherif Adam Tahir. In August 2003, the village was burnt to the ground by government forces. *Omda* Hamid was arrested at the court by the SLA in 2003 but released after payment of a ransom. The case is hardly isolated: between 2003 and 2012, the rebels arrested numerous customary court judges, members and clerks, as well as notables active in mediation (*ajarwid*), and possibly killed some of them.

Following the Abuja peace and after Minni Minawi joined the government in 2006, Dar Zaghawa passed under the control of nonsignatory Zaghawa SLA factions. The leaders of these groups had better relations with the traditional leaders, and some customary courts were restored in the area. Hamid al-Manna was given a court in Bakaore, where he had been displaced after the destruction of Dor; he also became deputy of the court in neighboring Disa, chaired by Yusif Dilli, the local *omda*.¹⁵³ The area has witnessed ongoing fighting between government and rebels, and whether these courts are still operational today is uncertain.

Many SLA courts were known for their iniquity. They favored combatants over civilians, and rebel commanders ensured the court meted out favorable treatment to their ethnic groups. The SLA-MM court in Shangal Tobay, for example, though headed by a local Fur notable, actually came under the authority of the Zaghawa commanders who held the area. These commanders of course favored the Zaghawa over other tribes. Rebel courts even reopened cases adjudicated long before the conflict—sometimes as many as twenty years earlier—by official or customary courts in decisions that had displeased individuals who were now rebels or rebel sympathizers. For example, in 2005 the SLA court of Shangal Tobay reopened a case from the mid-1980s in which two Zaghawa had been convicted of armed robbery for looting the camel of a Birgid man. Based on witness testimony, the court in El Fasher had ordered the thieves to return the camel. The two Zaghawa, now SLA combatants, successfully petitioned the SLA court to annul the sentence and order the Birgid to give a camel to the Zaghawa.¹⁵⁴ Also in 2005, another case from the mid-1980s was reopened in Shangal Tobay in favor of the Zaghawa community. A Fur-owned fruit lorry had provoked a road accident in which three Zaghawa had been killed. Traditional leaders in Shangal Tobay had invoked a past *rakuba* to settle the issue without payment of blood money. The SLA court reopened the case and ordered the payment of *diya* of SDG 70,000 per victim, which was judged excessive by the other communities. The high-handed, abusive behavior of the SLA courts contributed to the virulent anti-Zaghawa sentiment among other non-Arab tribes of eastern Darfur.

Various factions of the SLA had in their ranks lawyers or former law students they used to judge cases more or less formally. This is particularly true of SLA-AW, whose leader is himself a lawyer and managed to recruit various colleagues. SLA-AW had a “legal office” headed by lawyer Osman az-Zein. In 2008, it had twenty-nine legal “advisers” (*mustashar*), who were acting mostly as judges in the rebel areas. Among them, Ali Haroun Dud became the legal supervisor, or judge, of all rebel areas in North Darfur (“Northern sectors”) in 2007, when nonsignatory SLA factions and JEM briefly attempted to unite under the banner of NRF (National Redemption Front). The coordination mostly worked in North Darfur, but the core of SLA-AW, in Jebel Marra, remained largely reluctant.¹⁵⁵ Ali Haroun briefly replaced Osman az-Zein in 2008, by order of SLA-AW chief of staff Abdel-Gadir Abder-Rahman (“Gaddura”), before gradually taking its distance from the movement, as did many of the legal advisers. One of the reasons for the lawyers’ dissatisfaction was that their decisions were often not respected by the military leaders, both in the case of conflicts between civilians and combatants, and between rebels (notably involving killing combatants known for being critical of the movement’s leadership).

Despite such conflicts, Ali Haroun Dud believes that SLA-AW legal advisers played a useful role in the rebel-held areas, where “the *idara ahliya* was unable to solve problems between rebels. We were solving them, as well as every crime to which a party was a rebel soldier.”¹⁵⁶ Members of the Native Administration may no longer have had their old courts, but those who had stayed in SLA-AW areas generally participated in the rebel courts. Traditional reconciliation mechanisms (*judiya*) were also used.

The judiciary system in the rebel areas largely duplicated that of the government-controlled areas. It had three levels:

- The first-level court (*mahkamat awwal daraja*) could be found, in principle, in every rebel sector. Thus, the mountains of Ain Siro, an SLA sector northwest of Kutum, had one court of this kind, the only one in the area. These are staffed by traditional leaders (*omdas* and *sheikhs*) who have remained or taken refuge in the Ain Siro SLA area—the latter from Dar Siref Umaro, an area whose residents have partly been displaced to Ain Siro; many were members of the customary court of Dar Siref Umaro under the *malik* Addouma Adam Mohammed Umaro, who himself displaced with another part of his population to Kassab camp near Kutum. Some of the Ain Siro court members are at the same time traditional leaders and SLA commanders, or relatives of the local rebel leadership—such as *sheikh* Hasan Haroun, the brother of Ali Haroun. This court is said to be still operational today. Court members of different sectors also traveled on occasion to serve in other SLA courts.¹⁵⁷
- Cases that a first-level court could not resolve, for whatever reason, went to the appeal court (*mahkamat al-isti'naf*), which, again in principle, covered all SLA-AW areas. Like its counterpart in government areas, it was mobile and gathered in an ad hoc basis in the location judged suitable to solve a particular case. Its three or four members included a chairman, who was an SLA legal adviser. The others were commanders. The role of the Native Administration was much more limited than in the first-level courts: they were only occasional members, and also often played, like other commanders, a role of witnesses. The middle court of Northern Darfur SLA areas is said to have stopped functioning in 2009.¹⁵⁸
- The third and last level was the high court (*mahkama al-uliya*), which seems to have rarely been operational.

SLA courts even judged some cases involving people living in government areas. In 2005 in Dirbat, the main town in rebel-controlled Jebel Marra, two high school students, age nine-

teen and twenty-two, had a dispute in which one killed the other with a stone. Both were of the Fur tribe, one from Jebel Marra and the other from government-controlled Zalingei. The youth from Jebel Marra did not deny his responsibility and was arrested by the SLA police, on the orders of the *omda* of Dirbat, and jailed in Jawa village in the main SLA prison. Possibly because the victim was from a government area and the killing might therefore affect SLA-AW's standing in the Zalingei area, the case was considered grave enough to be judged in the high court. Probably for the same reason, the high court, which normally included only SLA legal advisers, for this case also included members of the Native Administration, who were members of the customary courts still operating in Jebel Marra. Thus the court gathered in Jawa was composed of two SLA legal advisers, the *shartay* of Jawa, three *omdas*, and various *sheikhs*. The judges began by contacting the victim's family in Zalingei, but because his father had gone to Libya for work, the court had to wait a year for him to return to Sudan and come to Jebel Marra with his wife and his daughter, as well as one *sheikh* from Zalingei to act as a counterpart of the Native Administration in Jebel Marra. Once the court resumed its proceedings, the victim's father offered his forgiveness "because we are at war and we are one tribe." For this forgiveness, the killer, his family, and their *sheikh* had to admit the guilt publicly. Although the forgiveness meant the killer's side did not have to pay the *diyya*, the native administrators insisted that they did need to pay *karama* (generosity, or alms, used for the Islamic mourning ceremony), smaller than the *diyya* (it can consist only of the *khasarat*)—in this case roughly SDG 12,000. As the *diyya* would have been, this was paid by both the killer's family and their (Dirbat) Native Administration. Second, even though the payment meant that the case was resolved, the court still sentenced the killer to four years in prison.¹⁵⁹

Janjawid Courts

Before the war, nomads relied less on their tribal chiefs for judicial services than on the (often non-Arab) traditional leaders of territories they were passing through or had relations with—economic, commercial, and religious relations, as well intermarriage and simply friendship. Having a choice of leaders to turn to allowed nomads to shop for courts that offered the strongest support. If unhappy, they would seek another court. This changed radically with the war. Arab nomads have refused not only to be administered by the territorial leaders of other tribes, but also to be judged in such leaders' courts. Many traditional courts have thus lost their ethnic mix. "It used to be that the [Fur] *malik's* court worked for everyone, and Arabs would bring their criminals there. Now, that is out of the question."¹⁶⁰ In West Darfur, Arab *amirs* and their people have stopped addressing their problems to the courts of the *furshas*, even though they have not all created their own courts.¹⁶¹

Some increasingly autonomous Arab leaders have not only begun to create courts for their tribes, but have also sought to create territorial courts that claim jurisdiction over other tribes living in the area. Non-Arab observers see this as an effort to gain legitimacy as leaders of the territories they have occupied by force. Musa Hilal is a case in point. He inherited his court from his father in Amo, the *damra* that was historically the headquarters of the Jalul tribe west of Kutum. In 2003, at the beginning of the war, his new stronghold of Misteriha west of Kabkabiya was being transformed into a base of the *haras el-hudud* (border guard) and also became the seat of police headquarters and a customary court. This court had broader ambitions than that in Amo, and aimed at judging all tribes in the area, which was inhabited primarily by Fur farmers. To reflect those multi-ethnic ambitions, the court was chaired by Musa Hilal, but his deputy was Ahmad Arda, a local Fur notable loyal to him, who chaired the court in Hilal's absence. All other members were said to be Arab. Many non-Arabs call

such courts *janjawid* courts and claim their decisions are biased.¹⁶² At the height of the conflict, in 2003 and 2004, reports circulated of courts chaired by Arab militia leaders that ran especially abusive “justice” against non-Arab civilians. One such instance was Kailek, a South Darfur town where residents and displaced spent several months as hostages of Arab militias in the first half of 2004.¹⁶³

Some senior Arab militia leaders, such as Musa Hilal, want to convince local people as well as international opinion that they are able to administer areas where Arabs and non-Arabs live together. Some reports have been made of Arab courts with less of a pro-Arab bias. What clearly dominates, however, is increasing tribal polarization. This trend makes administration, justice, and general security almost impossible in a still very diverse Darfur.

What clearly dominates, however, is increasing tribal polarization.

This trend makes administration, justice, and general security almost impossible in a still very diverse Darfur.

Customary Courts and Statutory Justice

According to UN sources, roughly 70 percent of court cases in West Darfur would be dealt by customary courts.¹⁶⁴ Although few quantitative data are available, Darfurians seem to generally agree that traditional justice is more important to them than the statutory system.¹⁶⁵ But traditional justice is more than the customary courts: it is also the various, variably formal justice and reconciliation mechanisms that Darfurians use in addressing conflict, and in particular *judiya*.

Customary courts do not work in isolation from the formal justice system, however. The process in fact often starts with the formal system. The plaintiff goes first to the police or to the prosecutor, which may trigger a police investigation. If so, the case is taken up by the formal court, which will then decide whether to take the case on itself, to refer it to the customary court, or to recommend another mechanism. The customary court may also ask the formal court to take on a case if it deems that the better path of action.

The formal and customary courts both complement one another and compete to some degree. In the towns, even before the war, people increasingly tended to favor the modern court. The popularity of the customary courts in Darfur was largely due to presence: they were more numerous generally and more present in rural areas.

However, the choice of which path to follow does not depend primarily on users, but rather on the nature of the case. This, too, has been affected by the conflict. Previously, only big cases—armed robbery, especially livestock rustling, murders, tribal conflicts—went to the statutory courts. Now, although civil cases and minor criminal cases still go to the *mabkama ahliya*, and more significant crimes continue to go to the formal court, even some small ones—including those related to sharia, such as divorces, and those involving mental problems. In rural areas, people marry and divorce without court papers, whereas in the towns, where literacy and statutory institutions and practices are more present, people tend to register their actions. The equivalent of a divorce certificate is the *gasema al-talag*, and it is necessary for women or for men who have already married four times to have one in order to remarry. People may need marriage or divorce certificates for other procedures involving land management or inheritance. The rural population is thus at a disadvantage.

In El Fasher, the *mabkama sha'biya* interacts with the formal court, often referred to as the *mabkamat al-qadi*, the judge's court.¹⁶⁶ There is also the *mabkamat al-medina*, the city court, which only covers El Fasher town. The city court seems to be in a middle position—although legally part of the same rural and town courts, like the *mabkama ahliya*, and governed by the 2004 act, it is far less traditional in its composition and proceedings. It uses modern criminal law and hears criminal cases under the supervision of the formal justice system. Its head and members are rotated every three months, like the *mabkama ahliya*, but the judge never comes from the Native

Administration—most often, he is a retired police or military officer. Members are local notables, often retired from the police or army, or businessmen; they can also include native administrators, but generally not of high rank (*sheikhs*). Some interactions with the *mahkama ahliya* are involved: if the latter does not have enough members, it may call on members from the *mahkamat al-medina*. Sometimes the *mahkamat al-medina*, like the formal court, refers cases to the *mahkama ahliya*, which can act as an appeals court for the *mahkamat al-medina*.

The multiplicity of courts also provides the opportunity for those unhappy with one court's verdict to call, legally, on another court.¹⁶⁷ Since the war began, customary courts have lost influence: people tend to respect their rulings less, and, when unsatisfied by a customary court's ruling they sometimes try their luck with the formal court. In conversation, many Darfurians also mention that since the war, most cases never get to court—any court—because many victims are afraid to complain, or feel there is no point (box 5).

Judiya

Judiya is the main reconciliation and justice mechanism, at all levels—from domestic strife, to disputes over access to land and water, to violent conflicts involving injuries or deaths, to large intertribal conflicts.¹⁶⁸ The process of *judiya*—and the name—are a hallmark of western Sudan (Kordofan and Darfur) but are especially popular in Darfur.

Judiya is not a court or judicial proceeding, but rather an arbitration and mediation process. Unlike a court, it aims to achieve compromise rather than mete punishment. Either party has the right to reject a *judiya* offer from the opposing party, from traditional or modern authorities, or from a third party.¹⁶⁹ But once the offer is accepted, the rulings of the *judiya* are binding. The basic principle is that all sides agree to abide by the recommendations of the *ajawid*, or mediators, before hearing them. However, if one party is dissatisfied by the findings, the *ajawid* may decide to sit again and review their decisions, for instance, by decreasing or increasing the *diya*.

The *ajawid* are elders or notables. They usually come from a family, clan, or tribe not involved in the dispute.¹⁷⁰ In a small, private case, the *ajwad* might simply be someone who is well respected in the village or neighborhood. In a dispute between two families, the *ajwad* could be the elder of a third family. In a larger, intertribal conflict, the *ajawid* normally hail from tribes not involved in the dispute. This is not, however, always the case. During the sultanate, “inter-tribal disputes or affrays, leading to homicide or injury, would probably involve the tribal leadership on both sides plus *ajawid* from both communities.”¹⁷¹ This is less common today, but a party may still accept *ajawid* who belong to the same tribe as the other party. An *ajwad* in El Fasher recently made the point that neutrality, one of the key qualities of any *ajwad*, “is not necessarily about your tribe, it is about your character.”¹⁷² The *ajawid* will swear on the Quran to be neutral.

Parties will reject *ajawid* they suspect of not being neutral. During a 2000 *judiya* between the Berti and the Meidob, in Madu, north of Mellit, both parties rejected several *ajawid*. The conference was run in part by the government, who had selected *ajawid*. Among those rejected was a retired government employee.¹⁷³

The Process

A dispute is usually first reported to the local *sheikh*, whether in the village, *damra*, town neighborhood, or camp. If it is a very minor problem—a trivial dispute over a farm, a small debt, a disagreement between husband and wife, a market altercation, an argument between neighbors—the *sheikh* will either try to solve the problem himself or ask someone respected in the

Box 5. Committee of Investigation, Abu Zereiga

An appallingly violent incident in May 2011 in Abu Zereiga, just south of El Fasher, is a powerful illustration that tribal leaders can sometimes still play a strong role, including in proceedings usually the sole domain of the police and formal justice. The Abu Zereiga incident marked a paroxysm in the brutal conflict that pitted an array of indigenous non-Arab tribes against Zaghawa newcomer communities in the area of Shangal Tobay.

Abu Zereiga is one of the main Zaghawa towns in the area. The conflict with other tribes in the region had, in recent months, forced thousands of Zaghawa south of the town to take refuge there. On May 31, 2011, several hundred of those civilians, raised a *faza'* (an armed posse) to recover livestock looted from them by the newly established Popular Defense Forces of Shangal Tobay, recruited mostly among the Tunjur and Birgid tribes. The *faza'* dispersed only after an army intervention, which had been called by nearby PDF. Twenty members of the *faza'* who were returning to Abu Zereiga were then arrested, and seventeen of them executed.

Such incidents are not uncommon in Darfur. What was less common was the immediate reaction of the Zaghawa community, including their *shura* council, who mobilized both their politicians in the government and their traditional leaders. An investigation committee of seventeen members was formed, chaired by Adam Hari Bosh, himself a Zaghawa and the North Darfur Minister of Animal Resources. Among its members were four of the eight paramount leaders of Dar Zaghawa: *shartay* Adam Sabi Tijani at-Tayyib of Dar Gala, *shartay* Sherif Adam Tahir of Dar Sueini, *malik* Daoud Salem Tagel of Muzbat, and *malik* Adam Abbakar Hasab-en-Nebi from Dar Artaj. Except for Hasab-en-Nebi, these chiefs are generally considered close to the government. In the circumstances, however, tribal affiliation upstaged political loyalties. Another traditional leader was present in the committee, *sheikh* Ibrahim Abdallah Ja'dallah, the paramount leader of the Eteifat Arabs of the northern Rizeigat, a group generally neutral in conflicts among non-Arabs.

The leader of the area in question, the Tunjur *shartay* Adam Abbakar Rashid, was also asked to be part of the committee, but he refused, saying that he had been given too little notice. However, once the committee released its findings, he argued that it was dominated by Zaghawa and thus not neutral. Many observers consider the *shartay* to be one of the main instigators of the anti-Zaghawa violence of 2011, and Abbakar Rashid has taken credit for his role in creating the anti-Zaghawa PDF militias in his area. The committee found the bodies of three Zaghawa civilians, most likely executed by the PDF, on land farmed by the *shartay*, a fact potentially embarrassing for him.

In addition, the committee found a fourth body in another location and ascertained the indications of fourteen other bodies that had been removed quickly before their arrival, most likely by the local PDF. The committee was also able to gain the release of the three Zaghawa civilians arrested by the regular military and to order the arrest of six PDF leaders and members suspected of involvement. The committee issued a detailed report on June 7, presenting its conclusions to the government and submitting all the information it gathered to the judiciary. It is not clear whether any prosecutions are likely, and the committee has not paid much attention to the follow-up.

The point seems to have been to show non-Zaghawa communities, including the Tunjur, that the Zaghawa would not remain quiet in the face of aggression and were not totally without influence in government. The power of this anecdote is that it proves not only that traditional leaders could achieve representation when they wanted to, but also that they felt compelled to do so to prove to their own communities that they were not (totally) abandoning them. Beyond that, the elite did not trust how the judiciary would follow up, or possibly did not even care if they did. Indeed the effort for a resolution of the crisis through judicial channels, strongly supported by Zaghawa traditional and political leaders, was lackadaisical. It certainly failed to prevent retaliation: ten days after the committee report was issued, in the night of June 17, Zaghawa SLA-MM rebels and armed civilians attacked the PDF main base in Shangal Tobay with vehicles and on camelback. Some 150 houses were burnt and nineteen people killed, including thirteen civilians. The intent was clearly retribution—*radd at-tar* (the answer of revenge), as quoted by a Zaghawa rebel commanders from the area—and was not really condemned by Zaghawa community leaders. The retaliation was complementary to the legal process led by the investigation committee, however, not in competition with it: the Zaghawa community combined both legal and violent means of redress in the aim of showing the resistance of their community and halting the escalation of the violence—an uncertain outcome.

Source: The Abu Zereiga anecdote is based on interviews, notably with Zaghawa rebel commanders, Juba, December 2011. See "16 Members of the Zaghawa Tribe Summarily Executed and Buried in Mass Graves in North Darfur," *Darfur Daily News*, June 11, 2011, <http://darfurdaily.blogspot.com/2011/06/16-members-of-zaghawa-tribe-summarily.html>; Amnesty International, *Sudan: No End to Violence*; UN Security Council, "Letter from the Panel," 22, 26–28; Gramizi, Lewis, and Tubiana, "Report of Former Members of the Panel of Experts," 10–11; Gramizzi and Tubiana, "Forgotten Darfur," 25–28.

community to mediate—in effect, an *ajwad*. If he or his mediator are unsuccessful, or the problem is clearly beyond their ability to solve, the sheikh will refer the case to the *omda* above

him. The *omda* will do the same thing: try to address it locally or refer it to the paramount leader (*shartay, malik, nazir*) above him. At each step of the way, the traditional leaders will contact the parties as quickly as possible to ease tensions. If it is a sizeable problem, mid- or high-ranking traditional leaders will select one or several *ajawid* and call on them to form an ad hoc *ajawid* council.

Ajawid may also be requested by nontraditional authorities, such as the government or the judiciary. They can also be invited to intervene by one or both of the parties, or by their relatives or neighbors, though the parties will generally proceed through the Native Administration.¹⁷⁴ Finally, *ajawid* may also volunteer to solve a case.¹⁷⁵ In a murder case, *ajawid* may start suggesting a *judiya* during the *karama*, the mourning ceremony.

In the end, the foundational principle is that all parties to the dispute accept the *ajawid* and commit consensually to their recommendations.

To lead a *judiya* is an art—and a show, as the meeting is open to all, even passing guests.¹⁷⁶ The *ajawid* rely heavily on symbolism, quotes from the Quran or Hadith, and popular sayings and wisdom to extract apologies and forgiveness.¹⁷⁷ They will recall memories of past harmony between the parties—real or fictional.¹⁷⁸ A good *ajwad*—bad *ajwad* division of labor often takes place: some *ajawid* will seek to flatter the parties, and others will play the opposite role, warning of terrible problems to come, or threatening to leave if no progress is made.

The *ajawid* normally question the aggrieved party first, then the accused. Those with greater casualties are the aggrieved, even if they initiated the conflict. Each side appoints a spokesman. Only that spokesman can speak for his side. He can neither point with his hand nor provoke the other side in any way.

In the beginning, good *ajawid* typically give a chance to parties to vent their anger by calling on one spokesman or several appointed by each side. At this point, the parties generally make unreasonably high demands. Different individuals from the parties are allowed to take the floor, but only the spokesman is allowed to speak for his side. The *ajawid* then try to calm the tone, remember past relations, and focus on the benefits of future cooperation. The victims and offenders do not necessarily speak and may not even be present. Witnesses may be called, but not always.

Judiya processes increasingly appear to be adopting court procedures such as calling witnesses or visiting incident scenes. This is likely the result of a number of trends, including the increasing impact of formal education—especially law—among elites, the increasing influence of sharia since 1983, and the general urbanization and modernization of traditional rural Darfur society. This points to the high adaptability of a traditional mechanism that responds to new conditions in ways both positive and negative. For example, the *Ajawid* Committee of El Fasher is highly untraditional in that it is a standing pool of mediators and reflects the needs of a growing and modernizing town.

Reconciliation is a central component of *judiya*. *Judiya* combines psychological healing with decisions on material compensation for losses incurred—*diya* (blood money) for the dead and *ta'wid* for material or livestock losses. Compensation will be calculated, collected, and handed over to individuals or groups recognized as victims. The process involves buy-in from both sides: the accused must acknowledge guilt and the *ajawid* in turn ask the aggrieved for concessions on the *diya* and *ta'wid*. The two parties shake hands and forgive each other: according to Adam Azzain Mohammed, “reconciliation would not be regarded complete without the two parties bursting into tears and hands shaking, signaling that the enmity between them is over.”¹⁷⁹ Normally, a good *judiya* takes place in one sitting.

Ajawid generally do not impose punitive sanction, and may recommend arrangements of coexistence, such as sharing water resources or agreeing on migration routes and on when to

activate them. But in intertribal disputes, and especially when the government is involved, they may impose punishments.¹⁸⁰ Moreover, it seems that historically their power was largely moral, allowing them to order social punishment, especially on someone who refuses the decisions of the *judiya*. He will be labeled *kassar al-khawwatir* (breaker of feelings) and ostracized by his own community, to the point he might have to leave the area.¹⁸¹

Rakubas

The concessions made on compensation give way to a *rakuba*. Literally, a *rakuba* is a modest, often open, wooden structure with unfinished beams and a matted straw roof that provides shelter from the midday sun and shade where visitors can be received. Nearly every dwelling or compound in Darfur, no matter how poor, has one, as do market places and open spaces. The image conveyed is one of safety, hospitality and good neighborliness. Figuratively, a *rakuba* is a precedent between two parties, typically originating in a successful past *judiya*, that is applied to any future disputes they may have. The *rakuba*, in essence, dictates subsequent agreements—often keeping blood money and compensation to minimal levels. It plays a role similar to that of precedent in common law countries. It deals only with loss of human life.

The word *rakuba* itself can be used to design the specific amount of a discount on what would be a normal compensation for a given offence. In western Sudan and eastern Chad, people will describe the absence of blood money between two tribes, saying of another group, “we have a *rakuba* with them” (*andana rakuba ma’ahum*). People from western Sudan will invoke it even for a traffic accident in Khartoum. The *rakuba* is theoretically mandatory once its existence is established, even if one party continues with its aggressive behavior. *Rakuba* precedents have lost in vitality in recent decades because, in the absence of security, they do little to discourage aggressive groups from offending again. The impact of the war has lessened the strength of *rakuba* in Darfur, because the constant violence makes it more difficult to apply (see box 6). But it continues to function among Darfurians in Khartoum and elsewhere.

The *rakuba* is typically announced only at the end of a successful conference, as attendants prepare to leave: the *ajarwid*, or the spokesman of the aggrieved party, will propose, now that the accused party has accepted its responsibility, to abandon or discount the *diya* and compensation, and take only the *khasarat* (the costs of the conference and medical treatment for the injured) as *rakuba*. The offending party will accept to pay the *khasarat*. The aggrieved party will be asked to invest in the future—the saying in Darfur is *gaddim as-sabbit, talga al-ahad* (“give [on] Saturday, you’ll find [on] Sunday”). If the aggrieved party refuses to claim the *diya*, they will say *nurwaggif rakuba* (“let us set up a *rakuba*”).

If a preceding *rakuba* already exists between two parties, it is invoked as well. It is quite common for there to be *rakuba* in intertribal conflicts, as many tribes had agreed to reduce or abolish *diya* during colonial times arrangements that are considered *rakubas*. In some cases, the party more responsible for the violence (who has to pay more) will remind both the *ajarwid* and the other side of an existing *rakuba*. If it is a first-time *rakuba*, it becomes a precedent for future disputes.

An aggrieved party may challenge a *rakuba*, disagreeing that one exists with the other party. Elders will be asked to verify. If people recall a *rakuba* and bear witness to its existence, then the aggrieved party must accept it. It would be exceedingly shameful to accept *diya* if a recognized *rakuba* is in place. *Rakubas* are not written—they live on in the collective memory of the community. Of course, the law of large numbers suggests that by now a *rakuba* should exist between every group in Darfur. But a *rakuba* stands only as long as it is remembered. When people forget about it, it dies.

Box 6. *Rakubas* and the Weakening of Traditional Authority

The non-Arab Gimir ethnic group is divided into two branches: one in the sultanate of Dar Gimir, the capital of which is Kulbus, in northern West Darfur; and the other around Katila, in South Darfur.

In June 2011, a soldier driving a military vehicle had an accident in which a man was killed. The driver was a Bani Halba Arab and the victim a Gimir from West Darfur. The driver was jailed despite being a soldier driving an army vehicle and ordered to drive without a driver's license. The Bani Halba tribe of South Darfur had had a *rakuba* with the Gimir of Katila in South Darfur from a similar accident—a Katila Gimir had killed a Bani Halba and paid only half the *diya* (twelve cows or SDG 12,000). But the Gimir of West Darfur refused to replicate the arrangement, saying it concerned only their South Darfur kin. The Bani Halba approached the Gimir sultan of West Darfur and asked him whether the Gimir of South Darfur were under him. He replied that they were. (The Katila Gimir often say that they do not report to the sultan, and that their *omda* is in fact a *nazir*.) In the end, the aggrieved party—the West Darfur Gimir—accepted a sort of *rakuba*. The Bani Halba received a further discount because the Sudan armed forces auto insurance provided an important sum to the aggrieved party. However, as of August 2011, the soldier was still in jail, even though the *diya* had already been paid.

After a *rakuba* is invoked and accepted on both sides, the parties talk about support for the family of the deceased, especially if the latter was a breadwinner—in essence, compensation for the cancelled *diya* that goes to elderly parents, widow or widows, children, or other dependents. Typically, the guilty party gives 5 or 10 percent of what the *diya* was. The parties then eat together, pray together, and sit together. Revenge is not expected. It would be shameful to take revenge after a *rakuba* is invoked.

Before the *rakuba*, bargaining on the various payments takes place and can lead to other forms of discount, for instance, on the amount of individual *diya*, which may be discounted. This discount also establishes a precedent but is not in itself a *rakuba*.¹⁸² The bargaining process takes into account aspects of modern life: in car accidents, an increasingly frequent subject of *judiya*, the parties negotiate to subtract auto insurance payments from the *diya* and still apply the *rakuba*.

Who Are the *Ajawid*?

Traditionally, *ajawid* are chosen among elders and notables known for both their neutrality and their competence in traditional matters. Elders or notables will put themselves forward to serve as *ajawid*, or be recommended by leading members of the community.¹⁸³ Being an *ajawid* is not a permanent position, nor is it a formal one. Informal *ajawid* groups, however, are possible, especially in larger towns. Heredity does not apply to *ajawid* as it does to traditional leaders. *Ajawid* are, however, sometimes sons of former *ajawid*. This reflects the fact that some of the qualities required of an *ajawid*—respectability, wealth, social prestige, and coming from an acceptable tribe—are qualities one inherits from one's family.

Knowledge of traditional matters is desirable, but *ajawid* are not necessarily traditional leaders. The latter's waning power and the increasing suspicion that many are in the pocket of the government help explain why they are no longer very popular as *ajawid* in individual cases. Increasingly, *ajawid* are professionals who have prestige and money, and individuals with knowledge of statutory law and even sharia. A legal background is important as *judiya* settlements are increasingly registered with the formal court.

It is, however, not uncommon for a mediation committee to include a *sheikh* or an *omda*. The traditional leader brings knowledge of past conflicts and, in theory, has the power to enforce *judiya* decisions. For these reasons, he often holds a special position on the committee that other *ajawid* defer to. But this is somewhat symbolic now, because power has switched from the Native Administration to the government itself. For their part, *agids*—traditional war

leaders who are directly involved in intertribal violence—are seldom invited to take part in *judiya* proceedings, even if they were not involved in the conflict under discussion.¹⁸⁴

In principle, native administrators cannot be both *ajawid* and members of a customary court at the same time. However, some paramount leaders who preside over a *mabkama ahliya* court are popular *ajawid*, such as *malik* Rahamtallah of El Fasher or *malik* Adam Mohammed Nur of Dar Beire. *Malik* Rahamtallah says he has been involved, since the 1940s, in thirty-seven large intertribal *judiya* in both Darfur and Kordofan, including government-sponsored conferences.

Leaders from tribes often caught up in conflict are avoided as *ajawid*. Abbala Arabs and Zaghawa leaders, for instance, were seldom called on to serve as *ajawid*, with the exception of the *nazir* of the Mahariya Rizeigat, Mohamedin Ad-Dud Mahdi, and the late Zaghawa *malik* Ali Mohammadein.¹⁸⁵ By contrast, *ajawid* from groups that have many traditional leaders, that have historical control over ethnically mixed areas, and that have a history of intermarriage with neighbors—the Tunjur, for example—are popular in *judiyas*.

An imam or a *faqi* may also be included on a mediation committee as respected leaders within the community and, in some cases, to draw on their knowledge of sharia, if needed. *Ajawid* can also be old women, but only to solve problems between women, usually limited to one or several families.¹⁸⁶

Paradoxically, although weakened, polarized, and increasingly unpopular in ordinary *judiyas*, *ajawid* in intertribal conflicts have often been traditional leaders, particularly in the increasingly common government-sponsored reconciliation conferences that use *judiya* processes. The apparently promising reconciliation conference held in March 2011 that addressed the separate conflicts between the Meidob, the Berti, and the Zayadiya Arabs of North Darfur is one such example. Each of these tribes has a separate dispute with the other two, and this knot of discord in Darfur's northeast corner is one of the territory's oldest ongoing conflicts. The conference took place in Mellit, 50 km north of El Fasher, and lasted three days. An ad hoc *ajawid* council had been formed, with six members, all paramount leaders from tribes not involved in the conflicts: Fur, Zaghawa, Tunjur, Mima, and Eteifat Arabs. The *ajawid* served mostly as witnesses, intervening occasionally with comments. Educated individuals were also acting as facilitators, playing a role similar to that of *ajawid*, such as reminding the parties of their history of good relations. Those modern *ajawid* were also from neutral tribes: Nawaiba Arabs and Fur. One of them, Ahmad Adam Yusif, was a former commissioner of Mellit with a good knowledge of the area and of the issues at stake and has been active in promoting traditional conflict resolution.¹⁸⁷ The event was not a traditional *judiya*, but neither was it a typical government-sponsored conference: the government presence was symbolic, with only a short speech by the Mellit commissioner at the opening session. And even this was a compromise the organizers had agreed to in order to gain permission from national security for the conference to proceed. The conference concluded with the creation of a novel mechanism, a twenty-one-person committee (seven from each tribe), the aim of which is to warn of signs that violence may erupt anew. The facilitators admit they have yet to reach full reconciliation.¹⁸⁸

Sometimes only one arbitrator is present—*al-bakim al-wahid*, the sole judge. In the past, this was a traditional leader who had the prestige to influence decisions and the power to enforce them. Paramount leaders such as *malik* Rahamtallah or the late Masalit sultan Bahreiddin Abubakar Isma'il are known to have played this role. But as the power of such leaders has waned, the mechanism grew less popular, though it is still used in minor disputes.¹⁸⁹

The last large single-mediator *judiya* is said to have been the conference that ended the 1969 Abbala-Zaghawa conflict of Jineik, in northern Darfur, where the *hakim wahid* was Sultan Bahreddin of the Masalit—the government also played a significant role. The conflict is notorious for being quoted as the first conflict in Darfur in which both sides had firearms, a symbolic but not necessarily accurate claim. Twelve died on each side. The resolution process combined a traditional mediation by a senior traditional leader from an ethnic group not involved in the dispute, with punitive statutory justice: ten men from each side were sent to prison for ten years. Some of those jailed later acknowledged the effectiveness of the punitive aspect: in 2007, the individual thought to have triggered the conflict declared that, after five years in jail, he had never again bought a gun.¹⁹⁰

El Fasher *Ajawid* Committee

The *ajawid* committee in El Fasher illustrates many of the characteristics of who *ajawid* are and how they work (see table A2). In El Fasher, some ten men known as regular *ajawid* on important cases have formed an informal group. This *ajawid* committee has a head (*ra'is*) and a secretary. Not all members will be used in every *judiya*, and some *judiyas* in El Fasher will involve *ajawid* who are not part of the group. A potential *ajwad* whose tribe is involved in a conflict will recuse himself. And one of the parties might also reject proposed *ajawid*. The group was self-constituted; new members are recruited by the more senior ones, who sometimes ask a given tribe to recommend men of wisdom. For instance, the group invited Idris Abdallah to join in 1982 on the recommendation of the Zaghawa community in El Fasher. The most important qualities for being an *ajwad* are personal: age, neutrality, respectability, and politeness—the last of great importance in Darfurian and Sudanese social norms.

Only one member of the network (Musa Sabur Bishara, the Zaghawa *omda* of Ab Dileg, south of El Fasher) is a native administrator—a reflection of the *idara ahliya's* waning importance in *judiya* processes other than intertribal conferences. *Malik* Rahamtallah has on occasion joined the group as a simple member, though his preeminence gives him *primus inter pares* status on any given committee. The other members are educated people. Three are clerks of *donkis* (water yards)—a position that gives them considerable experience in dealing with tribes and the conflicts that arise around access to water.¹⁹¹ The group also includes two policemen, a teacher (who is the *ra'is*), and a member of North Darfur parliament. No imams or *faqis* are part of the committee, but they may participate in the *judiya* process.

Idris Abdallah, one of the members of El Fasher group, is himself the son and grandson of *ajawid*. His grandfather was the *mandub* (representative) of the Zaghawa *malik* of Dar Tuer (Am Boru) in the remote and traditionally restive village of Muzbat, where he was also a mosque imam and *ajwad*. His father migrated south to El Fasher area, and became the *malik's mandub* and *damin* (guarantor for livestock exchanges in the market, an important and prestigious function in Darfur society) in El Fasher, then moved to Chegru, a village outside El Fasher, where he helped establish a Zaghawa community and was also a frequent *ajwad*. As a child, Idris Abdallah would bring tea for his father's guests and listen to *judiya* proceedings. He later became a policeman.

As in the customary court, most of the El Fasher *ajawid* committee belong to minority tribes in the area, and especially those whose origins are outside the area: South Darfur (Habaniya, Fellata), Kordofan (Jawa'ima), or outside Sudan (Fellata, Borgo). These groups settled in El Fasher long ago—they are well integrated and mostly part of town society, thus are rarely involved in local rural conflicts. The *ajawid* from these groups are therefore more readily accepted in most reconciliation processes.

The idea of having a standing pool of *ajawid* is a novel one that confirms the syncretism between traditional and modern practices and the adaptability of custom to new environments.

Judiya, Traditional Justice, and Modern Justice

Historically, syncretism between traditional mechanisms and statutory law in Darfur has been significant. Whether a neighborhood quarrel or an intertribal dispute, conflict in Darfur is never solved entirely by either traditional mechanisms or statutory law alone. The two are intertwined. But the terms of the exchange have changed. Given the waning power of the *idara ahliya* over the past three or four decades, traditional mechanisms have become less influential. Additionally, the violent upheaval of recent years has led to increased government intervention, the aim of which is to enhance the political control of the government as much as it is to resolve conflicts. In fact, the government has at times actually stoked conflict through would-be mediation efforts in its bid to divide and rule Darfurian tribes.

Traditional justice mechanisms nevertheless remain very present in Darfurian society. They are by no means disappearing. They are evolving, however, and government interference with them has increased.

Reciprocal Referrals

Darfurians usually say that the first step in any dispute resolution should be a *judiya*. *Ajawid* may proceed without first informing the government or the formal justice system. If the parties fail to accept the *judiya*, or it fails to work, or the *ajawid*'s decisions are not implemented, the case will go to the *mahkama ahliya*. If the customary court cannot find a solution, the case goes either to the statutory court or, in the case of intertribal conflicts, to a government-sponsored reconciliation conference. In essence, the government is the last resort.

An intermediary venue if the *judiya* does not work is a complaint (*shakwa*) to the relevant *idara ahliya* leader: a *sheikh* or *omda* for a small or local conflict, a higher-ranked leader for an intertribal problem. This will lead not to another *judiya*, but instead to an arbitration with a native administrator as *hakim wahid* (sole judge), outside the customary court, regardless of whether the selected *hakim wahid* presides over a court.

Two individuals can choose a single arbitrator for a minor matter, pledging to both accept the judgment of the chosen person, based on competence and neutrality. This process is called *tabkim* (arbitration), and usually happens in interpersonal cases that do not involve violence.

A court, whether customary or statutory, may refer a case already before it to a *judiya*—mostly when the court determines that mediation is more likely to restore good relations between the parties (see box 7).¹⁹² This often happens with disputes within families, in which social norms dictate that reconciliation is the priority. But it can also happen in intertribal disputes, where it is believed a courtroom procedure—especially in the formal court—could be damaging to future relations between the parties. Intertribal conflicts have remained solved by *ajawid*, but with more and more government interference, which has at times undermined the process—either by imposing ineffective *ajawid* or by undercutting the work of genuine *ajawid*.

Ajawid may also come to the (formal or customary) judge or the prosecutor and request permission to take on a particular case that is already before the court.¹⁹³ Conversely, for high crimes such as murder or armed robbery, *ajawid* may send to the court a case that had been given to them.

Conflict in Darfur is never solved entirely by either traditional mechanisms or statutory law alone. The two are intertwined.

Box 7. Neighborhood Conflict Referred by Court to *Judiya*

In the spring of 2010, a case of two women quarrelling over a goat was brought to the Kutum police, who referred it to the *mahkama ahliya* headed by *malik* Adam Mohammed Nur. One woman said she bought the goat in the market; the other said it was born in her house. The *malik* asked both to bring witnesses. When they brought the witnesses, neighbors who knew both of them suggested a *judiya*, which the *malik* accepted. The *ajawid* asked the woman who claimed to have bought the goat to bring the seller. She was unable to do so, and the goat was returned to the second woman. In this case, community members favored a *judiya* process because they feared the woman who had no proof could have been sent to prison for stealing and lying to the customary court.

Source: Interview with *malik* Adam Mohammed Nur, date and location withheld.

Stopping the Violence

The first priority of the *ajawid* is to stop ongoing violence. Today, the first step is often to call the police, at least in government-held areas, where most of the population lives. This is in keeping with a tradition now so distant it has become a legend, according to which elders of both sides would physically restrain their youth with rope to stop the violence and allow a *judiya*. Using police rather than rope began during colonial times—perhaps more an opportunity to show the military power of the *hakuma*, the government, than any attempt at Solomonic justice.¹⁹⁴ Since then, state institutions such as the police and other security forces, the judiciary, and local authorities have increasingly intervened with traditional reconciliation mechanisms. In many cases, intervention came at the request of the *idara ahliya*, the *ajawid* or the community, to help in implementing *judiya* decisions.¹⁹⁵

Collaboration on Outcomes

Examples of collaboration between the traditional and modern justice sectors on the outcome of cases are numerous. The formal justice system usually accepts the outcome of a *judiya*. Only rarely will it pursue a defendant who has gone through a successful *judiya*.¹⁹⁶ In practice, the modern court defers to the Darfurian emphasis on reconciliation over punishment.

An example of the rare exception is the 1969 Jinek conflict. The recommendations of the sole arbitrator, Sultan Bahreddin, were complemented (but not supplanted) by the government's decision to jail perpetrators. By jailing individuals from both sides, the government was proving both its commitment to halting the conflict and its neutrality.

People unhappy with a *judiya* outcome may still petition the formal justice system, but statutory courts are loath to contradict a *judiya*, even at the request of one of the parties. A land dispute in the Kutum area illustrates this last point. A man co-owned a piece of land with his brothers and sisters. He sold his part of the land to a merchant. The merchant closed off the area with a *zariba* (thorn enclosure), blocking the road that led to the land of one of the seller's sisters. He also dug a well on this road and installed water pumps. The sister complained to the police, who referred the case to the formal judge, who in turn chose to call on *ajawid*. The *ajawid* visited the area, and then asked the merchant to remove the *zariba* and the pumps, and fill in the well. Displeased, the merchant went to the statutory court of Kutum, but they refused to receive his complaint. He then went to El Fasher, where the court also denied his complaint.¹⁹⁷ Conversely, *ajawid* can intervene in a case when the formal justice system has already rendered a verdict. In particular, perpetrators convicted under statutory law may be set free if so requested by *ajawid*, following a comprehensive settlement between the two parties that is subsequent to the formal judgment.¹⁹⁸ Judges will often assent.

Forum Preferences

Darfurians agree that they favor *judiya* over any court because it is more efficient and swifter—not least because, unlike the courts, it has no appeal process. Above all, *judiya* is less risky and less divisive. It is less risky because the outcome is the result of a negotiation, and therefore the process offers more control than that depending on an unpredictable court process. It is less damaging because it offers an opportunity to manage relations with an individual or group one is likely to have to deal with in the future. “When the government [that is, the statutory court] imposes a sentence, it is cutting ties between people,” a camp leader in eastern Chad explained.¹⁹⁹

Social pressure, from the community and from the Native Administration, not to go to the formal court first is considerable. This view comes out in a saying often used during the *judiya* process itself: *sukk al-badjar, ma tsukk al-ajwad* (“kick the stone, don’t kick the *ajwad*”). The meaning is that one does not refuse mediation, for fear of being labeled a *kassar al-khawatir* (breaker of feelings).

The main argument is that *judiya* is based on compromise rather than punishment. In 2001, Suleiman, a farmer from a Tawila village, west of El Fasher in North Darfur, had built a small dam to irrigate his farm. A neighbor broke it to use the water for his own farm. On seeing this, the farmer who had built the dam took an axe and killed his neighbor. The victim’s relatives complained to a statutory court, which held nineteen sessions on the case over three years. In 2004, the judge sentenced the accused to death. In the meantime, the relatives of the killer had approached some *ajarwid*, expressing their wish to pay *diya* to the victim’s family. The relatives of the victim refused the *diya*. *Ajarwid* intervened and went to the father and mother of the victim—the mother lived in nearby Tawila, but to meet the father they had to travel to Sinja, on the Blue Nile, where he lived. At first, the relatives continued to refuse the *diya*. After many attempts, the father accepted but the mother and brother still refused. The *ajarwid* told them, “if you want to keep living with Suleiman’s family as neighbors, although Suleiman killed your son, it is better to accept *diya*.” Finally both father and mother accepted. The *ajarwid* informed the judge, but he told them that Suleiman was about to hang. They found him in the waiting room by the gallows. A missing medical report had delayed the execution. The judge ordered a stay of execution. The parties returned to court and stated their agreement of the *diya*. Suleiman was released after the *diya* was paid, after three years in prison.²⁰⁰

The courts are said to make one side happy and the other unhappy. The deputy of *malik* Rahamtallah, who heads the *mabkama ahliya* of El Fasher, said, “Usually *judiya* solves the conflicts, while the court leaves a pain in the heart.”²⁰¹

The corollary is that *judiya* plaintiffs must often accept settlement well shy of full justice. *Malik* Adam Mohammed Nur, the chair of the Kutum *mabkama ahliya* explained it this way: “If I lose my camel, the *ajarwid* will not give me my camel back, but [they will give me] a compromise, maybe some money equivalent to half of my camel.”²⁰² Various sayings on *judiya*, sometimes used in *judiya* itself to make it acceptable to parties in conflict, emphasize this aspect: *zey asb-shi iddaffag, ma bitkhamm kullu* (“like something that spilled, you can’t gather it all up”), or *al-ajarwid zey as-sir wa ar-ruga* (“the *ajarwid* are like the stitch and the patch”)—meaning that the *ajarwid* can put you back together, but things won’t be like before.

The *judiya* allows all to save face. The parties receive some satisfaction, which relieves the victimized party of his duty to retaliate. The social pressure for *judiya* and reconciliation competes with another strong form of social pressure, that which encourages retaliation, even disproportionate retaliation. As the saying goes, *ar-rashbak bil-moya, rashshu bid-dam* (“he who sprinkles you with water, spray him with blood”). As James Morton points out, “Sharia allows a victim’s family to refuse *diya* and insist on *qisas* (vengeance) in the case of premeditated

murder proven in front of a *qadi* (or judge).²⁰³ But even in cases that are far less clear cut and don't meet the legal standards of sharia, revenge is not legal but it is entirely legitimate. Several times during the present conflict, before an attack, militia would pretend to have taken casualties and would ask their intended victims for a huge *diya* to be paid in very short time, warning that if their terms were not met, they would attack. When the other side refused or was unable to pay, the attack was launched.

Sometimes contrasting pressures come from different elements of a society. The youth and the *agids* will push for violence, as may the victim and direct relatives. Elders and the Native Administration will normally push for reconciliation. This can lead to a strategic division of labor: the elders may turn a blind eye to some violent action on the part of the youth in order to put the opposing party under pressure, and only then push for reconciliation. Darfurians ponder that the war upset this delicate balance because of the support of a major external actor—the government—to communities ready for violence.

Ajawid also accept cases that would likely be rejected by a court. In 1967, a man from Muzbat in Dar Zaghawa, northern Darfur, had two sons and a daughter. He chose to send the boys to school and, because he needed someone to tend his herd, gave the task to his daughter. He then decided that a son would be better to watch the animals, so he asked the headmaster the permission to withdraw one of his sons from the school. The headmaster agreed on condition it would be for one year only. The father, however, failed to bring his second son back to school. After a year or so, the great droughts of the early 1970s had killed the animals. The shepherd son, who had married in the meantime, migrated and resettled in Sag an-Na'am, a well-known agricultural area south of El Fasher. His brother, who had finished his education, had settled in El Fasher, where he held a good job. One day, the shepherd sent his wife to El Fasher for medical treatment, and told her to stay with his brother. But the wife of the brother did not welcome the shepherd's wife. Back in Sag an-Na'am, the shepherd's wife told her husband of the mistreatment, and that his brother had done nothing to solve the problem. Many years later, in 2005, the shepherd came to El Fasher and went to the *ajawid* committee of El Fasher to complain against his father. He said that his brother had been educated, thanks to the wealth obtained from his efforts tending the family's livestock, but he did not respect him. He said he had wasted his life, and he asked for a compensation. The *ajawid* gathered the father, who was still alive, and the two brothers to solve the problem. The aggrieved brother was complaining against his father, not his brother. But the *ajawid* addressed the problem by asking the educated brother to pay a salary of SDG 300 per month to the shepherd brother.²⁰⁴

Although Darfurian people still favor *judiya* as the best way to solve conflicts, the war has made it harder for *ajawid* to solve disputes that cross tribal lines. Many cases that would usually have been solved by *judiya* now go to courts, considered as less archaic. The independence of the courts themselves, however, has weakened. When a dispute involves a group that is clearly stronger, has more weaponry, and enjoys the support of the government, that group has a feeling of impunity. It becomes very difficult for *ajawid* to reach a balanced settlement and for that settlement to be enforced.

Consider the following example of a recent *judiya* in Dar Masalit. In 2009, a Masalit had killed accidentally an Arab of the Naja' branch of the Mahamid. Naja' Arabs, headed by their *amir*, demanded a large *diya*—more than SDG 125,000, though by a mix of statutory law and custom, *diya* for a man should not exceed SDG 100,000, and that for an intentional crime. Arab leaders from other tribes, in particular *amir* Abdallah Abu Shinebat (Bani Halba, head of the official *ajawid* committee of West Darfur) and *amir* Mohammed Matar Yunis (Missiriya) convinced the Naja' *amir* to accept a *judiya*. However, according to a witness, "it was not a real

Although Darfurian people still favor judiya as the best way to solve conflicts, the war has made it harder for ajawid to solve disputes that cross tribal lines.

judiya.” It did not involve neutral *ajarwid*, but mostly low- or mid-rank traditional leaders of both parties. The Masalit sultan was the guarantor. The Masalit representatives remained silent, and the Arabs consented only to a discount on the *diya*, reducing it to SDG 90,000. There was no truth telling.

A recent study of traditional justice mechanisms in Darfur states that “the past two years have already seen an increase in the use of *judiya* to settle inter-tribal disputes.”²⁰⁶ However, Darfurians say that this is not proper *judiya*, but government-sponsored—and often insincere—reconciliation (*musalaha*). This increased government intervention is in itself a major reason of the weakening of the traditional mechanisms.

Judiya in the Camps

Little quantitative data are available on whether the displaced still use the *judiya*. People who were accustomed to small rural communities, many of whom lived in fairly sparsely populated areas, are confronted with new disputes that come with having been brutally forced into quasi-urban camps with populations that range in the tens of thousands. At the same time, they experience far fewer land-related disputes of the kind they were familiar with before being displaced. Disputes over land between residents and the displaced do take place as the latter try to farm, especially after eight and nine years of displacement. But the area and context are different, and without roots in their areas of displacement, it is hard for the displaced to gain justice through either traditional or formal mechanisms.

Other social changes that have taken place in the camps, notably the emergence of youth leaders, are challenging the legitimacy of *judiya* and the ability of elders to settle disputes. But paradoxically, those new authorities, including the youth, still recognize the importance of *judiya*—their main criticism of the old leadership is that they were unable to prevent or solve the conflict.²⁰⁵ It would, however, be rash to say that there is no *judiya* in the displaced camps. *Judiya* is a highly adaptable process, and can be owned and is at times indeed owned by the new leaders who have emerged in the camps and even by the youth, especially for small matters. It is the upper level of *judiya*, the one that deals with intercommunal relations, that is under challenge.

The situation for Darfurian refugees in Chad is somewhat different from that of the displaced: although cut off from their country and often their Native Administration structures, they enjoy greater freedom and face less repression than their counterparts inside Darfur. The Darfurian Voices survey, based on interviews with more than twenty-one hundred Darfur refugees in Chad found that 91 percent of the respondents were familiar with the traditional justice mechanisms of *judiya*, *abliya*, *sulub* (reconciliation), and *diya*. The majority of respondents believed that *judiya*, *abliya*, and *sulub* (87 percent) and *diya* (85 percent) are very important for enabling the people of Darfur to live in peace. However, nearly no one (6 percent) believed that these methods alone would be sufficient to deal with the crimes that have occurred during the current conflict. Leaders who did not were asked why. Their responses fell into two categories. First, traditional justice mechanisms were never meant to deal with crimes of this magnitude. Second, traditional justice mechanisms were designed for disputes between tribes or between individuals, not between tribes or individuals and the government.²⁰⁷

In the refugee camps, *judiya* remains the process for resolving local conflicts among the refugees. Of course, things are easier in settings when the parties hail from the same tribe. Many of the camps are multitribal, and the *blokkat* (camp blocks) were settled on a first-come, first-serve basis, ensuring that the blocs are indeed very mixed and that people interact on a daily basis. Some refugees say that this poses no problem and that relations between different Darfurian communities in exile are, at the camp block level, easy because of their shared

Darfurian origin. In many cases, people have been living together since 2003 or 2004, and true neighborly relations have developed. But others stressed that although problems were addressed, it was not always easy to find solutions because of new types of problems linked to life in the camps, different behavior, and different customs.²⁰⁸

"If we have problems we solve it in our community," a Fur refugee in eastern Chad explained. If it is an anodyne case, the parties will find an *ajwad* to resolve the dispute: "we solve it like we would in Sudan."²⁰⁹ If the case is more complicated (more public, more strident), the *chefs de bloc* (camp section leaders) are called.²¹⁰ They will either mediate themselves or ensure that a trusted *ajwad* is tapped to resolve the case. Early on, in 2003, elders in the Touloum camp created a Committee to Solve Problems (*lajnat hall al-mashakil*) to address problems within the camp. Refugees in Touloum say that it is more important for them to have good *ajawid* than a court. They have appointed a head of *ajawid* for the camp, who is permanent. Sometimes *ajawid* are called from neighboring camps and even from the neighboring resident population.²¹¹ In Am Nabak, the refugees appointed an *ajawid* committee (*lajnat al-ajawid*), which brings together appointed (standing) *ajawid* from each zone: there are also appointed *ajawid* for each block (there are five blocks to a zone in Am Nabak). Am Nabak also has a mixed court (*mahkama mustaraka*) that brings together twenty-two refugees and twenty-two local residents. The refugees focus on problems internal to the camp, but the full forty-four members address disputes between refugees and local residents.²¹²

In most cases, previous members of the Native Administration, especially *sheikhs*, play a role as *ajawid*, especially for small disputes. But some refugees who had a role in the traditional judiciary in Darfur point out that they have little or none in the Chad camps. "As a representative of the rural court [the customary court in Darfur], I have no responsibility in the camp; if there is a problem in the *bloc*, it goes to the camp leaders, then to CNAR [Commission nationale d'appui aux réfugiés, or National Commission of Support to the Refugees, which is the Chadian governmental office in charge of coordinating assistance to the camps], then the *sous-préfet*."²¹³

In cases that involve real violence (grave injury or death), the case is handed over the Chadian authorities—the *sous-préfet* (subcommissioner) or even the *préfet* (commissioner), depending on the location of the camp or the gravity of the incident, who in turn either refer the case to the judicial authorities or adjudicate. This is done through CNAR, DIS, the *Détachement intégré de sécurité*, a UN-supported Chadian law enforcement body deployed to each camp to provide law and order there. Some refugee leaders say that complaints to DIS are to little avail.²¹⁴ Refugees across the camps say that the different legal system in Chad—civil law rather than common law—makes it hard for them to find their rights. Some refugee leaders also point out that they want to sort their problems out "between Sudanese" rather than go to the Chadian authorities, who are often unpredictable.²¹⁵

Refugee leaders do, however, complain of cases when camp residents are involved in disputes with local residents, especially land issues. First, the *chefs de bloc* will try to solve the issue, then the camp leader; if that fails, the refugees will go to CNAR.²¹⁶ These cases, too, are referred to DIS and the Chadian authorities. But the refugees say that the authorities favor the local residents. In the so-called middle-cluster camps (between Abéche and Adré to the east), and especially Breidjing and Tredjing, where both the refugee and the host communities are Masalit, some of the disputes are mediated with the Chadian Masalit leaders. The refugees have set up a Peaceful Coexistence Committee (*lajnat at-ta'ayush as-silmi*) to address such conflicts for the Breidjing and Tredjing camps.²¹⁷ It works with the Masalit *chef de canton*, the local paramount chief in the Chadian Native Administration, to resolve conflicts: "it is easier because we are both Masalit," explained a refugee teacher in Breidjing. "If they fail to solve, the

problem goes to the *sous-préfet*, but it is best to avoid that.”²¹⁸ Refugees nonetheless complain that the local Masalit treat them unfairly, especially when it comes to land—that they are given poor land that is far from the camp.²¹⁹ In Touloum camp, refugees and local people set up a joint committee (*lajna mushataraka*) to address disputes between refugees and local residents; it meets once a month.²²⁰

Truth-Telling, Forgiveness, Reconciliation

Darfurians will say that a successful *judiya* involves truth-telling, which in turn allows for, and obliges the other party to, discount in the compensation, forgiveness, and a lasting reconciliation.²²¹ “It is very important to tell the truth. To be forgiven, you must tell the truth,” said a Fur intellectual who has been a close observer of reconciliation processes.²²²

However, truth-telling, with its Western and somehow legal connotation, might not be the best term to describe the acknowledgement of responsibility and guilt that is considered necessary for a *judiya* to lead to reconciliation rather than just a temporary compromise.

First, a *judiya* involves people, such as the *ajarwid*, who are from third parties and whom the conflicting parties may wish to keep ignorant of things they both know—such as information about old conflicts that might still be relevant to the conflict at hand. Past or present truths may appear and disappear in the course of the process, used by the parties to push their advantage in the bargaining that *judiya* often involves. At the beginning, and at other times of the mediation, the parties will often deny the accusations against them.

Second, and more important, *judiya* does not involve a public confession of guilt. It is more symbolic admission of responsibility, the chief element of which is payment of compensation. Compensation, and especially *diya*, is not only a material benefit, but also a tangible recognition of responsibility on the part of the side paying it. As the Fur *omda* Khidir Ali Abder-Rahman, deeply involved in local dialogue, said, “we can’t forgive them [the Arabs] unless they give us back all what they have looted and pay for those they killed.”²²³ Many in Darfur consider that payment of compensation makes full truth-telling unnecessary: forgiving makes it possible to forget.

Forgiveness (*afu* in Arabic) is possible in Darfur, and encouraged by both *ajarwid* and courts, but implies generally the payment of *diya* or at least *karamat*. It can even allow a sentence, even to death, to be cancelled—as in the case described earlier—although the statutory justice still holds the right to maintain a condemnation—as in several other described cases.

A third point is that compensation and *diya* are not paid by the defendant or defendants, but by the group responsible for them—that is, the clan or the tribe. The family, even extended, is not the reference point for *diya*. *Diya* paying is a governance issue that relates to the group and its identity. It binds the tribe, clan, or subclan together and is especially important in systems of segmentary lineage such as Darfur.²²⁴ The entire group admits responsibility, while, on the other side, the victim is also represented by the group.²²⁵ Often, the individual or individuals who committed crimes might not be present and their name not even disclosed: even when there is public spoken admittance of guilt, it is by a spokesperson. Nor are the victims—if they are still alive—necessarily present.²²⁶ The responsibility is taken collectively—generally by the tribe and the Native Administration of the tribe those responsible belong to, sometimes by the Native Administration of the area they belong to, or sometimes simply by the Native Administration of the area where the crime was committed or where the criminal or criminals escaped to after committing the crime. A traditional leader of an area where a crime has been committed will not necessarily disclose the name of the criminal; he might not even know him. But he may still have to pay the *diya* to the victim’s kin.

In certain cases, people can be ostracized. This is called *tard* (rejection): *taradobo*, they (the group) rejected him, disowned him, send him away, threw him out. *Tard* may occur when the crime is inexcusable or ugly (a gratuitous crime, a rape, a repeated offense) to an extent that the wider group wants to disassociate itself from the crime and the individual who committed it. *Tard* removes the cover of the group, tribe, or clan, and the *ghaieb*—literally a stranger, a person who has left his group or been thrown out—must seek a life somewhere else. Every village in Darfur has at least one *ghaieb* who was either ostracized or left his community out of shame. Local people will accept the *ghaieb*, the common wisdom being that without the protection of his group he will behave—even if that may not be how things play out. Custom has adapted to modern life and produced other ways for communities to deal with wayward members. We were told of the story of a Sudanese Zaghawa Kobé lorry driver in Chad who was both a reckless driver and prone to drink. He caused several fatal road accidents. His clan wearied of paying *diya* and told his immediate family to pass the message on to him that it was time for him to find another profession—or else. Expelling him was impractical because everyone knew his clan identity and he was on the road in any case. Not paying *diya* was unthinkable. Encouraging him to adopt another livelihood (under duress) was an acceptable solution.²²⁷

This principle of collective responsibility, and that of territorial responsibility—has applied to recent *judiyas*, and shows that traditional leaders can play a decisive role in reconciliation. In April 2011, two *abbala* Arabs had been killed while passing through Zaghawa areas close to Korma, northwest of El Fasher. The killers were unknown, but the kin of the Arabs nonetheless accused the Zaghawa. Eight *ajawid* intervened. Five were educated men from a tribe not involved in the conflict, and three were native administrators: *malik* Adam Mohammed Nur from Dar Beire (Kaytinga), the *wakil* of *malik* Rahamtallah (Fur Dadinga) and *malik* Ja'far Ali Mohammadein (Zaghawa, the only one of the eight to belong to one of the tribes involved). The *ajawid* referred the matter to the leader of the area, the Tunjur *malik* Tijani Mohammed Saleh Mindi, who agreed to represent the accused party—asserting his position as a territorial rather than tribal leader. The *judiya* then turned into a more formal process—a conference under the aegis of the North Darfur Higher Council for Tribal Co-existence and Reconciliation, chaired by the (Zaghawa) *shartay* Adam Sabi Tijani at-Tayyib of Kornoy. The tribes of Korma were collectively represented by *malik* Tijani, and the delegation of the Rizeigat Arabs of al-Waha locality was headed by the Mahamid *omda* Mohammed Ali Juma', from so-called Damrat Gubba close to Kutum.²²⁸ *Malik* Tijani agreed that blood money should be paid, not only by the accused party, the Zaghawa, but also by all tribes of the area—Tunjur, Zaghawa, Berti, all under his control. The written agreement between the two sides, signed on March 24, 2011, is considered by *shartay* Adam Sabi as the best of all the reconciliation processes his committee was involved in. It decided, given that the murderers had not been identified, that “all tribes of Korma” should pay a *diya* of SDG 100,000. *Malik* Tijani collected and handed over the *diya*.²²⁹

Collective responsibility is often invoked in livestock rustling. When livestock is looted, the owners and their tribesmen, and sometimes neighbors from different tribes, will raise a posse (*faza*) following the prints of the looters and the looted livestock. As soon as the prints enter another territory, the local leader is involved: he must join the *faza* until the prints leave his territory. Or, if he doesn't want armed men from another territory on the warpath in his territory, he must stop the *faza* and raise his own posse. Regardless of whether he recovers the looted livestock or the looters are under his authority or even known to him, he will be expected to compensate the owner of the looted livestock with his own.

In 2001, thieves stole camels in Dar Hamar in Kordofan and moved toward North Darfur. The Hamar, an Arab tribe with a light presence in Darfur, raised a *faza*. They followed the prints to Madu, which marks the southern boundary of Dar Meidob, where the local Meidob *omda* joined them. Later they connected with the thieves in Dar Meidob, and two Hamar men were killed in the ensuing clash. A delegation of Hamar leaders traveled to Mellit, south of Madu on the road from El Fasher. Its head, the Hamar *nazir*, Abdel-Gadir Mansour, said the Meidob were responsible for the crimes committed in their territory, and asked the Meidob *malik* to produce the criminals and the looted livestock. The Hamar threatened to take revenge on Meidob villages, of which there are said to be dozens, including thousands of civilians, living in Dar Hamar. The Mellit commissioner took the initiative of organizing a meeting to resolve the issue between the traditional leaders of both tribes.²³⁰ The meeting was not strictly speaking a *judiya* and did not involve *ajarwid*. But the authorities also invited traditional leaders from a third tribe, the Berti, as a *lajnat al-masa'bi al-hamida*, a goodwill committee that played an *ajarwid*-like role. The tone of the parties was initially aggressive. The Meidob *malik* first said that because the thieves were not Meidob and he did not know them, he would not take any responsibility or pay any *diya*. In reply, the Hamar *nazir* threatened to drive all Meidob out of Dar Hamar. The goodwill committee then intervened much as a *judiya* would; the Berti *malik*, Hussein Ahmaday Adam Tamim, pointed out that, according to tradition, the Meidob would have to pay *diya* as long as the criminals had not been caught. The Meidob king accepted the argument. In the meantime, the authorities received information that the thieves were from the Awlad Digein clan of the Zaghawa and were making their way to Muzbat, their home area. Even then, the Meidob *malik* did not break his engagement to pay the *diya*. It is unusual that the Meidob *malik* should pay the *diya* even after the rustlers left his territory, because once the Awlad Digein did so, customary practice relieved him of his obligation. Did he not want to go back on his word given to the Berti, with whom the Meidob have traditionally tense relations? Did he not want to seem cheap with his Kordofan neighbors?

Making an incident the responsibility of many people creates powerful social disincentives for violence.

Making an incident the responsibility of many people creates powerful social disincentives for violence. Darfurians of all sides are quick to point out that the conflicts of the past twenty-five years show what happens when a powerful external actor—the government—enables local groups to become immune to traditional conflict mitigation processes by arming them, giving them political support, and undermining the mechanisms that should provide a disincentive to violence. This is particularly so among groups that have been militarized by the government and gradually integrated into official armed forces. According to lawyer Sarah Nouwen, “immunity is a big thing in Sudan. It is one of the attractions of holding a government job. In the years since independence, the entire spectrum of state officials, from the President, ministers and members of the national legislature to the rank and file of the armed forces, police and National Intelligence and Security Services, have come to be protected by some form of immunity.”²³¹ Nouwen notes that this process has been confirmed or extended by the peace agreements with an amnesty provision, including the 2005 Comprehensive Peace Agreement (CPA) and the 2006 Darfur Peace Agreement (DPA):

Decree 114 provided a general amnesty for those belonging to armed movements that had signed or adhered to the DPA and to parties which participated in officially endorsed tribal reconciliation procedures. Whether the decree applies only to those who took up arms against the government or also to those who fought on the government’s behalf remains controversial: no policy document on its application or overview of its beneficiaries has been made available. Anecdotal evidence suggests that it has been given a wide interpretation and applied in instances in which the government wished to amnesty persons.²³²

That this particular provision could be granted in return for participation in intertribal reconciliation processes shows, beyond an attempt to protect and reward old or new allies, a

will to encourage local reconciliation. However, this kind of amnesty can work only if it is accepted, and if the agreement formalizing it is accepted, by the victims—which was clearly not the case for the DPA.²³³

Indeed, the present conflict raises mixed feelings about collective responsibility. On one hand, the breadth and scope of the crimes committed, and that whole groups and their traditional leaders were involved, makes collective responsibility a natural path for addressing major issues like responsibility and compensation. On the other hand, the very scope and breath of the crimes also makes compensation and *diya*—the bedrock of forgiveness under *judiya*—unthinkable. In the words of a Masalit politician, “it would take rivers of *diya* to pay for the crimes that were committed.”²³⁴ Moreover, the nontraditional nature of the violence, and the involvement of the government, has many Darfurians thirsting for nontraditional justice, specifically, individual acknowledgment of personal responsibility and personal punishment.²³⁵

Many Arabs refuse collective responsibility for crimes committed by individuals from their groups, including leaders.²³⁶ “*Sheikh* Musa [Hilal] has committed crimes against humanity and he is a member of my tribe. It’s a shame for me,” said Zakaria Musa “ad-Dush,” an ex-*janjawid* leader who had joined JEM.²³⁷ “In your country, when somebody commits a crime, is the blame on him or on all his family?” was the rhetorical question Hafiz Madiri, another Mahamid Arab war leader, asked in 2008—after he had also distanced himself from his Sudanese government backers.²³⁸ That the crimes of the past war in Darfur so clearly involve government responsibility also pushes Darfurians, from all sides, to slide part or all of the blame to the government—collectively or individually.

Attempts by international organizations, or the modern Sudanese organizations they fund, to turn traditional authorities and mechanisms into tools for an externally conceptualized blueprint for peace in Darfur often underestimate the complexity and fluidity of those traditions. They pounce on fleeting parallels between traditional and Western institutions, between *judiya* and Western notions of mediation and truth-telling, without realizing how different they are. According to Morton,

the Heidelberg Darfur Dialogue took place in Khartoum and Heidelberg, not Darfur, between 2008 and 2010. The outcome was a “Draft Darfur Peace Agreement”. This presents great detail, in legalistic terms, about power-sharing, revenue sharing, human rights, etc. The Native Administration is allocated just one page, in wording which makes it very clear that it is regarded as a historical curiosity, as an exhibit in the museum of cultural heritage: “The Native Administration of Darfur is part of its cultural heritage and provides for the Darfurian identity. The establishment of the Native Administration shall follow the tradition and customs of the community concerned.” All serious local government is to be in the hands of bureaucratic local councils with professional staff recruited on ability alone. On the judicial side:

“The *Ajawid*, a traditional procedure for the resolution of conflicts, shall be institutionalized and assume the function of a truth and reconciliation mechanism. . . . the *Ajawid* shall engage in the procedures foreseen in their specific local traditions for the purpose of facilitating the search for peace, truth and reconciliation. Within the limits of the specific local cultural tradition and as far as this enhances the search for peace, truth and reconciliation, the *Ajawid* shall conduct their procedures with a view to facilitate confessions and apologies.”

It would be difficult to match this as a comprehensive misreading of the institutions it took the Fur Sultanate and the tribes of Darfur centuries to develop, a misreading designed to fit those institutions into Western conceptions of society, peace, and justice.²³⁹

Morton focuses his criticism on the Heidelberg document, though considerable Western literature has “discovered” Darfurian conflict resolution mechanisms and extolled their relevance to the conflict in decidedly uncautious tones. To add to his criticism, the Heidelberg

document's idea of using *judiya* as a truth and reconciliation commission that could extract confession seems especially specious. One, *judiya* does not lead to detailed confessions, and, two, it would automatically enter into competition with other mechanisms, in particular those based on punitive justice, including the International Criminal Court.²⁴⁰

Government-Sponsored Reconciliation Processes

Until the early 1970s, the role of the government and, before it of the colonial authorities, was limited to facilitating a venue for the *judiya* and transport of participants as well as investigating and listing the losses.²⁴¹ Otherwise the government would keep its distance, not even visiting the proceedings until they were complete. But as government interference with the traditional leaders increased after the Nimeiri regime's 1971 abolition of the so-called Native Administration, authorities increasingly politicized *judiya* processes. The government resorted heavily to *judiya* to address conflicts that followed the drought-induced migrations of the 1980s. In the 1990s, the NIF regime established village peace committees to take up the functions of the *ajawid*, as well as *judiya* councils at the level of localities and state capitals.²⁴² These more or less permanent institutions were not always accepted, especially in rural communities. But when local communities try to come up with their own *judiya* councils, they are harassed.²⁴³

The government has also increasingly interfered in the main mechanism for resolving conflict—the payment of *diya*. Throughout the 1980s, conflicts became more and more murderous, not least because of the proliferation of automatic weapons.²⁴⁴ *Diya* amounts increased until they sometimes were too great for the parties to afford. Parties started invoking the responsibility of the government in failing to ensure law and order and in distributing weapons. To tamp down conflict and show good faith, the government promised to pay the *diya* instead of the parties. The problem is that the government was not fully committed, especially when it came to paying *diya* to groups it considered hostile, such as the Zaghawa. On the other hand, groups that no longer had to pay *diya* did not feel punished. *Diya* payments were missed, and conflicts often resumed soon after peace conferences. The failure of the government to follow up on its commitments in the conferences following the *abbala* Arab and Zaghawa wars of the late 1990s and early 2000s led to renewed conflict, escalating violence and counterviolence, and ultimately the creation of the SLA.

The government has taken stock of these problems, and seems to be pulling back on the payment of *diya* since the 2010 elections. Abdel-Hamid Musa Kasha, the newly elected *wali* of South Darfur, a state where the proliferation of ineffective peace conferences was especially notable, has indicated in public speeches and media it would no longer pay for *diya* in intertribal conflicts.²⁴⁵ The government had also started to appoint specific *ajawid* for intertribal conferences.²⁴⁶ The *judiya* process has been incorporated into government-sponsored reconciliation, though nongovernment-sponsored *judiya* has continued.²⁴⁷ Darfurians consider independent *judiya* processes to be more genuine because they are free of governmental interference.

Intertribal Conferences

Broad tribal reconciliation conferences and agreements take place on an ongoing basis, mostly under governmental patronage and supervision, though in recent years a number have also resulted from grassroots initiatives. These agreements are quite wide ranging: they ostensibly address problems between larger groups (often entire tribes) and therefore involve senior-level traditional leaders. Many have taken place between warring Arab communities, mostly in

South Darfur, where Arab-Arab violence has been rampant. The government, although it has sides in intra-Arab conflicts, has also been keen to contain them because they have been very bloody and have involved tribes who had been allied with the government during the height of the Darfur war in 2003 and 2004. At the same time, the government and its appointed traditional leaders have also actively undermined broader tribal processes that did not concern Arab groups.²⁴⁸

Government Interference

One example of the latter is the festering conflict between Zaghawa and non-Zaghawa in southeastern Darfur and the string of ineffectual peace conferences the government ran, ostensibly to address the conflict, but quite clearly to assert its power and undermine rivals.

In May and June 2005, the three-day Brotherhood and Peaceful Coexistence Conference for the tribes of She'eria was held in Nyala under government patronage. Virtually all participants blamed the trouble in the area on the Zaghawa; everyone had good relations with everyone else, except the Zaghawa. The problem was that the Zaghawa had not been invited to the talks.²⁴⁹ The finding clearly sat well with the government, given its fight with the Zaghawa SLA in the area at the time.

In 2007, a reconciliation conference was held. In attendance were Abdel-Sahfi' Gardya, head of Zaghawa *shura* council for South Darfur, the Zaghawa *omda* of She'eria, the Birgid *nazir* of She'eria, the commissioner of She'eria, Majzub al-Khalifa (who was responsible for the Darfur File in the presidency), Ali Hussein Daosa (a federal member of parliament, representing Minni Minnawi), and Omar Abu Kisha (JEM Peace Wing, a Birgid DPA signatory rebel movement). The Birgid leadership kept very close to government positions, and the conference failed. Not long after, Birgid militias killed Zaghawa civilians, including the Zaghawa *omda's* sister. The war continued and is and now part of a larger conflict between various non-Arab landowning tribes and Zaghawa newcomers in eastern Darfur.

In the past, *judiya* was the main mechanism in *musalaba* (reconciliation). Today, Darfurians contrast the two. They see *judiya* as genuine and free of government interference, and large reconciliation conferences as failures. Darfurians, including those close to the NCP, concur that if reconciliation processes are to work, the government must not be part of them. At the same time, and this is something that foreign actors sometimes fail to fully grasp, Darfurians also want to see the government play a role in assisting and following up on the reconciliation process. The government is welcome and even expected to provide security during the conference and in the area in question, guarantee (but not vet) the agreement, contribute to *diya* and compensation payments, and provide development (water, education), always a key demand in genuine *sulub* conferences.

Intertribal conferences today differ in many ways from those of the past. Previously, they would always include neutral *ajawid* agreed to by the parties. Today, government-sponsored conferences also use *judiya*-like mechanisms and involve neutral *ajawid* (increasingly from the Native Administration), but the *ajawid* must now not only be accepted by the parties but also pass muster with the authorities.²⁵⁰ And although the parties do retain somewhat of a right of veto over the *ajawid*, the process is now distorted.²⁵¹ In a tense political and security climate, it may be difficult for one party or the other to reject a government *ajwad*.

For example, in April 2011 the governor of North Darfur sponsored a one-week "peaceful co-existence meeting" in El Fasher between the non-Arab tribes of Hashaba, the main center of Dar Beire, east of Kutum, and a stronghold of the SLA, and the *abbala* Arabs of so-called Damrat Gubba, a newly created (early 2009) base for Arab militias now integrated into the Sudan armed

forces.²⁵² According to *malik* Adam Mohammed Nur of Dar Beire, this meeting was “like a *judiya*” in the sense that it involved neutral *ajawid*. Each side selected ten *ajawid*. The government validated each list and submitted it to the other party. The parties agreed to the selection. Of the twenty *ajawid*, some were elders, others were members of the Native Administration, such as *nazir* as-Sadiq Abbas Daw-el-Beit, the Berti chief of Taweisha in eastern Darfur, and *shartay* Adam Sabi Tijani at-Tayyib, the Zaghawa leader of Dar Galla (Kornoy). Some belonged to tribes living in the conflict area (Tunjur, Berti, Zaghawa) but were not from the area, and were considered as sufficiently neutral, even though members of those tribes were involved in the conflict. Groups as the Kaytinga, a Fur-Zaghawa clan that holds the chieftaincy of Hashaba (Dar Beire), and the Awlad Bileyla, the Arab Mahamid clan settled in Damrat Gubba, were not among those *ajawid*.

Apart from the presence of neutral *ajawid*, this conference was typical of government-sponsored conferences between militarized communities—in that case, people from an SLA area and government-backed militias. The *ajawid* were thus less mediators than witnesses. They intervened to calm the parties when the tone of the conference grew harsh, as *ajawid* under a normal *judiya* would, but they spoke little more during the proceedings, whereas in a classical *judiya* they would have facilitated the negotiations. At the end of the conference, on hearing the claims of both parties, they offered conclusions and recommendations. But, unlike in a nongovernmental *judiya*, those recommendations would be implemented only if the government were to validate them. At the Hashaba-Gubba conference, the government did what it usually does, which is to choose from among the *ajawid* recommendations those it was prepared to implement. These were then designated as “decisions” in the final document. The text asked each party to abide by the ceasefire, to reopen the roads closed by the violence, and to pay the same amount of SDG 50,000 to the other party “in compensation for the families of those who were killed,” as well as for the injured persons SDG 50 per day spent in the hospital. In addition, the government estimated that camels had been the cause of the dispute, referring specifically to livestock rustling that had taken place in March 2011, and ordered the people of Hashaba to return thirty-five camels to Gubba, and the people of Gubba to return thirty-nine camels to Hashaba. The government thus avoided the decision of which side had been more aggrieved, except that the state government added to what the parties paid a compensation of SDG 25,000 for the “people of the Hashaba region as a gesture towards reconciliation and coexistence.”

All in all, the first and primary government recommendation was that the parties should revert to an earlier “document of peaceful coexistence” signed in July 2010 as the point of reference for the new agreement, as if nothing had happened.²⁵³ This agreement included a ceasefire, restitution of looted livestock, and a joint *faza*’ to recover it (the Arabs had been frequently accused of raiding livestock since they had settled in Gubba). This agreement had been signed by native administrators representing the two parties: the Mahamid *omda* Mohammed Ali Juma’ for the *abbala*, and *malik* Adam Mohammed Nur for the other tribes—despite his being leader of all tribes of Dar Beire. That the parties were militarized is clear from the two other signatories: an-Nur Ahmad, the Mahamid leader of Gubba militias now integrated into the army, representing the Sudan armed forces,²⁵⁴ and Faysal Adam Mohammed Nur (also called Faysal al-malik), son of *malik* Adam Mohammed Nur and the main rebel leader of the area, representing the SLA.

As often the case in government-sponsored reconciliation, the 2011 talks left the main issue unaddressed: in March 2011, after reciprocal livestock rustling and murders had been committed, Faysal al-malik, who had come to Gubba to resolve the problems peacefully in the wake of the 2010 agreement, had been assassinated by the *abbala*. Even though the final

agreement provided precise compensations for the dead, the Hashaba side considered that no *diyya* had been paid for Faysal, and chose to separate his case from the reconciliation conference by bringing it to the formal justice system. The Hashaba side, even though Faysal was from a traditional chief's family, clearly considered the traditional mechanisms inadequate to bring justice. However, at the time of writing, no one had been yet arrested. The suspects, as members of the Sudan armed forces, could benefit from immunity; at the conference itself, representatives of the Arab side had declared that, no matter which agreement he had signed, Faysal was still a rebel leader and thus a legitimate target. According to representatives from Hashaba, one Arab leader declared in the conference that the Arabs "can kill anyone in Hashaba and none can ask them except God." The Hashaba side claimed that Arabs clearly did not respect the new agreement, and accused them of being responsible for at least twenty incidents—more livestock looted and at least ten people killed—between April and November 2011. Government-sponsored meetings between the parties were continual during this period, without much result.²⁵⁵

Differences: Then and Now

As in the Hashaba-Gubba case, government-sponsored conferences have also involved other types of actors, sometimes *ajawid* but sometimes not: native administrators belonging to the parties, either as representatives of their side, or sometimes as mediators;²⁵⁶ government authorities, mostly those related to maintaining law and order;²⁵⁷ and educated Darfurian professionals, mostly close to the NCP, who sometimes carry out technical roles (note taking, presentations, facilitation). At the 1997 Rizeigat-Zaghawa conference, which is often quoted as a rare example of a successful government-sponsored conference, the government selected twenty-six individuals as *ajawid*. Many traditional leaders were from Darfur, but also from Kordofan, central, and eastern Sudan, and thus perfectly neutral.²⁵⁸ The security agencies and the judiciary were also represented.²⁵⁹ Indeed, one role people want to see the government play is guaranteeing implementation of conference resolutions, some of which are the responsibility of the government to begin with, such as security and development, or helping with *diyya*.²⁶⁰

Another difference between intertribal conferences of then and today is that government-sponsored conference agreements are generally written, whereas under *judiya* they are generally not. In the past, writing was rare because of both custom and illiteracy, especially in small *judiyas* about minor matters. Agreements were sealed by the word given in the presence of witnesses. The word of men (*kalam rujjal*) is valued, and a man cannot go back on his word without losing face. But as government has become more involved, the tendency has been to put things in writing, especially in towns where people are adopting statutory practices or if one of the party is not from the area.

However, modern practices in fact overlap with tradition more than it might seem. On the one hand, parties write and sign an agreement. On the other, they swear on the Quran, even before the conference, to abide by its recommendations. Many of the highly localized security agreements between hostile groups that began to appear in Darfur in 2008 and 2009 in response to the ongoing insecurity included handwritten minutes and a signature page even though they occurred at the grassroots level without government intervention.

Even during the current conflict, some conferences have reached an important level of syncretism between *judiya* and modern mechanisms. One example is the May 2005 conference between the Zayadiya Arabs and the Berti in Um Kaddada, in eastern Darfur. The main problems were looting of Berti livestock, the destruction of Berti farms, and killings on both sides. The conference involved neutral *ajawid* from the El Fasher group

Another difference between intertribal conferences of then and today is that government-sponsored conference agreements are generally written, whereas under judiya they are generally not.

mentioned earlier and local *ajawid* from neutral tribes. Native administrators from neutral tribes were also involved as witnesses, such as the Zaghawa *malik* Daud Salem Tagel of Muzbat and the Rizeigat Mahamid *sheikh*, Ahmad al-Badur, as well as a Kababish Arab delegation from Kordofan. Other native administrators were representatives of the parties: *nazir* Abbas Daw-el-Beit of the Berti and *nazir* Abdallah Adam Jizzu for the Zayadiya. The government was also well represented, in different roles: *shartay* Ibrahim Abdallah, a Fur traditional leader who was then deputy governor of North Darfur (before to become the special advisor to the South Darfur governor on reconciliation processes) joined the *ajawid*, and First Vice President Ali Osman Taha attended as a witness. Representatives of the international community (the European Union, France, Holland, and others) also attended as witnesses, a practice that had begun in 2004 with the international involvement in the Darfur conflict. The recommendations of the *ajawid* tasked the government with paying *diya* and compensation, and the parties (primarily the Zayadiya) with returning looted livestock. An *ajwad* who participated in this conference described the interaction as progressive, saying that it “started as a *judiya* and finished as a *mu'tamar as-sulub*”—the implication being that a government-led process was less genuine. By the end of the conference, the government’s role had increased.²⁶¹

A government-sponsored conference is generally “preceded by a number of government activities, commensurate to making the conference a success.”²⁶² Some relate to security, such as the deployment of police or army elements to force a ceasefire, a role that is generally accepted. Another role is that of “arresting perpetrators and even bringing them to trial in state courts,” investigating the incidents, and documenting the material and human losses.

The government has been also increasingly providing logistical support, “including deciding the venue and financing the conference,” a function more or less accepted depending on the circumstances.

Current, that is, government-sponsored, reconciliation is characterized by six stages:

- During the calming-down period (*tabdiya*) the authorities and *ajawid* focus on preventing further violence. Traditionally, the *ajawid* would ask elders of either party to physically restrain young men of their respective communities. Since colonial times, they work with the police to arrest those involved in the violence and talk with the parties to try to prevent any vengeance.
- The investigation (*tabqiq*) focuses on fact-finding: what happened, the timetable of events, who was involved, who was hurt, the background to the case, and other important contextual questions.
- Listing the losses (*hasr al-khasa'ir*) itemizes the losses, human and material. This exercise is not a monetary evaluation.
- The assessment committee (*lajnat at-tagdirat*) assigns a monetary value to the losses established by the listing exercise. This is a time for bargaining, especially for the material losses.
- The reconciliation conference (*mu'tamar al-musalaha* or *mu'tamar as-sulub*) is the core of the *judiya* process, during which the *ajawid* gather the parties, address them, and begin working out a consensus over the mediated outcome.
- The follow-up committee (*lajnat al-mutaba'a*) oversees that the agreement is respected by all parties. Most important, it oversees the payment of *diya* (blood money), *ta'wid* (compensation), *khasarat* (expenses), and *karamat* (compensation to the family of the victim if *diya* is waived under a *rakuba* or other agreement).

Government Roles

As noted, the 1997 Rizeigat Baggara-Zaghawa conference offers a good example of the various government roles before, during, and after a government conference. The bloody 1996 conflict in South Darfur had taken place in September, resulted in more than one hundred deaths, and was resolved by a meeting often cited as the best example of a successful government-sponsored reconciliation.²⁶³ The primary cause of the conflict was that Zaghawa who had settled in Dar Rizeigat, mostly in the 1970s and 1980s, were challenging Rizeigat pre-eminence by supporting non-Rizeigat (Borno and Zaghawa) candidates during the national elections.²⁶⁴ The conference took place in March 1997 in ed-Da'ein, the capital of Dar Rizeigat.

Preparatory committees were critical. A cooling-off period between the clashes and the conference was put to use by four committees, the work of which helped convince the parties to accept the conference:²⁶⁵

- A good-will committee (*lajnat al-masa'i al-hamida*), though not composed of *ajarwid*, had—in leading the transition from conflict to reconciliation talks—a similar role.
- An investigative committee (*lajnat at-tahqiq*), established by presidential decree, was tasked with documenting the causes of the conflict. Led by a high court judge, the investigative committee included a representative of the attorney general's office, a senior police officer, and knowledgeable people from outside the area. For it to be neutral, its members came from outside South Darfur.
- A technical committee of enumeration of the losses (*lajnat hasr al-kbasa'ir*) verified the claims of deaths, injuries, damages, and material losses (including looting) of the parties. Headed by provincial magistrate, its members included representatives of the local government, the attorney general, and the security forces.²⁶⁶
- An *ajarwid* committee (*lajnat al-ajarwid*) selected by the government actually ran the *judiya* conference.

The committees included not only government officials, but also *ajarwid* and native administrators, both from the area and from outside (except in the investigative committee, where government officials from outside the state dominated).

The use of preparatory committees began in colonial times as the government intervened in tribal conflicts, and expanded after independence, especially in the 1970s.²⁶⁷ The committees were widely used in the 1980s and 1990s, but not in the 2000s. Observers point to the committee system as a major ingredient in the success of the Rizeigat-Zaghawa conference and a few others, and its absence is often cited as a reason for the failure of later conferences, especially since 2003.

Government involvement in the follow-up of the Rizeigat-Zaghawa conference was significant. The end of the conference saw the formation of another committee: the follow-up (or implementation) committee, also established by presidential decree and headed by at-Tayyib Abder-Rahman Mukhtar, a police general in Khartoum. At-Tayyib remained head of the committee for the seven years it took to implement the conference recommendations, and during that time he served as commissioner in Kosti, deputy governor in South Darfur, and governor in West Kordofan. The follow-up committee also included mid-ranking native administrators (*omdas*) who represented both sides (Amin Issa Aliyo of the Rizeigat and Mohammed Abdel-Gadir, the leader of the Zaghawa community of ed-Da'ein town), local government officials (the executive directors of Nyala and ed-Da'ein localities), representatives of the army and police, as well as *ajarwid* and dignitaries from neutral tribes (such as the Ta'aisha Arabs). The presence of local government and police officials in the four preparatory committees allowed them to make a better follow-up of the conference recommendations.

The collection of *diyya* and maintenance of peace in general was traditionally the responsibility of the Native Administration, but the follow-up committee took on that role in this case.²⁶⁸ Its task was primarily to ensure the conference's many recommendations were implemented in both the short and the long term, which ultimately took seven years. A central recommendation was the payment of sizeable compensation—the result of the looting of wealthy Zaghawa shops in ed-Da'ain town. It was the first time in the recorded history of peace conferences in Darfur that compensation exceeded SDG 1 billion, though since then such amounts have become common.²⁶⁹ It was partly paid by the government.

On one occasion, the Rizeigat failed to respect the payment schedule, and the Follow-Up Committee threatened to arrest *nazir* Sa'id Mahmoud Musa Madibbo, the paramount chief of Dar Rizeigat, a signatory and guarantor of the agreement. The *nazir* paid only an hour before the deadline. Shortly after, the committee forced Zaghawa farmers to clear groundnut farms they had planted in Rizeigat *marabil* (sing. *murhal*, corridors for livestock migration). By pressuring both sides, the committee established its bona fides as a neutral actor.

Part of the mission of the committee was also to set up conflict mitigation measures, such as monitoring any farming on the *marabil* and deploying police in markets where Rizeigat had attacked Zaghawa businesses. The presence of the police on the Follow-Up Committee facilitated its security role. Likewise, the government presence on the committee was useful to the implementation of service-related recommendations such the provision of water points, schools, roads, and so on. Similar recommendations have repeatedly emerged in later conferences, with final agreements that state that both security and services are the responsibility of the government. The role of the government in following up on reconciliation conferences is central.

Like the preparatory committees, the presence of a strong follow-up committee is credited for the implementation of many of the recommendations of the Rizeigat-Zaghawa conference.²⁷⁰ The lack of follow-up committees in later conferences is often quoted as a major reason for their lack of success. Many Darfurians believe that most conferences that followed have been a failure because of the lack of government commitment to preparation and follow-up.

The government was also present during the Rizeigat-Zaghawa conference, but in a relatively minor role. The main representative was First Vice President az-Zubeir Mohammed Saleh, who attended the closing session as a symbolic witness.²⁷¹ The conference was chaired by Ambassador ash-Shafi' Ahmad Mohammed, but he acted more in his capacity as a educated Darfurian from a neutral tribe than as a government representative.

Government-Sponsored Conferences in South Darfur

According to Darfur historian Rex Sean O'Fahey,

during the forty years of British rule, [the British] found it necessary to orchestrate indirectly only two inter-tribal reconciliation (sulh or musalaha) meetings, in 1924 between the Rizayqat Arab cattle nomads and their southern neighbours, the Dinka, and again in 1932 between the Kababish of Kordofan and their Darfur neighbours, the Zayyadiyya, Berti and Meidob. In both cases, the reconciliation meetings involved communities from outside Darfur. The general rule for the British, whether it concerned major reconciliation meetings or minor settlements of intra- or inter-tribal conflicts, was to keep a low profile and leave the resolution of such conflicts to the local authorities.²⁷²

Recent years have seen a dramatic proliferation of government conferences. Often, however, the same groups repeat reconciliation conferences each year, a clear indicator of failure.

In recent years, conferences have been particularly numerous in South Darfur, where Governor Abdel-Hamid Musa Kasha, in the year following his election in April 2010, claimed to have organized sixty-four, all successful. Traditional leaders who participated in this process,

even those from the NCP, bring some nuance to such claims, however. Some explain that most of those processes had begun before the 2010 elections, some as early as 2007, and that the new governor, Abdel-Hamid Musa Kasha, had incorporated all of them in a global reconciliation process for the state endorsed by the central government. Others assert that few of those sixty-four conflicts have actually been resolved.

In fact, the conferences seem to have been expedited with respect to similar earlier processes, such as that between Rizeigat and Zaghawa. Of the sixty-four, the longest, held between two subgroups of the Gimir tribe, lasted barely a month. According to Deputy Governor Abdel-Karim Musa, it was also the most difficult, precisely because it involved members of the same group, namely the Gimir-Katila, based in Katila south of Nyala in South Darfur, and the Gimir-Sesabal, who had come from Kulbus in North Darfur to settle more recently than the Gimir-Katila in a neighboring area of South Darfur—a conflict between first settlers and newcomers, no matter that they were from the same ethnic group. “We thought it would be the simplest one, but no. It was very inhumane—it had made hundreds of deaths and brought divisions inside the families—for instance, two sisters, married of different sides, had not met since five years. But now it’s the most successful reconciliation.”²⁷³

The South Darfur governor claims to have experimented with new methods of managing tribal reconciliation, including strong intervention of the state government.

Before the Gimir conference began, the government asked all traditional leaders to sign a preapproval of the principles of the conference, namely, that they would engage to reconcile. Following the terms of deputy governor Abdel-Karim Musa, “we made reconciliation mandatory, under the threat of imprisonment. Those who refused the approach were arrested on the spot.” Haroun Imam, a Missiriya leader from Kas known for his hostility toward the Rizeigat *abbala* and for his leading role in the conflict, is one such example: he refused publicly to agree with the principle of the reconciliation and rejected an agreement made between the parties in Kas in September 2010. He was arrested and detained in Nyala for two months from late 2010 to early 2011.²⁷⁴ Similarly, later in 2011, Fellata *nazir* Ahmad As-Sammani was arrested for his lack of commitment to the reconciliation between his tribe and the Habbaniya Arabs—but apparently quickly released after some of his relations in the government intervened, demonstrating that the new rules were not equally tough for everyone.

The government conferences assigned the Native Administration a primary role as mediator. Some eighty members (paramount leaders and numerous *omdas*) formed a council, itself headed by a six-member “council of the wise” (*majlis al-hukama*), headed by *shartay* Ibrahim Abdallah, both a Fur traditional leader and the minister of reconciliation in South Darfur. Created in June 2010, the council has also selected *ajawid*, some from the Native Administration, for all conferences, although those *ajawid* still had to be accepted by the parties.

The government also agreed to implement certain conference decisions, such as providing services and developing water resources, for which it is hoping to obtain international support. South Darfur state claims to have budgeted \$5 million for the effort in services and development recommended by the sixty-four conferences.

It also, however, took a new strong stance in deciding that the government should no longer participate in paying any *diya* or compensation, because doing so had clearly proved damaging to sustainable reconciliation in that parties in conflict, freed from the obligation of *diya*, ceased to feel a need for restraint. This decision was announced by Governor Abdel-Hamid Musa Kasha in his first speech immediately after his election, in which he said, “I refuse to give the money of the Sudanese people to criminals.” All *diyās* were now to be paid

by the parties involved, and government intervention would be limited to establishing binding deadlines and modalities for the payment, and eventually imprisoning bad or late payers. The government agreed to continue with payment of some *diyas*, but only when consensus could not be reached on losses, in which case, to prevent the reconciliation process from failing, it would pay the difference.

The South Darfur governor attempted to merge the sixty-four conferences into a single, global reconciliation process, and in March 2011, leaders of most if not all tribes of South Darfur, even those not in conflict with another one, committed themselves to peaceful coexistence in signing, together with an oath on the Quran, a *wasigat ash-sharaf* (agreement of the nobles). This was also signed by the members of the South Darfur Legislative Council, representatives of political parties, women and youth associations, students unions, intellectuals, and other representatives of civil society.

The South Darfur authorities believe, or at least hope, that this document should put an end to the proliferation of costly reconciliation conferences, and to traditional mechanisms such as *judiya* to solve tribal conflicts. From this point forward, all new cases of violence should be dealt according to formal legal principles and procedures. Individual punishment should overrule tribal collective responsibility. “We want to start from scratch, to stop using traditional mediation. No *judiya* or traditional court. Law only. We want to impose the law, otherwise people will not feel that there is a government,” the deputy governor of South Darfur explained.²⁷⁵

The government began to implement the new strategy almost immediately. Then, in July 2011, the conflict between Salamat and Habbaniya Arabs erupted again. The government created a Crisis Management Committee, which this time was clearly governmental, chaired by the deputy governor and composed of ministers, including *shartay* Ibrahim Abdallah (this time clearly in his governmental role) and commissioners, who visited the affected area with a convoy of twenty-two police Land Cruisers with mounted DshK machine-guns (“Doshkas”)—a clear demonstration of force. The committee did not call any *ajwad* or start a reconciliation process, as had often been done in similar cases, but instead—based on the incident NISS report—arrested those listed as responsible, releasing those against whom no evidence could be found, and detaining the remainder. The deputy governor meanwhile refused the reconciliation process requested by representatives of the two tribes.

However, the parties in conflict recognize this process as successful. First, they acknowledged that the arrests of the instigators and their being brought in due course before the court helped stop the violence. Second, they approve of the creation of an implementation committee led by the governor and composed of government mediators of the *majlis al hukama'* led by *shartay* Ibrahim Abdallah, and of *ajawid* from neutral tribes (Fellata, Rizeigat Arabs), because they know that the conflict has erupted again primarily because recommendations of a former conference—in particular, regarding *diya*—had not been implemented. The July 2011 conference was thus mostly a follow-up session to implement the recommendations of the earlier one. “If there is no government involvement,” a Salamat leader asserted, “there is no implementation of the *ajawid's* decisions.”²⁷⁶

If many accept and even demand the involvement of the government in implementation specifically, similar intervention in other stages of reconciliation is much less unanimously approved. Additionally, nothing yet indicates whether such an abrupt shift from much weakened traditional mechanisms to a more modern justice system will be smooth or successful, given the poor record of the police and the justice system and the lack of trust in the neutrality of the authorities. However, the same deputy governor claims that “traditional leaders are, in general,

supportive of this approach and cooperate with us. At the end of the day, they all are employees of the government, because we're paying their salary, and cannot refuse to implement government policies. Before they felt they were not part of the government. Now those who will not comply with their obligations will have to face disciplinary measures."²⁷⁷ This is also a clear recognition of the power of the government to fire and appoint leaders, which the South Darfur government might use even more now than in the past.

Rebel-Arab Agreements

Moreover, in spite of the proliferation of government-sponsored conferences, as attitudes among ordinary Darfurians change and they become more demanding of solutions that address immediate security and livelihood issues, local and often quite junior traditional leaders increasingly find themselves involved in local agreements made without the government. These agreements do not offer solutions to the conflict as a whole, but they respond to the needs of ordinary residents in a new way.

Particularly notable are agreements between armed groups. Since 2006, SLA-AW rebels and Arab groups, first *baggara* and then *abbala*, have negotiated numerous security agreements in and around Jebel Marra. Agreements between fiercely divided opponents may appear counterintuitive, but in fact serve both sides. They revolve around different needs: economic (access to markets, water, fields and grazing), security (nonaggression pacts of groups anxious to secure the borders of their areas of control), and political (for leaders such as Musa Hilal and Abdel-Wahid who feel under pressure from various sides and are jockeying for allies and support). The government is, of course, not involved in such agreements.²⁷⁸

The economic side is essential: joint markets, situated on the border between government and rebel areas, and recreating exchanges between both, on the model of the *suq as-salam* (peace markets) instigated between Arabs and SPLA during the North-South war, are particularly interesting for both sides. The Fur sell grain, fruit, and vegetables to the Arabs. Arabs sell livestock, meat, milk, and butter to the Fur. According to a Fur displaced in rebel-held Jebel Marra, "Each tribe benefits from this, Arabs need grazing areas and the Fur to open their markets. But the agreement is not strong, it relies only on interest."²⁷⁹

Those agreements differ from traditional mechanisms, *judiya* in particular. Even though some traditional mechanisms (such as an oath on the Quran) are used in Arab-rebels talks, they generally do not involve either compensation or punishment. They do, however, imply a kind of amnesty—not forgiveness—which is a strong incentive to negotiate for tribes whose members committed crimes. "We will never forget what they have done," said Omar Mohammed, a Fur *agid* who took part in negotiations with ex-*janjawid* in southern Jebel Marra, "but we signed this agreement because we want to survive."²⁸⁰

Such agreements are therefore particularly fragile. Many failed because of government interference, prevailing lawlessness, and, given such a volatile context, of unprepared local or international programming, notably in terms of development. Thus Ain Siro rebels explain the failure of their agreements with *abbala* Arabs not so much because of frequent violent incidents as by the construction of a dam for the *abbala* community of Damrat ash-sheikh Abdel-Bagi northwest of Kutum, a government project (involving notably the council of the nomads led by General Abdallah Ali Safi an-Nur, known for his projects for the development of the *abbala*, which, not necessarily voluntarily, triggered tribal conflicts in the 1990s), supported by UNAMID. Non-Arabs from the area protest that this project for a landless community was made, as often, without consulting the territorial Native Administration (in that case *malik* Adam Mohammed Nur of Dar Beire as well as the local non-Arab *omdas* and sheikhs). Non-

Arabs also claim that the displaced from the Kassab camp near Kutum who wanted to farm in the area of the dam were sometimes prevented from doing so, sometimes allowed to cultivate their own farms in the area on the condition they would pay “protection rights” to *abbala* in exchange for security. Ain Siro rebels consider this a violation of their agreement with the *abbala*, which specifically provided the right for the displaced from the Kassab camp to move safely and return to their lands.

Traditional Leaders and the Peace Process

Deciphering public perceptions is notoriously difficult in Darfur, given the dearth of quantitative data on what people think on issues such as race, politics, the role of government in everyday life, or indeed the Native Administration or traditional justice venues. Preconceived notions of Darfurian opinions—be it in Western advocacy publications and media or among riverine elites in Khartoum—are often simplistic and sometimes misleading. What quantitative data does exist—in-depth assessments by aid agencies, systematic interview initiatives—must be used with caution. It is never easy to achieve real representation (let alone random sampling) in a highly insecure environment, and quantitative questionnaires sometimes simplify to the point of distortion the complexity of issues such as traditional authority, justice, and reconciliation.

This caveat notwithstanding, one can draw a number of key findings from the few available surveys—and from the hundreds of interviews and conversations that the authors have held with Darfurians across Darfur since the early 2000s.

The first is the depth and breadth of the destabilizing effect that central government policies have had, over decades, on the Native Administration. The chief aim of these policies—whether in the form of legislation or simple practices by the authorities or other government agents—has been to weaken the influence of traditional leaders. The NIF/NCP regime has been especially active in its efforts to co-opt traditional leaders across, perhaps nowhere more than in Darfur since the start of the conflict there.

An example of the prevailing confusion is clear in a systematic survey conducted in 2008 in the North Kas area. Over several weeks, some thirty *sheikhs* and *omdas* were interviewed—most Baggara but others from associated non-Arab groups, as well as Fur leaders from the rebel area and displaced camps—on how they perceived the Native Administration hierarchy and the structures above them.²⁸¹

The unsettling conclusion is that each *sheikh*, each *omda*, some from the same tribe, has his own vision of the traditional hierarchy based on personal or tribal affinities rather than any historical or official legitimacy. Some recognize the Fur *shartays* who have been the historical leaders in the area based on their control over the land, and who officially still administer the area. Others do not recognize them. Some recognize the Fur *amir* the government installed in 1994 as a paramount leader for the whole locality. Others do not. And though some do not recognize the Fur *amir*, they do recognize the Arab deputy *amir*. Among those who do not recognize the new *amir*, some still recognize the *dimangawi* Fadul Sese of Zalingei (even if Kas is officially outside his geographic authority). Others recognize the Missiriya leader Haroun Imam—a leader with little legitimacy in terms of either history or government backing. Some of the Baggara *sheikhs* admitted that they do not know well the leaders they described as being above them.

New leaders among the displaced Fur (unlike former traditional leaders) claim to not recognize any leader above them, a clear sign that they have ceased to defer to the old hierarchy.

The unsettling conclusion is that each sheikh, each omda, some from the same tribe, has his own vision of the traditional hierarchy based on personal or tribal affinities rather than any historical or official legitimacy.

Fur traditional leaders who remained in SLA-controlled areas mentioned the SLA, rather than the Native Administration hierarchy, as being the paramount authority above them—though it is possible that political considerations may have brought some bias to their responses. In recent months, however, a number of Fur leaders have moved away from SLA-AW, toward the LJM and ultimately the government.

Abbala leaders also challenged both the official and the historical hierarchy, saying that they did not recognize any official territorial leader from any tribe other than their own as being above them. The result is that they declare Musa Hilal to be their paramount leader, despite his having no official role outside North Darfur.²⁸²

These results illustrate the outcome of policies by successive governments in Khartoum, but particularly by the NIF/NCP regime, to undermine traditional leaders. The aim was to create acephalous communities in which the state has direct control over detribalized citizens, but the outcome has been quite different. Yes, the power of traditional leaders is much undermined, but Darfurian communities are far from acephalous—they suffer instead from a surfeit of heads and are deeply tribalized.

This conclusion is not explicitly supported by the few quantitative surveys available, but neither were these designed to pick up on it. They do, however, show the divorce between the old Native Administration and the new leaders in the displaced and refugee camps.

Particularly relevant for this is the Darfurian Voices Survey quoted earlier. Only 38.9 percent of the refugees interviewed reported having the same leaders in the camps in Chad as they had had in Darfur. Even this perception might be exaggerated: of the refugees who presented themselves as leaders in the Chadian camps, only 23.5 percent had been a leader in Darfur before being displaced.²⁸³

The other quantitative survey that yields information on perceptions of the traditional leadership is a 2010 pilot survey (the final survey was never completed) conducted by the Annenberg School for Communication (University of Pennsylvania) and Albany Associates. Their ample was broad in reach, if shallow in numbers; it included displaced as well as not displaced communities, in both urban and rural areas, and including nomads (mostly *abbala* Arabs). It should be treated with caution, however, because the sample was of only 147 individuals, and the sedentary-nomad and rural-urban lines are especially blurry in the Darfur context.²⁸⁴ The data gathered are nevertheless interesting. The survey concludes that “there is a high degree of trust in the Native Administration and the Sudanese government by both sedentary and nomadic populations. Nomads have slightly higher levels of trust in these groups.”²⁸⁵ It is difficult to comment on the issue of trust in the government, especially given that the nature of this trust is not made clear: trust to solve the conflict, to ensure security, to provide services? What is interesting, however, is that on the issue of local peace the finding seems to contradict those of another survey conducted by Afia Sudan, a local organization supported by Albany Associates. Afia Sudan found that around 40 percent of interviewees said tribal leaders retain an important role in stopping the violence in their community, versus 25 percent for displaced leaders, and only 15 percent for local government.²⁸⁶ One wonders whether the interviewees, when asked of the Native Administration, think of their own leaders only, or of the institution in general—including hostile leaders. More specific questions will yield different outcomes. For instance, distinguishing non-Arab tribal leadership, which the refugees clearly understand as their own, from Arab tribal leadership, the Darfurian Voices Survey found important differences: not surprisingly, 69 percent of the refugees said that the non-Arab leadership was committed to peace, and 95 percent said that the Arab tribal leadership was not.²⁸⁷

Perceptions and Facts

Both qualitative interviews and quantitative surveys offer greater clarity in perceptions of the participation of traditional leaders in the peace process. According to the Annenberg-Albany Survey, “Both the sedentary and nomadic groups believe that tribal, religious and Native Administration leaders should be included at some level in future peace negotiations.” More specifically, 66.7 percent of the Annenberg-Albany interviewees thought the Native Administration should be included in future peace negotiations. Conversely, only 10.4 percent (and no one among nomads) thought that *sheikhs* in the camps should be included.²⁸⁸ This may be because of an underrepresentation of the displaced in the Annenberg-Albany survey. However, Darfuriian Voices’ findings among refugees in Chad were comparable on the issue of the role of the displaced leaders: only 7 percent said the camp *sheikhs* needed to be included in future peace negotiations for their interests to be represented. At the same time, the Darfuriian Voices survey also found that only 11 percent of the refugees thought that traditional leaders should be represented. On the other hand, a full 46 percent thought that “for their interests to be represented,” the negotiations should be attended by SLA-AW, an armed group that has systematically refused since 2006 to join negotiations.

It is also interesting to compare findings with regard to compensation. This is the traditional task of the Native Administration or the *ajawid*, and over 85 percent of the Annenberg-Albany interviewees trust them to do so—more trust than garnered by the national government (81 percent) or the international community (56 percent), and far more than by refugee and displaced leaders (27 percent).²⁸⁹ On the contrary, the refugees had very strong trust in the international community (98 percent), followed by camp leaders (71 percent), (their own) Native Administration (54 percent), and the Sudanese government (9 percent).²⁹⁰

With a more specific question, the Darfuriian Voices survey showed that the refugees may trust one player for a particular role (rebels for peace negotiations, or the international community for compensation), and not for another one. For example, “interviewees were asked whom, if anybody, from inside Sudan they trusted to resolve land disputes,” also a traditional task of the Native Administration. “No one” was the most frequent response (61 percent), and only 25 percent trusted the Native Administration to keep performing this role fairly.

Darfuriian Wishes

Darfuriians, including traditional leaders, generally agree that the conflict is too broad to be resolved by traditional leaders or through traditional mechanisms. However, the many, successive peace processes have shared a conclusion among stakeholders that the restoration of traditional conflict resolution mechanisms, of traditional justice, and of the traditional land tenure system is critical to addressing the central issues of security and land in Darfur.

Early Involvement of the Native Administration

The involvement of the Native Administration in Darfur peace processes started first at the initiative of local civil society forums, in particular the Minbar Darfur which brought together a mostly Khartoum-based Darfur elite. These groups participated in several meetings in Libya in 2004 and 2005, along with leaders from various ethnic groups and rebels. The meetings narrowed the gap between traditional leaders and rebels. Other civil society gatherings favored the Khartoum-based elites at the expense of the Native Administration and camps leadership.

Abuja 2006

The Darfur Peace Agreement signed in Abuja in 2006 between the government and SLA-Minni Minawi recognized some secondary roles for the Native Administration, notably in determining compensation. The Native Administration's general role was summarized in very vague terms: "Native administration shall have regard, where appropriate, to the established historical and community traditions, customs and practices. Where these are contrary to the provisions of the National or State Constitution or law, the latter shall prevail." The agreement contains no provision to enhance complementarity between the Native Administration and the government rather than competition, and it is clear from other provisions in the agreement that any competition would always play out in favor of the government. The agreement refers, repeatedly but vaguely, to "traditional mechanisms of dispute resolution."

The Abuja agreement allowed for the creation of the Darfur-Darfur Dialogue and Consultation (DDDC), the main task of which was to provide "a mechanism to connect this Agreement to social and political issues in Darfur so that social mechanisms traditionally established to resolve conflicts can play their role in creating and sustaining social peace."²⁹¹

The DDDC held consultations among Darfurians, pooling them in categories: tribal leaders, civil society organizations, students and youth, women, nomads, and displaced. These groups almost unanimously agreed on the necessity to "empower Native Administrations with the authority and required capacity to actively participate in helping maintain security," as well as to restore *judiya* to promote reconciliation.²⁹²

AU-UN Mediation

Starting in 2009, the African Union–United Nations (AU-UN) Mediation team for the peace process in Darfur, led by Jibril Bassolé, attempted to launch a civil society track parallel to the negotiations between government and rebels. Traditional leaders were one of the important categories of the civil society as defined by the mediation. Of course, the Native Administration, with most of its members appointed and paid for by the government, hardly met the generic definition of civil society as a nonstate actor. UNDP has argued that the Native Administration is to be considered "historically the earliest form of civil society institution" in Darfur.²⁹³

The mediation's approach was more of a practical gamble: could the Native Administration support mediation efforts by helping bring reluctant rebel movements to the Doha talks to sign an agreement? In that regard, the two civil society conferences in Qatar in November 2009 and July 2010 were no more successful than the various international and Sudanese attempts to have traditional leaders visit rebel leaders of the same tribe to push for unity or a softer negotiating stance.²⁹⁴ Only paramount traditional leaders living in government-controlled areas attended the two Doha conferences (some of those living in rebel areas or in refugee camps in Chad were invited by the rebels to attend negotiations between rebels and the government, but not the civil society conferences), and even the main leaders from North and West Darfur were both absent from the second one.²⁹⁵ It was even worse during the All Darfur Stakeholders Conference in May 2011, where the already politicized participants of the two former civil society conferences mixed with hundreds of government officials and political party members. The traditional leaders of the three ethnic groups most involved in the conflict and thus most important to the talks—the Fur, the Zaghawa, and the *abbala* Arabs—were even less represented than in the civil society conferences, with only one Fur and one Zaghawa paramount leader.

The failure to recruit representative traditional leaders did not prevent, however, most participants in all the meetings from agreeing that the Native Administration should have a strong role, both in the peace process and after peace is attained. Interestingly, support for this position also came from rebels and the more modern end of the civil society spectrum, including educated elites, youth, and the displaced, who all tend to portray the Native Administration as archaic. Thus, in November 2009, at the end of the first Doha conference, the final declaration suggested “activating the role of leaders of the Native Administration at all levels including inside [displaced] Camps [where their power is often contested by new leaders]. There is need to restore legal, administrative powers and financial resources to these leaders in order to play their role in the maintenance of security in their areas in accordance with the customary laws in Darfur taking into account the reality of Darfur.” It defined the Native Administration as “a partner in power” of the government, and recommended “not to politicize” the institution, and “not to impose a new Native Administration without the consent of the old administration.”²⁹⁶

Doha Document

The Sudanese government and the Liberation and Justice Movement signed the Doha Document for Peace in Darfur on July 14, 2011. It was to have been strongly inspired by civil society consultations in Doha and elsewhere. At first view, it presents a stronger acknowledgment of the Native Administration and traditional conflict resolution mechanisms. One of the general principles states that “recognition of the role that independent and impartial traditional mechanisms can play in complementing processes of justice and reconciliation and the importance of making full use of their potential while maintaining international human rights standards.”²⁹⁷

But even here, the main provisions on the Native Administration and the need to strengthen its role remain vague and confusing: “Native Administration shall respect, where appropriate, the established historical and community traditions, customs and practices that have played vital roles in the community. The Parties agree that Local Government and the Native Administration have been adversely affected by the conflict in Darfur and shall therefore, be empowered to address the consequences of the conflict, including environmental degradation and desertification.” In that regard, the terms of reference of the Darfur Internal Dialogue and Consultation (DIDC) merely echo of its predecessor, the DDDC, by stating the DIDC’s role in “enhancing the status of Native Administration including restoring its authority and building its capacity” and “enhancing time tested traditional practices regarding settlement of local disputes, land ownership, pastures, transhumance, water and natural resources”²⁹⁸ might remain once again wishful thinking.

Actually, the Doha agreement leaves the issue of the role of the Native Administration to the parties to solve later within the framework of a future truth and reconciliation process. Interestingly, under Article 58, on “truth and reconciliation,” the agreement states that, to foster reconciliation, the parties agree to address several “causes of the conflict,” among which the “weakness of the Native Administration,” and that the “reconciliation process” will aim notably at “strengthening the Native Administration system.” Oddly, however, traditional justice and reconciliation mechanisms are not mentioned here. According to Nouwen, “The DDPD gives little attention to what traditional justice in Darfur actually entails.”²⁹⁹

The general principles also recommend that both the Native Administration and *ajawid* councils serve as complementary mechanisms of the Truth and Reconciliation Committee (TRC) to be established pursuant to the agreement. The agreement only says the *ajawid* councils “shall be strengthened,” and is no more specific on the role that *judiya* or other traditional

The Doha agreement leaves the issue of the role of the Native Administration to the parties to solve later within the framework of a future truth and reconciliation process.

mechanisms could play in reconciliation processes. The text defines the *ajawid* councils as “a Mediation Council which consists of the Native Administration and community leaders.” Setting it up as a standing institution is unfortunate: the historical strength of *judiya* has been its flexibility, and recent attempts to institutionalize peace committees were attempts by the Khartoum government to control the process, which lost in efficiency and legitimacy.

Otherwise, the Doha agreement wistfully reiterates the terms *traditional* and *customary mechanisms* without defining them, leaving largely unaddressed the issue of competition with other legal mechanisms. Only on the land issue does the text provide more specificity, stating that “without prejudice to the jurisdiction of the courts, parties to land disputes shall be encouraged to exhaust traditional methods of dispute settlement, including arbitration, before going to court.”³⁰⁰

The competition between traditional institutions and mechanisms and governmental ones however appeared in some of the civil society consultations and surveys. Thus the Annenberg-Albany survey found a majority of the interviewees agreed to give more power and authority to Native Administration and that it should be elected, but another majority agreed that it was unacceptable to have a Native Administration independent from the government. The survey is not detailed enough to tell us how the interviewees see the balance between the Native Administration and the government, and the government's role.³⁰¹

The Heidelberg Darfur Dialogue, the group of Khartoum-based Darfurian intellectuals, is another example of misperception of the strengths of traditional mechanisms. As noted earlier, the group's draft proposals, which the crafters of Doha agreement claimed was a major source of inspiration, suggest institutionalizing the *ajawid* into “truth and reconciliation” mechanisms.³⁰² Morton has strongly criticized this provision as “a comprehensive misreading of the institutions it took the Fur Sultanate and the tribes of Darfur centuries to develop,” and notes that the Heidelberg Outcome Document only paid lip service to the Native Administration.³⁰³ He sees the provision as an example of “the depth of the international community's lack of knowledge and understanding about the *idarat al ablia* [sic].” But the Heidelberg Group, though supported by non-Sudanese lawyers, is primarily an initiative by Darfurian intellectuals to reconcile Darfurian aspirations with international legal standards. The views of these Khartoum-based elites are clearly more modernist than those of other Darfurian groups. Beyond the glib consensus on the restoration of the Native Administration and its traditional conflict-resolution mechanisms that one finds in various roadmaps, declaration of principles, and peace agreements, Darfurian elites remain deeply divided on the matter. The state of confusion that the Native Administration finds itself in after decades of destabilizing policies, oppression, and violence only compounds these divisions. Some Darfurians, if not openly abolitionist, are of the view that, in a modern state government institutions should prevail. Others, without necessarily advocating a return to an idealized precolonial or colonial golden age, see Darfur as a sociopolitical and cultural exception that today cannot be governed without the Native Administration, traditional courts and reconciliation mechanisms. As Abdullahi al-Tom observed, future *judiya* (and the same could be said of Native Administration and customary courts) “will undoubtedly be a hybrid defying purists of traditional customs and disappointing those who aspire for unadulterated modern judicial system.”³⁰⁴

Lessons Learned

Government interference—past and present—is the main factor in the systemic failure of the Native Administration and traditional justice and reconciliation mechanisms to address the current conflict and those that led up to it. This view was already widespread in Darfur when

the conflict began. “I can solve the conflicts between the Arabs and us,” an important non-Arab chief said back in 2004, for example. “In March 2004, we had reached a local agreement with the Missiriya Arabs, but two months afterward, they attacked villages again and looted livestock, with the help of the *janjarwid* and the government. The peace agreement was broken because the government accused us of being rebels.” At the same time, even Arab leaders claimed, as this *Zayadiya omda* did, that “the chiefs are able to solve the problems, big or small, but as soon as the government interferes, all becomes more complicated.”³⁰⁵

However, it would be a grievous mistake to think, as many international actors do, that it is necessary or even possible to empower traditional governance and judicial structures independently of the government. Doing so would only reinforce the conflict between Darfur and the central government. It is also not what most Darfurians people seem to want. In the context of the conflict, it is true that Darfurians often say that the Native Administration and local reconciliation work only when the government is absent. This doesn’t mean they do not want any role for the government—on the contrary, they want the government to take a strong role—just not the one it is playing today.³⁰⁶ They insist in particular that the government should be neutral in its relations with traditional leaders and in the management of local disputes, shedding its ethnic, tribal, and political biases. They want government support, especially financial support, for the Native Administration and for the reconciliation processes. As was said during a DDDC consultation, “It is critical that the authority of Native Administration is supported so that it can effectively impose its powers to help control illegal weapons, deal firmly with outlaws, etc., until peace prevails and peaceful coexistence is reached between concerned parties.”³⁰⁷

Darfurians do not want the government to interfere in the processes themselves, but rather play a role in their preparation and their follow-up.

Darfurians do not want the government to interfere in the processes themselves, but rather play a role in their preparation and their follow-up. The government’s security role, exercised through the security forces as well as the formal judiciary, is seen as especially important: the government is to reestablish security after a conflict and ensure that the necessary security measures are in place for the reconciliation process to proceed. The government’s role in ensuring the implementation of the conclusions of a reconciliation conference is also seen as vital, whether in terms of security, the provision of development services, or help with the payment of blood money. Local conflict resolution depends on local leaders reaching agreement, of course, but it also requires government support and follow-up.³⁰⁸ In that regard, the Native Administration, if duly supported and empowered by the government, can play an important role in implementation of reconciliation and prevention of new conflicts, as well as an intermediary between the citizens and the state. Dynastic leaders should become source of power and stability that is complementary to the modern State, rather than in conflict with it. As *magdum* Ahmad Abder-Rahman Rijal said in 2004, “In Britain, we traditional leaders would be members of the House of Lords. Here [in Sudan], the government rejects us.”³⁰⁹ A few months later, the regime forced him from his position.

There is tension between the traditional Darfurian conflict-resolution mechanisms and the precepts of Western justice—including international judicial mechanisms ranging from the International Criminal Court (ICC) to truth-telling commissions proposed for Darfur (such as in the DDPD) and elsewhere. Traditional reconciliation mechanisms imply forgiveness or amnesty, with compensation paid not only to make up for tangible but also to symbolize a recognition of guilt that is otherwise not necessarily openly articulated, unlike in Western truth-telling processes. The contradiction has not been lost on the Sudanese government, which has promoted *judiya* as an alternative to the ICC. President Bashir himself had

invoked “our traditions in the reconciliation councils and mediations led by elders,” exacerbating suspicion among some in Darfurian society that *judiya* could be manipulated to the regime’s benefit.³¹⁰

Abdullahi at-Tom advocates a division of labor: “While the ICC and Sudan’s National Justice System (NJS) can deal with the higher level crimes, the lower level crimes which are more numerous can only be dealt with within the traditional legal system (the Judi[y]a). In comparison to both the International Criminal Court (ICC) and the NJS the Judi[y]a is more efficient, but above all conducive for future co-existence and reconciliation.”³¹¹ He also observes that the amnesty provision in the Comprehensive Peace Agreement (CPA) for war criminals in the North-South war might have encouraged impunity in Darfur.

Today, the processes taking place on the ground in Darfur—from government-backed tribal conferences to the backdoor agreements between Arabs and rebels—also differ from traditional mechanisms, especially *judiya*. Even though some trappings of the traditional processes are still used, many current local agreements do not involve compensation or punishment. They do offer a form of amnesty, but not forgiveness. In essence, the process of reconciliation is put on hold for a more propitious time, allowing for practical measures to take place in the meantime, such as opening markets, protecting livestock, and allowing freedom of movement. These limited agreements also offer an incentive for the groups that committed crimes to negotiate.

In a way, the ICC is also pushing Arabs to negotiate or even to change sides. But in the ICC process, the displaced and refugees lost their possibility of offering amnesty, forgiveness, and compensation in exchange for peace. The ICC prevents the victims from granting amnesty. Why, then, would groups that committed crimes negotiate with them, and eventually disarm, if the ICC hangs over their head? An SLA leader involved in negotiations with Arabs groups said in 2008 that “when we discuss with the *janjawid*, we don’t ask them which crimes they committed. They come because we don’t talk about the past.”³¹²

To say that peace and justice go hand in hand is a commonplace that borders on platitude. But the words of that SLA leader reveal the depth of the dilemma between justice and peace in Darfur, as well as difficulty of the task ahead.

Appendix

Table A1. Native Administration Titles

Ethnic Group	Top Leader	Level 1	Level 2	Level 3
Fur	sultan (purely honorific): <i>magdum</i> (Nyala), <i>dimangawi</i> (Zalingei), <i>dadingawi</i> or <i>malik</i> (El Fasher), <i>amir-al-gaba'il</i> (Kas)	<i>shartay, malik</i>	<i>omda (dimlij)</i>	<i>sheikh</i>
Masalit	sultan (West Darfur), <i>malik</i> or sultan (South Darfur)	<i>fursha</i>	<i>fursha, omda (dimlij)</i>	<i>sheikh</i>
Zaghawa	<i>sultan, malik, shartay</i>		<i>omda</i>	<i>sheikh</i>
Berti	<i>malik</i> (Mellit), <i>nazir</i> (Taweisha), <i>shartay</i>		<i>omda</i>	<i>sheikh</i>
Meidob	<i>malik</i>		<i>omda</i>	<i>sheikh</i>
Tunjur	<i>malik, shartay</i>		<i>omda</i>	<i>sheikh</i>
Dajo	sultan or <i>shartay</i>		<i>omda</i>	<i>sheikh</i>
Birgid	<i>nazir</i> (Birgid Kajar), <i>shartay</i> (Birgid Dali)	<i>shartay</i>	<i>omda</i>	<i>sheikh</i>
Gimir, Beigo	sultan		<i>omda</i>	<i>sheikh</i>
Borgo, Tama	sultan (Chad)		<i>omda</i>	<i>sheikh</i>
Mima	<i>nazir</i> or <i>shartay</i>		<i>omda</i>	<i>sheikh</i>
Erenga, Misseriya Jebel, Sinyar	<i>amir</i>		<i>omda</i>	<i>sheikh</i>
Fellata	<i>nazir</i>		<i>omda</i>	<i>sheikh</i>
Arab	<i>nazir</i> or <i>amir</i>		<i>omda</i>	<i>sheikh</i>

Table A2. *Ajawid* Committee of El Fasher

Name	Professional Background	Ethnic Group	Area/Location
Idris Atta-el-bari (<i>ra'is</i>)	teacher	Jawa`ma (Arab)	El Fasher
Ibrahim Saleh Sharafeddin (secretary)	water-yard (<i>donki</i>) clerk	Jawa`ma (Arab)	El Fasher
Adam an-Nur	water-yard (<i>donki</i>) clerk	Fur	El Fasher
Abdallah Ahmad at-Tayyib	water-yard (<i>donki</i>) clerk	Fellata (Pula)	Dar es-Salam
Mohammad al-Hajj Omar		Fellata (Pula)	El Fasher
Mohammad az-Zein Abdallah	state politician/MP	Borgo	El Fasher
Musa Sabur Bishara	<i>omda</i> (Native Administration)	Zaghawa	Ab Dileg
Idris Abdallah	policeman	Zaghawa	El Fasher
Bosha Zerif Abu Kalam	policeman	Habbaniya (Arab)	El Fasher

Table A3. Members of El Fasher's *mabkama shabiya* (August 2011)

Name	Title	Ethnic group	Area/location
Rahamtallah Mahmoud Ali al-Dadingawi	<i>malik</i> (head of the court)	Fur (Dadinga sub-group)	El Fasher, Goz Beyna
Mohammed Az-Zubeir	<i>wakil/na'ib</i> (representative/deputy) of the malik	Fur (Dadinga sub-group)	El Fasher, Goz Beyna
Ahmad Sabil	<i>shartay</i>	Berti	Simeyat
Tijani Mohammed Saleh Mindi	<i>shartay</i>	Tunjur	Korma
Adam Abbakar Rashid	<i>shartay</i>	Tunjur	Shangal Tobay
Abdallah Ali Ishaq Jiddu	<i>shartay</i> (abducted by the SLA in 2003 and replaced by his son)	Tunjur	Dar Kherban
Ishaq Abbakar Ishaq	<i>shartay</i>	Fur	Tawila, Tarne
Hamid Adam	<i>shartay</i>	Mima	Wada'a
Ishaq Abbiker Ahmad	<i>omda</i>	Dar Hamid (Arab)	Garne
Najmeddin Abubakar	<i>omda</i>	Jawama (Arab)	Jedida Sel
Ahmad As-Safi	<i>omda</i>	Beshir (Arab)	El Fasher
Ibrahim Bannaga	<i>omda</i>	Beni Fadl (Arab)	Sanikarow
Adam Ahmad Fadil	<i>omda</i>	Jima'wi (Arab)	Kosti
Mahadi Shahid	<i>omda</i>	Ereigat (Arab)	Ab Dileg
Musa Sabur	<i>omda</i>	Zaghawa	Sag an-Na'am
Sam Adam	<i>omda</i>	Zaghawa	Tawila
Hisein Ibrahim	<i>omda</i>	Kinnin (Tuareg)	Suelinga
Hisein Mohammed Ibrahim	<i>omda</i>	Fellata (Pula)	Karyo (Dar es-Salam)
Mahmoud Adam Ahmad	<i>omda</i>	Fur (Dadinga sub-group)	Goz Beyna
Al-Hadi Abderahman	<i>omda</i>	Fur	Tarne, Tawila
Mokhtar Ishaq	<i>omda</i>	Fur	Dobo al-Omda
Abderahman Abbo	<i>omda</i>	Fur	Keylu
Ibrahim Adam Addimo "Kuyuko"	<i>omda</i>	Mima	Am Dresaya (Shangal Tobay)
Abdallah Haroun	<i>omda</i>	Mararit	Arkud Mararit
Mahmoud Ibrahim	<i>omda</i>	Berti	Korma
Mohammed Adduma	sheikh	Ereigat (Arab)	Korma

Acknowledgments

The authors particularly thank Colin Robertson, who was at the origin of this project, John Ryle, who supported it since the start, and Jon Temin and Tim Luccaro, who followed it until its achievement. The authors are also especially grateful to Ahmad Adam Yusif for his input to this research, as well as to Suliman Baldo, Kenny Gluck, Jonathan Loeb, and Sarah Nouwen for their support and informed comments. In Chad, warm and special thanks go to Dr. Abdel-Hadi Siddig Hashim, Ibrahim Moussa, Mahamat al-Fatih Oumar, Jonathan Loeb, and Khamis Hassan Djimé of Abeché. Without their support and wisdom, the field work there would not have been possible. We would also like to thank Omer Ismail in Washington D.C. for his advice and friendship. Finally, particular acknowledgments have to go to the many Darfurians, including traditional leaders, who unfortunately cannot be named here but without whom this research would not have been possible.

Notes

1. Arabic is a difficult language to transliterate. We opted for a simplified rendition. In the text, we observe a few basic rules.
 - First, we chose not to use complicated diacritical marks typical of academic works. Instead, for the most part, we wrote Arabic words as they are pronounced in Sudanese Arabic, for instance *nazir* (Arab paramount chief) or *wasiga* (document). For the letter qaf (ق), we mostly use a hard g (as in golf) as that is how it is usually pronounced in Sudanese Arabic; in some rare cases, especially for formal words, we left the more standard q.)
 - Second, we did not differentiate between long and short vowels. Nor did we differentiate so-called emphatic consonants (e.g., ض, ط, ظ, ح) from their regular counterparts s, d, t, z, or h.
 - Third, we used ‘ (backquote) for ‘ayn (ع) and ’ (apostrophe) for the hamza (ا). But we do not give the initial ‘ayn or hamza in proper nouns. (‘Ayn and hamza are often not strongly pronounced in Sudanese Arabic, and even less so in Darfur.)
 - Fourth, we transcribed the definite article with so-called sun letters as pronounced, for example *as-Sudan* (rather than *al-Sudan*) or *ed-Da‘ein* (rather than *el-Da‘ein*).
 - Fifth, we followed English usage in dropping the initial article in certain place names that carry the article in Arabic (for example, Geneina, Khartoum).
 - Sixth, for readability, we have used the English plural of the Arabic singular, but included the Arabic plural form in parentheses on first use.
 - Finally, we hyphenated names based on the pattern Abdel-Wahid or Abdel-Karim; this seemed the least unwieldy solution and preferable to Abdelwahid, Abd el-Wahid, or Abdel Wahid.

Inconsistencies inevitably remain in the text; we apologize for them in advance.
2. Since January 2012, those three states have been further divided into five.
3. Jérôme Tubiana, “Lire entre les lignes d’un conflit: fractures locales et actions internationales au cœur du Darfour,” *Afrique contemporaine* 232, no. 4 (2009): 88–92.
4. John Howell, ed. *Local Government and Politics in the Sudan* (Khartoum: Khartoum University Press, 1974).
5. Cherry Leonardi and Musa Adam Abdul-Jalil, “Traditional Authority, Local Government and Justice,” in *The Sudan Handbook*, ed. John Ryle (Woodbridge, Suffolk, UK: James Currey, 2011), 110–11.
6. The term *Native Administration* may sound mildly offensive and colonial to an ear unfamiliar with Sudan, and it is indeed a colonial term, but in spite of its connotations it has remained widely used until today by Sudanese and foreigners, in and out of academia and government.
7. Rex Sean O’Fahey and Jérôme Tubiana, “Darfur: Historical and Contemporary Aspects” (Bergen, Norway: Center for Middle Eastern and Islamic Studies, 2007), 9, www.smi.uib.no/darfur/A%20DARFUR%20WHOS%20WHO3.pdf.
8. Abdullahi Osman El-Tom, “From War to Peace and Reconciliation in Darfur” (paper presented at the conference Peace and Reconciliation in the Horn of Africa, Stockholm (May 2009), www.sudantribune.com/From-war-to-peace-and,31624).
9. See Jérôme Tubiana, “Darfur: A Conflict for Land?” in *War in Darfur and the Search for Peace*, ed. Alex de Waal (Cambridge, MA: Harvard University Press, 2007), 68–91.
10. El-Tom, “From War to Peace.”
11. Martin Daly, *Darfur’s Sorrow* (Cambridge: Cambridge University Press, 2007), 114, 122.
12. Leonardi and Abdul-Jalil, “Traditional Authority,” 111; James Morton, “How to Govern Darfur” (lecture, Durham University, Sir William Luce Publication Series no. 12, 2011), www.dur.ac.uk/resources/sgia/imeis/lucefund/DarfurMortonfinal.pdf.
13. Leonardi and Abdul-Jalil, “Traditional Authority,” 110–11.
14. Rex Sean O’Fahey, *Darfur and the British* (London: C. Hurst, 2012).

15. Helen Young, *Livelihoods, Power and Choice: The Vulnerability of the Northern Rizaygat* (Medford, MA: Feinstein International Center, 2009); Morton, "How to Govern Darfur."
16. Daly, *Darfur's Sorrow*, 125–26, 151; Morton, "How to Govern Darfur."
17. Morton, "How to Govern Darfur."
18. Darfur was surprisingly well integrated into world markets, notably with the export of hides. The Great Depression, with its collapse of demand and of prices, hit Darfur very hard, especially as it coincided with several years of poor rains and locust infestations (Daly, *Darfur's Sorrow*).
19. *Ibid.*, 127.
20. *Ibid.*, 125.
21. Daly, *Darfur's Sorrow*; Tubiana, "Lire entre les lignes," 89.
22. Daly, *Darfur's Sorrow*, 128.
23. O'Fahey and Tubiana, "Darfur: Historical and Contemporary Aspects," 12.
24. Morton, "How to Govern Darfur."
25. Leonardi and Abdul-Jalil, "Traditional Authority," 112.
26. *Ibid.*; Jérôme Tubiana, "Le Darfour, un conflit identitaire?" *Afrique contemporaine* 214 (2005): 165–206.
27. Alex de Waal and Yohannes Ajawin, eds., *When Peace Comes: Civil Society and Development in Sudan*, (Lawrenceville, NJ: Red Sea Press, 2002), 121.
28. African Rights, *Food and Power in Sudan: A Critique of Humanitarianism* (London: Justice Africa, 1997), www.justiceafrica.org/publishing/online-books/food-and-power-in-sudan-a-critique-of-humanitarianism; see also African Rights, *Facing Genocide: The Nuba of Sudan* (London: Justice Africa, 1994), www.justiceafrica.org/publishing/online-books/facing-genocide-the-nuba-of-sudan.
29. Tubiana, "Darfur: A Conflict;" Leonardi and Abdul-Jalil, "Traditional Authority," 112.
30. An old Zaghawa *sheikh*, interviewed in Touloum refugee camp (eastern Chad) in August 2011, was one of the rare traditional leaders to tell us he had abandoned most of his official functions as a result of the abolition.
31. Interview, Mararit *sheikh*, Kounoungo refugee camp, eastern Chad, August 2011. The Mararit are a small non-Arab tribe straddling the Darfur-Chad border.
32. Interview, Zaghawa *sheikhs*, Am Nabak refugee camp, eastern Chad, August 2011.
33. Morton, "How to Govern Darfur."
34. Interview, Zaghawa *sheikh*, Kounoungo refugee camp, eastern Chad, August 2011.
35. Leonardi and Abdul-Jalil, "Traditional Authority," 113.
36. Interview with a South Darfur government official, quoted in Tubiana, "Le Darfour."
37. The modern standard Arabic *inqadh* is pronounced *ingaz* or *inghaz* in Sudanese Arabic.
38. Bashir and Turabi vied for power throughout the 1990s until the former, by then president, finally managed to sideline Turabi in 1999 and 2000; Bashir retained control of the ruling National Congress Party (NCP), and Turabi went on to form the breakaway Popular Congress Party.
39. The 1899 Condominium agreement restored Egyptian rule in Sudan under joint British and Egyptian authority, with Britain clearly the primary partner. Egyptian rule had been interrupted when Mahdist forces took Khartoum in 1885.
40. Leonardi and Abdul-Jalil, "Traditional Authority," 116.
41. Government of Sudan (GoS), "Traditional System Conference: Final Declaration and Recommendations," January 9–30, 1995, Soba Camp (Hakumat as-Sudan, "*Mu'tamar an-nitham al-abli, al-bayan al-khatimi w-at-tawsiat*," 9–30 *yana'ir* 1995, *ardh al-mu'askarat bi-Soba*).
42. GoS, "Traditional System Conference."
43. "An auspicious borrowing from the *naqibs* of the Prophet—may peace be upon him—in Madina" (GoS, "Traditional System Conference"). In the fifth sura of the Quran, Allah appoints twelve leaders (*naqib*) to lead the twelve tribes of Israel (*The Holy Quran*, "Surat al-Ma'ida" [the Table Spread], v. 12).
44. *Ibid.*
45. *Ibid.*
46. *Ibid.*
47. Alex de Waal and A. H. Abdelsalam, "Islamism, State Power and Jihad in Sudan," in *Islamism and its Enemies in the Horn of Africa*, ed. Alex de Waal (London: C. Hurst, 2004).
48. Tubiana, "Darfur: A Conflict."
49. Interview with Idris Yusuf, Fur intellectual and one of the founders of the Fur shura, Khartoum, March 2012.
50. See Sharif Harir, "'Arab Belt' versus 'African Belt': Ethno-Political Conflict in Dar Fur and the Regional Cultural Factors," in *Sudan: Shortcut to Decay*, eds. Sharif Harir and Terje Tvedt (Uppsala: Nordiska Africainstitutet, 1994).

51. In the new federal structure, states (*wilaya*, pl. *wilayat*) replaced provinces. In August 2011, Khartoum announced the creation of two new states: East Darfur, with its capital in ed-Da'ein, the capital of the Rizeigat Arabs, and Central Darfur, with Zalingei as its capital. Governors were named in early 2012. For the official announcements for Central and East Darfur states, see www.sudan.gov.sd/en/index.php?option=com_content&view=article&id=1005:central-darfur-state-&catid=43:2008-06-06-15-2459&Itemid=71 and www.sudan.gov.sd/en/index.php?option=com_content&view=article&id=1006:east-darfur-state-&catid=43:2008-06-06-15-24-59&Itemid=71.
52. *Amir* (pl. *umara'*), means prince. *Qabila* (pl. *qaba'il*) is tribe, and is pronounced with a hard *g* in Sudanese Arabic.
53. This was Mohammed Abu Shamma Shatta, son of the first Ta'alba *omda*, also popular with the British.
54. Tubiana, "Lire entre les lignes," 89.
55. Rex Sean O'Fahey, *State and Society in Dar Fur* (London: C. Hurst, 1980), 90.
56. *Ibid.*, 89, 152.
57. For a long period, the sultanate had been divided into four large administrative areas encompassing several *dars*, each headed by a paramount leader: the *umangawi* in the South, the *dimangawi* in the West, the *ab sheikh dali* in the East, and the *takanyawi* in the North. The three others belonged to Fur dynasty, but the *takanyawi* was a Tunjur, acknowledging that a Tunjur sultanate preceded the Fur rule in northern Darfur. Of those four offices, only the *dimangawi* still exists (though with a reduced territory), and the *umangawi* became a simple *shartay* under the magdum (O'Fahey and Tubiana, "Darfur: Historical and Contemporary Aspects").
58. Daly, *Darfur's Sorrow*, 129.
59. Lidwien Kapteijns, *Mabdist Faith and Sudanic Tradition: The History of the Masalit Sultanate 1870–1930* (London: Routledge and Kegan Paul, 1985), 148, 248.
60. They are also known by the derogatory term, Kuzi Arabs (from *guttiya*, a hut). Arabs sometimes divide themselves between *nas al-kuzi* (the sedentary) and *nas as-suf* (people of the wool, or the nomads, who traveled with their wool hats)—becoming a *kuzi* implies a degradation of status.
61. *Darfur's Sorrow*, 130.
62. A *wakil* (pl. *wukala'*) is a deputy, like a *na'ib*.
63. Morton, "How to Govern Darfur."
64. Members of the federal parliament elected in 2010 include sultan Ibrahim Yusif Ali Dinar, federal MP for Khartoum South; *magdum* Salaheddin Mohammed al-Fadul Adam Rijal; *shartay* Mohammed al-Fadul Ja'far, of the Birgid (Dali); *omda* Fatima Mohammed al-Fadul Adam Rijal, Fur *omda* of Nyala and sole female native administrator in Darfur; *omda* al Mon'eim of the Ta'aisha Arabs; *sheikh (nazir)* Musa Hilal, leader of the Arab Jalul (Mahamid), North Darfur. At the Council of States (elected from state parliaments): *Nazir* Saleh Ali al-Ghali, chief of the Habbaniya Arabs, and *nazir* Musa Jalis, of the Birgid (Kajar), both from South Darfur. *Shartay* Ja'far Abdul-Hakam was governor of West Darfur until January 2012, and *shartay* Ibrahim Abdallah is a state minister in South Darfur. In North Darfur, state law makes the native administration de facto members of the state assembly .
65. Interview in March 2007 in Ammaray, North Darfur, quoted in Jérôme Tubiana, *Chroniques du Darfour* (Grenoble: Glénat, 2010), 202–03.
66. Tension was acute in the 1930s between British administrators in Darfur—who wanted to limit education investments in the province and make it available essentially only to the leading families ("educating people that matter")—and the Education Department in Khartoum, which wanted to spread education throughout Sudan, including Darfur. In the end, budgetary constraints and pre-independence inertia spelled victory for the minimalists (Daly, *Darfur's Sorrow*, 133–37).
67. Leonardi and Abdul-Jalil, "Traditional Authority," 113.
68. Musa Adam Abdul-Jalil, Adam Azzain Mohammed, and Ahmed Adam Yusif, "Native Administration and Local Governance in Darfur, in *War in Darfur and the Search for Peace*, ed. Alex de Waal (Cambridge, MA: Harvard University Press, 2007), 39–47.
69. Tubiana, "Le Darfour."
70. Suliman Baldo, *The Role of the African Union in Transitional Justice in Africa: Sudan Case Study*, forthcoming.
71. A process memorably described by Paul Doornbos in a seminal paper, "On Becoming Sudanese," in *Sudan: State, Capital and Transformation*, eds. Tony Barnett and Abbas Abdelkarim (London: Croom Helm, 1988), 99–120.
72. Julie Flint and Alex de Waal, *Darfur: A Short History of a Long War* (London: Zed Books, 2005), 76; Victor Tanner, "Rule of Lawlessness: Roots and Repercussions of the Darfur Crisis" (Sudan Advocacy Coalition, 2005), 13, www.darfurcentre.ch/images/00_DRDC_documents/Other_Docs_Reports/Rule_of_Lawlessness_Roots_and_Repercussions_of_the_Darfur_Crisis.pdf.
73. Tanner, "Rule of Lawlessness," 26.

74. Julie Flint, "The Other War: Inter-Arab Conflict in Darfur" (working paper no. 22, Small Arms Survey, Geneva, 2010), 25; Tubiana, "Lire entre les lignes," 92.
75. Quoted in "Is Darfur an Identity Conflict?" (Paris: Action contre la faim, 2005).
76. Tubiana, *Chroniques du Darfour*, 63.
77. *Ibid.*, 11–23.
78. Sarah Nouwen, "Traditional Justice: Improving Access to Justice in Darfur" (unpublished manuscript, 2010), 50.
79. Interview, North Darfur, September 2008.
80. Tubiana, "Lire entre les lignes," 92.
81. Approximately 36 percent of the Darfur refugees in Chad identifying themselves as leaders graduated from primary school, versus 22 percent of their civilian counterparts (unpublished data from the Darfurian Voices Survey, on file with the authors).
82. Interview, South Darfur, September 2008. This *sheikh* had not previously belonged to the native administration, and was elected by the displaced in 2004.
83. Tanner, "Rule of Lawlessness," 13; Victor Tanner and Jérôme Tubiana, "Divided They Fall: The Fragmentation of Darfur's Rebel Groups" (working paper no. 6, Small Arms Survey, Geneva, 2007).
84. Quoted in Tubiana, "Le Darfour."
85. 2004 interview with a non-Arab leader, quoted in Tubiana, "Le Darfour," 176.
86. Quoted in Tubiana, *Chroniques du Darfour*, 67.
87. Interview with a Zaghawa leader, North Darfur, August 2004. He concluded, "But without chiefs, you can't control Darfur!"
88. Tubiana, *Chroniques du Darfour*, 24–28.
89. *Ibid.*, 99–105.
90. Tanner and Tubiana, "Divided They Fall," 26. It was called fifth column (*tabur khamis*), an expression Sudanese are fond of and use to refer to governmental militias in rebel areas.
91. Interview with Mohammed Ali Ishaq Jiddu, brother of the late *shartay*, Ammaray, North Darfur, March 2007.
92. Interview, family member of the slain *malik*, Abéché, Chad, August 2011.
93. Similarly, they gave the names of former sultans to combat units on the ground.
94. On the unusual local security arrangements struck between rebels and Arabs linked to the *janjawid* in Jebel Marra, see Victor Tanner and Jérôme Tubiana, "The Emergence of Local Security and Livelihood Agreements in Darfur" (Washington, DC: USAID, 2010), 32–39.
95. Tubiana, *Chroniques du Darfour*, 199–204; Flint and de Waal, *Darfur: A Short History*, 66–67; Tanner and Tubiana, "Divided They Fall," 62–63.
96. Interviews with rebel leaders, Juba, December 2011.
97. Tubiana, *Chroniques du Darfour*, 243–50.
98. Interviews with rebel leaders, Kampala and Juba, December 2011.
99. The eight paramount leaders of Dar Zaghawa are the sultans of Tina and Tundubay, the *maliks* of Dar Tuer (Am Boru), Muzbat, Dar Artaj and Dar Beire, and the *shartays* of Dar Galla (Kornoy) and Dar Sueini.
100. In some areas, *agids* and *warnangs* coexist, with the former above several of the latter.
101. Tanner and Tubiana, "Divided They Fall," 18.
102. Interview, Torong Tawra, South Darfur, September 2008.
103. Flint and de Waal, *Darfur: A Short History*, 118.
104. Interview, Hajer Hadid, eastern Chad, May 2009. The Arabic word for the military rank of colonel is also *agid*.
105. Douglas Johnson, *The Root Causes of Sudan's Civil Wars* (Oxford: James Currey, 2003), 83, 140.
106. Jérôme Tubiana, "Land and Power: The Case of the Zaghawa," *Making Sense of Sudan*, SSRC Blog, May 28, 2008, <http://blogs.ssrc.org/sudan/2008/05/28/land-and-power-the-case-of-the-zaghawa/>; Musa Adam Abdul-Jalil, "Some Political Aspects of Zaghawa Migration and Resettlement," in *Rural-Urban Migration and Identity Change: Case Studies from the Sudan*, eds. Fouad Ibrahim and Helmut Ruppert (Bayreuth: Bayreuther Geowissenschaftliche Arbeiten, 1988).
107. Anti-Zaghawa violence has been one of the main trends in the conflict since the Abuja agreement. See Abdul-Jabbar Fadul and Victor Tanner, "Darfur after Abuja: A View from the Ground," in *War in Darfur and the Search for Peace*, ed. Alex de Waal (Cambridge, MA: Harvard University Press, 2006); Tanner and Tubiana, *Divided They Fall*, 21–22, 31; Claudio Gramizzi and Jérôme Tubiana, "Forgotten Darfur: Old Tactics, New Players" (working paper no. 28, Small Arms Survey, Geneva, 2012).
108. African Centre for Justice and Peace Studies, "Rendered Invisible: Darfur Deteriorates as International Pressure Shifts to the Referendum Process" (London: ACJPS, February 2011); Human Rights Watch,

- “Darfur in the Shadows” (New York: Human Rights Watch, June 2011); Amnesty International, *Sudan: No End to Violence in Darfur* (London: Amnesty International Publications, 2012); Gramizzi, Lewis, and Tubiana, “Report from Former Members,” 8–11; Gramizzi and Tubiana, “Forgotten Darfur,” 21–24.
109. <http://unamid.unmissions.org/Default.aspx?tabid=4492>
 110. *Voices of Darfur*, February 2011, http://unamid.unmissions.org/Portals/UNAMID/Voices/vod_february_en_web.pdf.
 111. Gramizzi and Tubiana, “Forgotten Darfur”; Gramizzi, Lewis, and Tubiana, “Report from Former Members,” 12–13.
 112. See UN Security Council, “Report of the Panel of Experts Established Pursuant to Resolution 1591 (2005) Concerning the Sudan,” S/2011/111 (New York: UNSC, March 2011). Similarly uninformed, the following UNSC Panel report labeled the *magdum* of South Darfur “Viceroy of the Fur tribe” [sic]. See UN Security Council, “Letter dated 24 January 2012 from the Panel of Experts on the Sudan Established Pursuant to Resolution 1591 (2005) Concerning the Sudan” (unpublished document, January 2012), 33–34.
 113. Interview, Fur intellectual, Khartoum, August 2008. See Tubiana, “Lire entre les lignes,” 92.
 114. Morton, “How to Govern Darfur.”
 115. *Damras* and *feriqs* are small settlements of nomadic groups. *Damras* are often the location of nomads’ dry-season farms that host those who do not accompany the herds to more distant pastures. In Darfur today, a *damra* describes semi-permanent or even permanent encampment where a Koranic school, a basic elementary school or a primary health center may be available.
 116. The word *farm* (*mazra*) is to be understood here in the Sudanese (indeed African) sense of the word which is field or fields (no buildings).
 117. Sarah Nouwen, “Traditional Justice: Improving Access to Justice in Darfur” (unpublished manuscript, 2010), 41.
 118. El-Tom, “From War to Peace.”
 119. Government of Sudan (GoS), “Urban and Rural Courts Regulation Act,” Khartoum 2004 (translated from Arabic).
 120. Tanner and Tubiana, “Divided They Fall,” 19.
 121. Ladislav Holy, *Neighbours and Kinsmen: A Study of the Berti People of Darfur* (London: C. Hurst, 1974).
 122. Interview with North Darfur rebel representatives, date and location withheld.
 123. Interview, JEM official from an illustrious Am Boru family, Abéché (Chad), August 2011.
 124. From the verb *kbasira*, to incur a loss (the plural in standard Arabic is *kbasa’ir*).
 125. GoS, “Urban and Rural Courts Regulation Act”; Abdul-Jalil, Mohammed, and Yusuf, “Native Administration and Local Governance.”
 126. According to the judiciary offices in Nyala and El Fasher, visited in October and November 2011. These figures do not reflect the subsequent creation of Eastern and Central Darfur states in January 2012.
 127. Leonardi and Abdul-Jalil, “Traditional Authority,” 111.
 128. Morton, “How to Govern Darfur,” 12–14.
 129. 1932 Native Courts Ordinance, *Sudan Government Gazette*, 558.
 130. Interview, Zaghawa *sheikh*, Kounoungo refugee camp, eastern Chad, August 2011.
 131. GoS, “Urban and Rural Courts Regulation Act”; Nouwen, “Traditional Justice,” 45. Based in Khartoum, the Chief Justice represents the judiciary power, and is in theory independent from both the ministry of Justice and the attorney general (who represents the state).
 132. El-Tom, “From War to Peace.”
 133. GoS, “Urban and Rural Courts Regulation Act.”
 134. *Ibid.*; Nouwen, “Traditional Justice,” 41.
 135. Nouwen, “Traditional Justice,” 40; GoS, “Urban and Rural Courts Regulation Act.”
 136. GoS 2004; Nouwen, “Traditional Justice,” 49.
 137. Nouwen, “Traditional Justice,” 41, 44; GoS, “Urban and Rural Courts Regulation Act.”
 138. GoS, “Urban and Rural Courts Regulation Act.”
 139. The Kaytinga are a Fur clan that partly migrated north and were granted two *dars* (Dar Beire and Dar Sueini) on the southeastern edge of Dar Zaghawa; they are now generally considered Zaghawa.
 140. Interview, date and location withheld.
 141. The Tarjem are well integrated in the Kutum area, though the South Darfur Tarjem have much far conflictual relations with the Fur, notably over land.
 142. GoS, “Urban and Rural Courts Regulation Act.”
 143. Farm (*mazra*) as in field.
 144. This is not the Idris Abdallah, policeman and member of the El Fasher *ajawid* committee, referred to later in the report.

145. For an explanation of the context to this case, see the analysis.
146. One *feddan* is 0.42 hectares.
147. Interviews, Chad refugee camps, August 2011.
148. There would be courts operating even in Jebel Si, although this area is practically empty, its population now refugees in the El Fasher and Kabkabiya displaced camps. The operating courts might be only for the nomadic population.
149. According to the judiciary offices in Nyala and El Fasher, visited in October and November 2011.
150. Interviews with rebel legal advisers, Juba, December 2011.
151. Ibid.
152. Interview, Dar Zaghawa, March 2007.
153. Tubiana, *Chroniques du Darfour*, 99.
154. Interviews, dates and locations withheld.
155. Tubiana, *Chroniques du Darfour*, 208.
156. Interview, Juba, December 2011.
157. Interviews with rebel legal advisers, Juba, December 2011.
158. Ibid.
159. Ibid.
160. Interview, Fur leader, El Fasher, August 2004.
161. Multiple interviews with Masalit traditional leaders in exile, Farshana, Breidjing, Treidjing refugee camps, eastern Chad, August 2011.
162. Interviews with Darfur rebel leaders, Juba, December 2011. See Tubiana, *Chroniques du Darfour*, 248.
163. Interviews with displaced leader from Kailek, Kas, September 2008.
164. Interview with an ex-UN official in West Darfur.
165. Nouwen, "Traditional Justice," 12.
166. Judge is *qadi* (pl. *qada*), pronounced *gadi* or even *ghadi* in Sudanese Arabic.
167. GoS, "Urban and Rural Courts Regulation Act."
168. Nouwen, "Traditional Justice," 15.
169. Ibid., 16.
170. Ibid.
171. Rex Sean O'Fahey, "Tribal Reconciliation in Darfur" (Khartoum: United Nations Mission in Sudan, 2005).
172. Interview with an El Fasher *ajwad*, date and location withheld.
173. Interview with Ahmad Adam Yusif, ex-commissioner of Mellit, North Darfur, October 2011. Ahmad Adam contributed to this research.
174. El-Tom, "From War to Peace."
175. Nouwen, "Traditional Justice," 14.
176. El-Tom, "From War to Peace."
177. See Adam Azzain Mohammed, "Darfur Crisis: Three Conflicts not One" (unpublished manuscript, Public Administration and Federalism Studies Institute, University of Khartoum, 2008).
178. Nouwen, "Traditional Justice," 16.
179. Mohammed, "Darfur Crisis."
180. Nouwen, "Traditional Justice," 14.
181. Adam Azzain Mohammed and Balghis Badri, *Inter-Communal Conflict in Sudan, Causes, Resolution Mechanisms and Transformations: A Case Study of Darfur Region* (Omdurman: Ahfad University for Women, 2004), 52; El-Tom, "From War to Peace."
182. Nouwen, "Traditional Justice," 17.
183. Mohammed and Badri, *Inter-Communal Conflict*, 94.
184. Although they are the unofficial traditional leaders who directly represent the force, the *agids* (war leaders), who are often associated to the violence itself, are not invited in reconciliation processes, but in rare cases, old *agids* became *ajawid*. Outside the *judiya*, *agids* of tribes not involved in the conflict can also be mediators and bring an end to conflicts using similar mechanisms.
185. Tubiana, *Chroniques du Darfour*, 151–53. The Kaytinga, a Zaghawa clan of Fur origin, are often called upon for *judiyas*.
186. Interview, former and current *sheikhs*, Mile refugee camp, eastern Chad, August 2011.
187. Ahmad Adam Yusif contributed research to this report.
188. Interview with facilitators, Khartoum, October 2011.
189. Nouwen, "Traditional Justice," 15.

190. Jérôme Tubiana, "The War in the West," in *Sudan Handbook* (London: James Currey and Rift Valley Institute, 2011), 133–44.
191. A *donki* (pl., *dawanki*) is a water yard that typically has a diesel-powered pump, an elevated water tank, and troughs for animals to drink from, enclosed by a fenced enclosure. Residents and visiting nomads (and their livestock) share access, which is carefully regulated in agreements with the Native Administration. The clerk oversees access and is responsible for collecting dues, which go to fuel and maintenance. The word comes from *tank*, as many water yards were installed during colonial times (and not from donkey, as is often assumed).
192. Nouwen, "Traditional Justice," 14.
193. *Ibid.*, 18.
194. The tale of Assistant District Commissioner (Nyala) Henry Luce and the Gimr in southern Darfur in 1934 is beautifully told in Morton, "How to Govern Darfur," 1.
195. Nouwen, "Traditional Justice," 19.
196. *Ibid.*, 14, 18.
197. Interview with *malik* Adam Mohammed Nur, date and location withheld.
198. See Mohammed, "Darfur Crisis."
199. Interview, Masalit *sheikh ash-shuyukb*, Breidjing refugee camp, eastern Chad, August 2011.
200. Interview with *malik* Rahamtallah Mahmoud, El Fasher, August 2011.
201. Interview, El Fasher, August 2011.
202. Interview, date and location withheld.
203. *Qisas* is the Arabic term for *talion* ("an eye for an eye, a life for a life"), which in most Islamic settings is generally limited to death.
204. Private sources and conversations.
205. Nouwen, "Traditional Justice," 26.
206. *Ibid.*, 31.
207. 24 Hours for Darfur, *Darfurian Voices* (New York: 24 Hours for Darfur, 2010), 39–40, www.darfurian-voices.org.
208. Interview, camp leaders and elders, Touloum refugee camp, eastern Chad, August 2011.
209. Interview, Fur resident, Gaga refugee camp, eastern Chad, August 2011; interviews, a teacher and ordinary camp residents, Breidjing refugee camp, eastern Chad, August 2011.
210. Interview, Fur resident, Gaga refugee camp, eastern Chad, August 2011. *Chefs de bloc* is the French expression that the refugees have reprised from the francophone Chadian authorities and UNHCR for camp *sheikhs*, some of whom were *sheikhs* back in Sudan, but often are new leaders. In Gaga, residents said that very few if any current camp leaders had been in the Native Administration in Darfur.
211. Interviews, camp leaders and elders, Touloum refugee camp, eastern Chad, August 2011.
212. Interviews, camp leaders and elders, Am Nabak refugee camp, eastern Chad, August 2011.
213. Interview, deputy head of Adukong-Gokar Rural Court (rural Geneina Council, West Darfur State), now a refugee in Farchana camp, Farchana refugee camp, eastern Chad, August 2011.
214. Interview, deputy head of Adukong-Gokar Rural Court, Farchana refugee camp, eastern Chad, August 2011.
215. Interviews, Masalit leaders, Farchana refugee camp, eastern Chad, August 2011.
216. Interview, Masalit *sheikh*, Gaga refugee camp, eastern Chad, August 2011.
217. Interviews, Masalit teacher, Breidjing refugee camp, eastern Chad, and Masalit *Chef de Canton*, Hadjer Hadid town, eastern Chad, August 2011.
218. Interview, Masalit teacher, Breidjing refugee camp, eastern Chad, August 2011.
219. Conversation, Masalit refugee, Treidjing refugee camp, eastern Chad, August 2011.
220. Interviews, camp leaders and elders, Touloum refugee camp, eastern Chad, August 2011.
221. Jérôme Tubiana, "Legal Limbo: How the International Criminal Court Is Freezing the Conflict in Darfur," *Foreign Policy* (February 23, 2011).
222. Interview, Khartoum, August 2011.
223. Tubiana, "Legal Limbo."
224. El-Tom, "From War to Peace."
225. Sarah Nouwen, *Complementarity in the Line of Fire* (Cambridge: Cambridge University Press, forthcoming).
226. Nouwen, "Traditional Justice," 16.
227. Personal communication, Zaghawa Kobé community member, N'Djaména (Chad), August 2011.
228. *Al-Waba* (the oasis) is a shadow locality without a given territory that has been gradually taking in charge the administration of the *abbala* settlements (*damras*) of North Darfur, contributing to cut the *abbala* from

- the non-Arab traditional leaders of the territories where their settlements are situated. See Abdul-Jalil, Mohammed, and Yusuf, "Native Administration and Local Governance." The name Damrat Gubba is abusive. The fertile area of Gubba was cleansed of its mostly Tunjur inhabitants by *abbala* militias in August and September 2003. In recent years, *abbala* leaders and Sudanese government officials have started referring to the place as Damrat Gubba in an attempt to import an invented Arab and nomadic identity on the area. In early 2009, Arab militias, now integrated into the Sudanese armed forces, established a base in Gubba, calling it Damrat Gubba.
229. Interviews with *shartay* Adam Sabi Tijani at-Tayyib and *malik* Adam Mohammed Nur, dates and locations withheld. North Darfur Higher Council for Tribal Co-existence and Reconciliation, *diya* settlement between the Rizeigat Arabs of El Waha Locality and the leadership of the tribes of Korma, March 24, 2011.
 230. The commissioner of Mellit at the time, Ahmad Adam Yusuf, contributed research to this report.
 231. Nouwen, *Complementarity*.
 232. *Ibid.*; see also El-Tom, "From War to Peace."
 233. Taking into account the ICC, the 2012 DDPD offers a much more limited amnesty provision, as it is, for the first time in the history of Sudanese peace agreements, excluding "war crimes, crimes against humanity, crimes of genocide, crimes of sexual violence, and gross violations of human rights and humanitarian law." If this is preventing the mediators to be accused of encouraging the impunity, it can however complicate local reconciliation efforts. See DDPD and Nouwen, *Complementarity*.
 234. Interview, El Geneina, May–June 2006.
 235. *Darfurian Voices*, 41.
 236. Tubiana, "Legal Limbo"; "Learning from Darfur," *Dispatches* no. 4, "Out of Poverty" (May 2009): 195–218.
 237. Interview, Birak, March 2010. Ad-Dush is actually from an Awlad Rashid father, but he grew up in Misteriha, Musa Hilal's stronghold, with his mother's family, Mahamid relatives of Musa Hilal. See Tubiana, "Legal Limbo."
 238. Quoted in Tubiana, "Learning from Darfur," 213.
 239. Morton, "How to Govern Darfur", 24–25. The document cited is Max Planck Institute and Khartoum Peace Institute, "Heidelberg Darfur Dialogue Outcome Document" (Heidelberg/Khartoum: MPI/KPI, 2010).
 240. Tubiana, "Legal Limbo."
 241. Mark Bradbury, John Ryle, et al., *Local Peace Processes in Sudan* (London: Rift Valley Institute, 2006).
 242. CARE, "Peace in the Community: Traditional Conflict Resolution Mechanisms in Darfur" (August 2008).
 243. The preceding paragraph is adapted from Tanner and Tubiana, "Emergence of Local Security."
 244. The 1969 Jineik war between Zaghawa and *Abbala* Arabs is widely cited in Darfur as the point when violence with firearms on both sides first started. In fact, it was a fairly isolated occurrence; violence using automatic weapons really developed in the 1980s with arms pouring in from the Chadian wars.
 245. Nouwen, "Traditional Justice," 29. Following the Doha agreement, a new governor was named for South Darfur with the creation in January 2012 of the Eastern Darfur State, of which Kasha refused to become the governor.
 246. *Ibid.*, 12.
 247. See Mohammed, "Darfur Crisis."
 248. Adapted from Tanner and Tubiana, "Emergence of Local Security."
 249. O'Fahey, "Tribal Reconciliation in Darfur."
 250. Mohammed, "Darfur Crisis."
 251. Mohammed and Badri, *Inter-Communal Conflict*, 93.
 252. North Darfur State, "Mechanism for Peaceful Coexistence and Reconciliation between the Regions of Gubba and Hashaba" (April 2011).
 253. *Ibid.*
 254. An-Nur Ahmad was a Mahamid *agid* under Musa Hilal. In late 2006, he was one of the first *janjawid* leaders to take his distance with Musa Hilal and turn against the government, signing an agreement with SLA-AW. He came back with his troops to the government's side in late 2008, in exchange of the integration of his men into the army and their relocation into the new base of Gubba. He is reported being responsible of the raid on the market of Tabara in September 2010, one of the most violent attacks in Darfur since 2005, in which at least thirty-seven people were killed.
 255. Interviews with civilians and rebels from Hashaba area and with *abbala* leaders, various locations in North and South Sudan, August-December 2011.
 256. Mohammed, "Darfur Crisis," 2.
 257. *Ibid.*, 2.
 258. Including the *nazir* of the Hamar Arabs and one of the *nazirs* of the Missiriya Arabs—both from Kordofan.

259. Mohammed and Badri, *Inter-Communal Conflict*, 93–94.
260. Mohammed, “Darfur Crisis,” 3.
261. Interview, El Fasher, 2008.
262. Mohammed, “Darfur Crisis,” 2.
263. This material is based on interviews with participants and members of the follow-up committee of the conference, in particular General at-Tayyib Abder-Rahman Mukhtar, Khartoum, August 2011. General at-Tayyib was a member of the conference and member of the follow-up committee. He handed over the last money years later. A detailed study of the conflict and the reconciliation conference can be found in Mohammed and Badri, *Inter-Communal Conflict*, 75–105.
264. *Ibid.*, 83, 88–89.
265. *Ibid.*, 93.
266. *Ibid.*, 95.
267. Bradbury et al, 88.
268. Mohammed and Badri, *Inter-Communal Conflict*, 101.
269. *Ibid.*, 77.
270. Some Darfurian observers contend that the Rizeigat-Zaghawa reconciliation of 1997 was not genuine—a government-imposed solution that did not address the root causes of the conflict. See Mohammed and Badri, *Inter-Communal Conflict*, 104. However, in late 2011, that the Rizeigat *nazir* welcomed in his territory several hundred Zaghawa displaced from Taweisha area of Dar Berti in North Darfur by local Berti PDF showed that Zaghawa migrant communities now enjoy a much better relation with the Rizeigat, at least with their leadership, than with other tribes. Interview with Zaghawas from Taweisha area, Juba, February 2012.
271. Mohammed and Badri, *Inter-Communal Conflict*, 94.
272. O’Fahey, “Tribal Reconciliation in Darfur.”
273. Author interview with Abdel-Karim Musa, date and location withheld.
274. Flint, “The Other War,” 20; Tubiana, “Lire entre les lignes,” 95.
275. Author interview with Abdel-Karim Musa, date and location withheld.
276. Author interview with Salamat leader, date and location withheld.
277. Author interview with Abdel-Karim Musa, date and location withheld.
278. See Tubiana, “Lire entre les lignes”; Tanner and Tubiana, “Emergence of Local Security.”
279. Quoted in Tubiana, “Lire entre les lignes,” 95.
280. Quoted in Tubiana, “Learning from Darfur,” 218.
281. The leaders interviewed constituted a representative cross-section of postconflict ethnic map of North Kas.
282. “*Etude anthropologique sur les zones rurales au nord de Kas*” (Paris: Action contre la faim, 2008).
283. Unpublished data from the Darfurian Voices Survey, on file with the authors.
284. Tubiana, “Learning from Darfur,” 180–81.
285. Center for Global Communication Studies, “Assessing Attitudes and Public Opinion in Darfur: Frameworks for Moving Forward and Advancing Dialogue”(Philadelphia: University of Pennsylvania and Albany Associates, 2010), 35.
286. Afia Sudan survey, seen by the authors.
287. *Darfurian Voices*, 30.
288. Center for Global Communication Studies, “Assessing Attitudes,” 38.
289. *Ibid.*, 37.
290. *Darfurian Voices*, 35.
291. DDDC (Darfur-Darfur Dialogue & Consultation), www.dddc.org
292. *Ibid.*
293. United Nations Development Programme, “Mapping and Capacity Assessment of Civil Society Organizations (CSOs) in Darfur,” 2009, 2.4.6.
294. Abdel-Wahid Mohammed Nur famously rebuffed *magdum* Ahmad Abder-Rahman Rijal, who had come to meet him in Paris in 2007.
295. U.S. Institute of Peace, “Civil Society in Darfur: The Missing Peace” (September 2010), www.usip.org/resources/civil-society-in-darfur.
296. Final Declaration of the Consultative Meeting of the Darfurian Civil Society, November 20, 2009, Doha, Qatar, www.darfurinfo.org/doha-english-rough.pdf.
297. Doha Document for Peace in Darfur (DDPD), July 15, 2011.
298. DDPD.
299. Nouwen, *Complementarity*.

300. DDPD.
301. Center for Global Communication Studies, "Assessing Attitudes," 51.
302. Max Planck Institute and Khartoum Peace Institute, "Heidelberg Darfur Dialogue Outcome Document" (Heidelberg/Khartoum: MPI/KPI, 2010); various interviews with government and LJM representatives in the talks as well as members of the mediation team, Doha and Sudan, 2010–2012.
303. Morton, "How to Govern Darfur," 25.
304. El-Tom, "From War to Peace."
305. Quoted in "Is Darfur an Identity Conflict?"
306. Abdul-Jabbar and Tanner, "Darfur After Abuja," in *War in Darfur*; Alex de Waal, "Bringing Back the State," *Making Sense of Sudan*, SSRC Blog, July 22, 2009, <http://africanarguments.org/2009/07/22/bringing-back-the-state/>.
307. DDDC. Quoted in Morton, "How to Govern Darfur," who concludes that the native administration "cannot work without effective support from Government."
308. Leonardi and Abdul-Jalil, "Traditional Authority," 119.
309. Quoted in Tubiana, "Le Darfour".
310. Nouwen, *Complementarity*.
311. El-Tom, "From War to Peace."
312. Tubiana, "Legal Limbo."



The *id-al-nahas* or festival of the drums: regularly, the family of Ali Dinar, Darfur's last sultan, gather in his palace's court in El Fasher to recover his royal drums with new skins.



Agid-al-ugada' (traditional war leader) and *faqi* (religious leader) mobilizing Masalit refugees for the rebel movements in a Chadian refugee camp.



ABOUT THE INSTITUTE

The United States Institute of Peace is an independent, nonpartisan institution established and funded by Congress. Its goals are to help prevent and resolve violent conflicts, promote postconflict peacebuilding, and increase conflict management tools, capacity, and intellectual capital worldwide. The Institute does this by empowering others with knowledge, skills, and resources, as well as by its direct involvement in conflict zones around the globe.

BOARD OF DIRECTORS

J. Robinson West (Chair), Chairman, PFC Energy, Washington, D.C. • **George E. Moose** (Vice Chair), Adjunct Professor of Practice, The George Washington University, Washington, D.C. • **Judy Ansley**, Former Assistant to the President and Deputy National Security Advisor under George W. Bush, Washington, D.C. • **Eric Edelman**, Hertog Distinguished Practitioner in Residence, Johns Hopkins University School of Advanced International Studies, Washington, D.C. • **Kerry Kennedy**, President, Robert F. Kennedy Center for Justice and Human Rights, Washington, D.C. • **Ikram U. Khan**, President, Quality Care Consultants, LLC, Las Vegas, Nev • **Stephen D. Krasner**, Graham H. Stuart Professor of International Relations, Stanford University, Palo Alto, Calif. • **John A. Lancaster**, Former Executive Director, International Council on Independent Living, Potsdam, N.Y. • **Jeremy A. Rabkin**, Professor of Law, George Mason University, Fairfax, Va. • **Judy Van Rest**, Executive Vice President, International Republican Institute, Washington, D.C. • **Nancy Zirkin**, Executive Vice President, Leadership Conference on Civil and Human Rights, Washington, D.C.

MEMBERS EX OFFICIO

Michael H. Posner, Assistant Secretary of State for Democracy, Human Rights, and Labor • **James N. Miller**, Principal Deputy Under Secretary of Defense for Policy • **Gregg F. Martin**, Major General, U.S. Army; President, National Defense University • **Jim Marshall**, President, United States Institute of Peace (nonvoting)

The violence that has raged in Darfur for a decade—having simmered for far longer—is both a crisis of governance and a problem of law and order. As broader peace efforts have faltered, interest has increased in the capacity of local communities in Darfur to regulate conflict in their midst. All hope that traditional leaders, working within the framework of traditional justice, can be more successful in restoring some semblance of normalcy and security to Darfur. This report frames the background, challenges, and efforts to end the conflict.

Related Links

- *Customary Justice and the Rule of Law in War-Torn Societies* ed. Deborah Isser (2011)
- *Local Justice in Southern Sudan* by Cherry Leonardi, Leben Nelson Moro, Martina Santschi, Deborah H. Isser (Peaceworks, September 2010)
- *Civil Society in Darfur: The Missing Peace* by Theodore Murphy and Jérôme Tubiana (Special Report, September 2010)
- *Informal Dispute Resolution in Afghanistan* by Noah Coburn and John Dempsey (Special Report, August 2010)
- *Looking for Justice: Liberian Experiences with and Perceptions of Local Justice Options* by Deborah H. Isser, Stephen C. Lubkemann, Saah N'Tow, with Adeo Addison, Johnny Ndebe, George Saye, Tim Luccaro (Peaceworks, November 2009)

