How to Govern Darfur?

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Introduction

In 1934, William Luce went on his first ever trek as Assistant District Commissioner, Nyala. A young man, he was looking for good horses, and he was keen to shoot his first lion. But there was business to attend to as well. South-east of Idd al Ghanam, he spent two days in lengthy talks with a group of 'discontented Gimr chiefs'. The chiefs were complaining about their *omda* - the next rank up in the hierarchy through which the colonial government ruled Darfur under the system known as Native Administration – and they had sworn that they would no longer serve under him. The meeting followed a common pattern.[1] The chiefs' complaints were heard, not very sympathetically. Some of the *omda*'s worst misdemeanours were corrected, and the chiefs were allowed to name a 'chief of chiefs', to represent them separately at the Tribal Court. At the same time, they were threatened with prison if they continued to refuse the *omda*'s leadership. To reinforce the message, the meeting was followed by a demonstration of machine-gun firepower against a mock 'Dervish Village'. The dummy dervishes were riddled with bullets, their water pots exploded noisily and their tukls, or grass huts, went up in flames. '*Wallahi, hukuma shadida',* was the public verdict: 'By God, the Government is strong.' [2]

This episode summed up the colonial answer to the question 'how to govern Darfur?': with a combination of listening and compromise, backed up with a crude but credible threat of overwhelming force. The aim of this paper is to look at how the question has been answered at different times during Darfur's history, in the hope that this may lead to some ideas about how it might be answered in the present day. My starting point is that the current situation in Darfur is not solely, or even largely, the result of exploitation, injustice and political struggle. Instead, the most important factor has been the Sudanese state's failure to find an effective form of regional government. My end point is more worrying: that neither the Government of Sudan nor the international community have a clear idea of what their answer to the question of my title might be, or how it might be implemented.

For over 50 years scholars have depended on Durham University's Sudan Archive of material from the Anglo-Egyptian Condominium. Its founder, Richard Hill, can never have expected that the history it records would become a topic of immense political importance in the early 21st century. Whether it is between North and South Sudan or in Darfur, archaic disputes are being revived; and relatively minor colonial decisions are being forged into new weapons for modern struggles. Inevitably, historical truth has been one of the casualties of Sudan's wars. Sean O'Fahey, the founder of Darfur historical studies, has pointed out how his work on the Fur sultanate land grant called *hakura* is now being misinterpreted. Different groups are now using the term *hakura*

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[1] See unsuccessful Zaghawa and Habbania attempts to break away from their leadership reported in Christopher Vaughan, 'State effects? Constructing colonial authority in Condominium Darfur' (PhD thesis, 2011, Durham University)
[2] Luce, William, Manuscript Trek Notes (Durham Sudan Archive, SAD.829/12)

to mean an unalienable tribal homeland. This is 'fantasy history', in O'Fahey's words, being treated as political fact.[3]

Interpretations of history also influence the way the international community sees Darfur. Some blame the colonial state for re-creating ethnic divisions which were on the way to disappearing. Others accuse the Condominium of giving power to a metropolitan elite which has taken control of a 'neo-patrimonial state' and pushed Darfur to the margin. The fact that both point the finger at the Condominium only underlines how important the Durham Sudan Archive is to a balanced view. I am particularly grateful, therefore, to the Sir William Luce Memorial Fund for the opportunity to use this unique resource and, in particular, to Jane Hogan and her colleagues for their patience and generosity in helping me to find my way round it.

To answer my self-imposed question, I shall try to do three things. First, I want to review current interpretations of the situation in Darfur. After that, as the main part of the paper, I present a historical synthesis of Darfur institutions across three eras. The Fur Sultanate came into being in the 17th century and ruled Darfur until the end of the 19th century; after a short period of Egyptian and Mahdist rule, it was revived in 1898. The next era started in 1916, when the British invaded Darfur and overthrew Ali Dinar, the last Fur Sultan. Just 40 years later, in 1956, Darfur became part of the independent Republic of Sudan. At the end of the paper, I shall try to describe what a coherent effort to build long-term solutions for Darfur might look like, and look at how far current international policies are likely to help or hinder such an effort.

Interpretations of Darfur

It would be easy to spend all of my lecture trying to interpret the real and imagined causes of conflict in Darfur. However, one of my purposes is to argue that identifying, and designing remedies for, causes is not the best way to improve things. So I am going to keep this as short as possible.

Almost all Darfuris are Sunni Muslims. Unlike many conflicts, religion and sect have no relevance. Ethnicity, on the other hand, is fundamental. It is difficult, however, to decide whether it is ethnicity at the level of race, or at the lower level of the tribe. Darfuris certainly talk about race, as a division between Arabs and non-Arabs. The latter are known locally as *Zurqa*', or Blues.[4] However, many *Zurqa'* tribes only speak Arabic, and several claim a measure of Arab descent. Conflict is just as frequent between Arab tribes as it is between Arab and non-Arab, and it is not uncommon between two *Zurqa'* tribes.

The Save Darfur Coalition has been described as the most effective mass movement in America since the end of the Vietnam War. In 2004, continuous pressure from the Coalition led the USA to declare that Government of Sudan's actions constituted genocide by an Arab government against the non-Arab peoples of Darfur. Seven years later, the Coalition website presents a less black and white picture. Nevertheless, it continues to talk about genocide in Darfur and describes the Government of Sudan as

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[3] Sean O'Fahey, *The Darfur Sultanate* (London, Hurst & Co, 2008)
[4] Sharif Harir, 'Recycling the Past in Sudan', in Sharif Harir and Terje Tvedt (eds.), *Short Cut to Decay* (Uppsala, Nordiska Afrikainstitutet, 1994)

the most responsible for the violence in Darfur. President al-Bashir and others in his government created the anarchic conditions presiding in Darfur today through their violent counterinsurgency campaign targeting innocent men, women and children.[5]

Anarchy is hardly genocide, but no one in the West seems to be willing to lose face by withdrawing the 'G word'. And as even the Save Darfur Coalition recognises, the Khartoum government cannot be blamed for everything. What can be called the first Darfur civil war started in 1987. That was when Darfuris themselves first began to talk of a struggle between Arab and *Zurqa'*.[6] It was two years before the National Islamic Front coup which brought the current regime into power in Khartoum. In other words, Darfur 'began as a civil war to which Government was not a party'.[7]

Another powerful voice, that of Mahmoud Mamdani, has shifted the blame from Government of Sudan to the British. He argues that the Darfur Sultanate developed new forms of land tenure and administration. These, together with Islam, allowed it to start to 'create a kind of detribalization.' However, after the British invaded in 1916, the colonial state 'reverse[d] these developments with all the resources it could muster.'[8] How far this is justified by the evidence will, I hope, emerge in my next section.

Whether it was the Anglo-Egyptian Condominium or the independent Sudanese state, the lion's share of investment in health, education, agriculture or infrastructure has gone to the riverain core of Sudan: the areas around Khartoum and along the Nile.[9] This neglect has become a standard part of the case against the Khartoum Government. It was the central accusation in an anonymous critique of the National Islamic Front regime, which allegedly appeared overnight on President Bashir's desk in 2000. The authors of this famous *Kitab al Aswad* - The Black Book - were later linked to a leading Darfur rebel group, the Justice and Equality Movement. Development marginalisation is often linked to exploitation by the *jallaba*, the class of merchants - many from the same riverain elite as the Khartoum government - who dominate trade throughout Sudan: 'extracting profits from the peripheries and investing them in the center'.[10]

Some say Darfur has been marginalised politically. It might have been better if it had been, because Sudanese politics have helped to turn local difficulties into something more serious. As the largest tribe, democratic politics gave the non-Arab Fur an opportunity to win back the dominance they lost when the British abolished the Fur Sultanate in 1916. In 1981 demonstrations in Khartoum forced President Numeiri to replace his nominee for Governor of Darfur with Ahmed Direij, a senior Fur politician. After a brief period of multi-ethnic regional government, Arab politicians sought to resist what they saw as Fur domination by calling on the support of the Umma party, one of two parties which dominated national politics. As the Mahdi's

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[5] www.savedarfur.org/pages/primer
[6] Sharif Harir '"Arab Belt" versus "African Belt"', in Harir & Tvedt, *Short Cut to Decay*
[7] Mahmood Mamdani, *Saviours and Survivors* (New York, Doubleday, 2009)
[8] *Ibid.*
[9] M.W. Daly, *Darfur's Sorrow* (Cambridge, University Press, 2007)
[10] Alex de Waal, 'Sudan, the turbulent state', in Alex de Waal (ed.), *War in Darfur* (Harvard, Global Equity Initiative, 2007)

ansar, the Arab tribes of Darfur held a special position in the Umma. When civil war broke out in 1987, the result was that the Arab side would not trust the regional government, led by a Fur, and the non-Arab side would not trust the national government led by the Umma.[11]

The National Islamic Front coup of 1989 seemed to offer a way out of this stalemate. Hasan al Turabi, the NIF's leading thinker, presented the movement as colour-blind. The democratic government's failure to resolve the situation in Darfur was part of the Front's justification for the coup. However, in 1999 the National Islamic Front split. In the process it revealed that its multi-ethnic claims were only skin deep. When Al Turabi left the ruling party many leading Darfuris left with him. Some of them went on to found the rebel Justice and Equality Movement, taking their struggle for central power to a new battlefield in Darfur.[12]

Almost everyone sees competition for water, grazing and farm land as a key cause of conflict; competition which has been made steadily worse by drought, environmental degradation and increasing population pressure. But this may oversimplify a complex issue. It has been shown that rainfall was not abnormally low in the years leading up to the current conflict.[13] And disputes over natural resources are nothing new. On the contrary, for Darfuris it is business as usual. The puzzle is to understand why that business has become so much more destructive. One reason is politics. A Sudanese commentator writing in the 1980s pointed out that 'other reasons are always rationalised in terms of this kind of competition [over pasture and water]. On many occasions disputes have started as political or local political issues which the interested parties have blown up into a tribal conflict.'[14]

A final factor to be considered is administration. How odd that sounds. How can something as banal as administration be a major factor in a civil war described variously as genocide and the worst humanitarian disaster since Rwanda? Nevertheless, this dull sounding topic is the focus of the rest of the paper. Because this is where I hope to find some answers to the question in my title: How to govern Darfur? I also hope to demonstrate that this is a much more important question than the ones which are most often asked, such as 'who is to blame', and 'who is oppressed' and 'who is the oppressor'?

Institutions of Civil Administration in Darfur

In 1992, in the aftermath of what I have called the first Darfur civil war, I wrote a paper called 'Tribal Administration or No Administration: The Choice in Western Sudan'. It raised little interest and I could not get it published in a major journal. How times have changed. From Mamdani to de Waal, no discussion of Darfur is complete without a substantial section on the colonial institution variously known as Indirect Rule, Native Administration or Tribal Administration. All these phrases are loaded with the attitudes and theories of the British colonial service. I prefer the

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[11] Harir, op. cit.

[12] Ahmed Kamal El-Din, 'Islam and Islamism in Darfur', in de Waal, *War in Darfur*

[13] M. Kevane, M & L. Gray, *Darfur: Rainfall and Conflict* (Santa Clara University, CA, 2008; http://ssrn.com/abstract=1147303)

[14] Muhammad al Hasan Mukhtar, 'The Reintroduction of Native Administration' (unpublished Western Savanna Development Corporation Note, 1985)

standard Arabic title which comes without this baggage: *al idarat al ahlia:* translated as civil administration, just as civil war is *harb ahlia*.

The *idarat al ahlia* is a system of local government in which the state uses traditional leaders – chiefs or *shaykh*s - to administer the people of their tribe; where tribe means any group which is organised around kinship. This was the system the colonial power used to govern rural Sudan. Almost from the start, British officials debated whether they were right to do this, and that debate continues in the academic literature to this day. But it is a question of much more than academic interest, because the *idarat al ahlia* still provides the basic framework of administration in Darfur. As a local government institution it has proved stronger than any alternative, and most Darfuris accept it, at least in principle. This was recognised by its inclusion in the Darfur Peace Agreement signed in Abuja in 2006.

The *idarat al ahlia* evolved under the Fur sultanate, and subsequent British developments were extraordinarily *ad hoc*. The result is a patchwork of different arrangements and titles, based on a common set of principles. For brevity I am only going to refer to one of many different hierarchies which existed. This has a *nazir* as the paramount chief of each tribe, supported by a number of *omdas*, with a group of *shaykhs* subordinate to each one. At William Luce's meeting with the Gimr *shaykhs*, which I described in my introduction, he was accompanied by the *nazir* of the Bani Halba tribe, to which the Gimr were subordinate, and the discussion concerned their *omda.* The phrase *idarat al ahlia* only came into use in the colonial period but I am going to use it to refer to the institutions of civil administration in all periods, from the early Fur Sultanate onwards.

In Darfur, the individual's social identity is defined by a combination of 'kinship and territoriality';[15] a combination which is embodied in the person's tribe or clan. Under the *idarat al ahlia* the individual is taxed and punished through the tribe.

This society is built in two layers. The bottom layer is formed by the relationship between the individual and the tribe. Above that comes the relationship between the tribal leadership and the state. We know far more about what was happening in the top layer: the doings of the Sultan and his court, and the thoughts of the British colonial officers. How the ordinary Darfuri lived is much less clear, not to speak of what he thought. The result is a literature which focusses on the relationship between ruler and tribal leadership, with a tendency to see colonial policies as an attempt 'to create a common ground between individual [British] officials and chiefs, from which to look down upon their undifferentiated "tribal subjects".'[16] Similarly, histories of the Fur Sultanate describe its institutions as a system to extract resources for the State and its immediate adherents. The communities' main contact with their rulers was confined to war, justice in matters such as homicide that could not be settled within the community, and taxation. The state expected little of its people and the people expected little of the state.[17]

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[15] Ladislav Holy, *Neighbours and Kinsmen* (New York, St Martins, 1974)
[16] Vaughan, 'State effects*?'*
[17] O'Fahey, *Darfur Sultanate*

The Individual and the Tribe

To understand how a tribe works, we must turn to anthropology. Ian Cunnison's *Baggara Arabs* describes the Messiriya Humr, a cattle-owning tribe of southern Kordofan in the 1950s, just at the point of Sudanese independence.[18] Ladislav Holy's *Neighbours and Kinsmen* describes the Berti, a non-Arab farming tribe of north eastern Darfur, in the 1960s, before major changes were made to the *idarat al ahlia* in 1971.[19]

An hereditary tribal leadership seems fundamentally undemocratic. Many argue that the support of the British reinforced that unequal relationship between the tribal elite and the ordinary person. But while tribes may not have elections, *shaykhs* and other leaders have to earn their authority and legitimacy, in the face of constant challenge from competitors. Tribes are sophisticated institutions for the management of what in a modern state would be called public goods, social insurance, resource management and justice. Even quasi-banking and insurance functions can be identified.

How can democracy be expressed without votes? The answer is by 'voting with their feet'. If a group of Darfuri tribesmen are unhappy with their leader, they abandon him for someone who is more popular or more effective. Politics takes the form of competition for followers, not votes. This is most evident for the *shaykh* responsible for tax collection. The Berti *shaykh* had to deliver the required tax to the *omda*, but his ability to do so depended on his followers, who wanted to pay as little tax as possible. Apart from losing followers, a *shaykh* who cannot deliver faces an ultimate sanction, his followers' refusal to pay tax. This forces his dismissal by the *omda*. The link between taxation and tribal leadership has a long history. In Wada'i in early 1874, Nachtigal met a 'section of the Mahamid who, tired of the extortions of their Shaykh Hagar, had left their home.'

Although the principle of hereditary leadership is accepted, it is always subject to negotiation. Among the Berti, a *shaykh* will try to secure the succession for one of his sons, through consultation with the elders in the community. However, if no son is considered suitable, 'the threat that the followers can ultimately transfer their allegiance to a different sheikh usually makes him agree to pass over his sons and choose some other near kinsman.'

A tribal leader has several duties to perform. Among the Humr, the pressure is even greater. 'While the official duty of the sheikh is to collect tax, in the eyes of the Humr he has the worthier obligation of lending out the tax money he has collected.' The result is that a *shaykh*'s followers can risk his whole position. '[A *shaykh*] must be rich to start with as a reasonable assurance against the failure of the trading activities of his followers and himself.' This *shaykh* is effectively acting as his people's bank-cum-insurance fund. As the public face of the community, he must be a generous host; for a popular Humr *omda*, 'hardly a night passed without the obligation to feed and accommodate guests'. He must help his followers in need. Among the Baggara this means lending them cattle to start a herd. And he must represent his followers to outsiders and to the state.

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[18] Ian Cunnison, *The Baggara Arabs* (Oxford, OUP, 1966)
[19] Holy, *Neighbours and Kinsmen*.

In settled communities, the leadership has a number of other responsibilities. Among the Berti in the 1960s, an *aqid al birr* maintained the village well, ritually as well as physically. The well was used on a rota by different household groups controlled by a *ra'is al dima,* or rota manager. Fees were charged for these different services. Outsiders were allowed to use the well, causing quarrels and skirmishes, especially over watering livestock. These were dealt with first by the *ra'is al dima*, who could fine offenders. If this failed, appeals might go to the *aqid al birr*, to the *omda* and ultimately to the tribal court. Fights at wells are now an important cause of current conflicts in Darfur, reflecting the breakdown of these control systems. But there is not much new in Darfur. In 1881, Slatin witnessed Meidob women refuse to let the Shaigia water their horses until they had filled their own jars. To which the Shaigia replied '"This is the result of bringing liberty into the country. By Allah, ... were not Slatin with us, you and your vessels would very soon be our property." "God grant him a long life!" was the retort. '[20]

Livestock raiding has always been endemic in Darfur, and dealing with it is another important job for the leadership. Browne, the first European visitor to Darfur, describes Malha as 'infested by the Cubba-Beesh, a wandering tribe who, mounted on the swiftest dromedaries, rapidly traverse the desert and live by plundering the defenceless.'[21] That was in the 1790s; nearly 200 years later Hales describes how Kababish raiding the Meidob in the 1970s won respect as well as wealth, and the non-Arab Meidob had almost as bad - or good - a reputation for camel theft as the Arab Kababish.[22] This was not a struggle between races, or between nomad and farmer. It was two camel-herding tribes competing on a more or less equal footing.

For both Berti and Humr public opinion is powerful. Among the Baggara, this is most strongly voiced by the women. They have no formal role in political life and there is a firm divide between the women's domestic space and the men's public one. The women bridge this gap through song so effectively that they are 'the arbiters of men's conduct, and they can make or break a man's political career .... by singing songs of praise or alternatively of mockery.'

It is not just the leadership which gains power and wealth from having more followers. The whole community benefits and there is strong social pressure to avoid splits. Conversely, expulsion is the ultimate sanction for anti-social behaviour.

I have kept the most important function of the tribal leadership to last; the management of conflict in the community. Cunnison describes what happens after a killing among the Humr. First the *ajawid*, or elders, seize the male kin of the victim and get the victim's camp to move away. The police are called and they hold both the killer and the victim's kin. A 'guarantor (*damin*) of the peace' is named, someone who is influential in the victim's community but who also has recognised standing with others. This sets the scene for negotiations. If things escalate, then the *omdas* and *nazirs* may be called in. In the worst case one or other party may move away or

[20] Rudolf Slatin, , *Fire and Sword in the Sudan* (London, Arnold, 1899)
[21] Browne, W G, *Travels in Africa etc* (London, Cadell & Davies, 1799)
[22] Jon Hales, 'The Pastoral System of the Midob' (PhD thesis, Cambridge University)

change tribe. 'But after a generation approaches are made to ask them to return, with the offer of a generous price for peace.'[23]

The price for peace takes the form of *diya*. By the dictionary this means blood money. Among the Berti, at least, it also refers to compensation for damage to property, killing a camel for example. Who pays, and how much, is a key indicator of the social structure. Under Islamic law, *diya* is regarded as compensation paid to the victim's family by the killer's paternal relatives. It is recognised that this is a form of insurance. Western Sudanese custom spreads the insurance over the wider community, not just the paternal relatives. The insurance element is even clearer in the way contributions to the *diya* are collected, and the way it is distributed among the victim's community. Close relatives of the killer pay one third of the *diya,* but close relatives of the victim receive two thirds. The remaining two thirds of the payment come from the wider community, who get the smaller share of the payment as, in effect, the premium for the insurance provided. The Berti have a formal position, the *ra'is al diya*, who has the job of organising the collection of the *diya* from his lineage. Their scale of payments for different injuries is strongly reminiscent of wording in a standard British insurance contract; but instead of £1,000 for a finger it is three cows, and two cows for a canine tooth.

Decisions to participate in blood money payments may be influenced by tactical hostilities and alliances within the community.[24] Among the Humr, a small group may look to reinforce its relatively weak kinship support, *asala*, by agreeing a book alliance sworn on the Quran with groups outside their immediate kin. Cunnison suggests that these book alliances can be the first step towards the establishment of a fictional but politically real kinship, 'by virtue of the common ancestry which comes to be assumed.'[25] Blood money is not paid for a killing inside the immediate lineage, although a *sadaqa* payment may be made, not as compensation, but as an offering for the dead. As the relationship between the killer and his victim becomes more distant, so blood money arrangements become more formal and more complex. In most cases an *omodiyya* is based on one kinship group, and *diya* arrangements within it are flexible. Even between *omodiyyas,* matters may be arranged locally and not all the members necessarily contribute to the *diya*.

Cunnison suggests that in the past *diya* arrangements did not exist between the major tribes. Vengeance was the only remedy for homicide by someone from another tribe. The inter-tribal *diyat al saff* was only introduced under the Condominium, and recorded in formal agreements lodged with the provincial government. At this level, all members of the tribe are expected to contribute to the *diya*.

The distinction between murder and manslaughter, unintentional homicide, is important. *Diya* is only acceptable in cases of manslaughter; although a killing during an affray is recognised as accidental. *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*. If the family will accept blood money, then the killer is responsible for the whole amount and his relatives are under no obligation to pay. Customary law is less

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[23] Ian Cunnison, 'Blood money, vengeance and joint responsibility'*,* Ian Cunnison and Wendy James (eds.), *Essays in Sudan Ethnography* (London, Hurst, 1972)
[24] *Ibid.*
[25] Cunnison, *Baggara*

clear and killers might seek refuge with their *shaykh* or *omda* to avoid immediate vengeance. In modern times, this meant that they went to court and risked a prison sentence, but the Condominium courts allowed scope for a reduction in sentence if *diya* was paid.

Haramys 'Eating' the *Nas*

Language is revealing, but extremely difficult to interpret correctly. Perhaps for this reason, the British were fond of including Arabic words in their reports. MacMichael, one of the founders of the British version of the *idarat al ahlia*, is quoted saying: 'I have seen a few cases here of gross misuse of the old <u>hukms</u> which would never have been tolerated if the <u>nas</u> had understood what was happening'. Here *hukm* can be translated as judicial powers, while Willis describes the *nas* as 'those without authority of any sort – the 'subjects'.'[26] This picture of an oppressive tribal elite exploiting their innocent subjects is incompatible with the politically competitive society I have just described, a society in which the *nas* know very well how to control their rulers. It is not impossible that it was not the 'unknowing subjects' who did not understand what was happening, but rather the British administrators trying to apply their alien concepts of right and wrong.

The colonial record is deeply ambivalent about the tribal leadership on which the *idarat al ahlia* depended. Practical politics meant that British officials had little choice, in the early years at least, but to 'back up the local men unless and until it was demonstrated beyond doubt that they were either disloyal or unjust <u>when judged by native standards</u>.'[27] But it is clear that they had difficulty interpreting what 'native standards' actually were. Tribal politicians became adept at exploiting their uncertainty. Another key word 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.   One can read the same uncertainty in a charter of the Fur Sultan Muhammad al Fadl, one of whose charters from 1806 ends a list of officials with the phrase 'all the oppressors who trample the rights of Muslims'*,* in seeming recognition that officials are by definition going to be oppressive.[28]

'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. Vaughan describes three generations of one Baggara *nazirate,* which make a neat case study in 'eating', *zulm* and tribal politics. In 1920, Mahmud Abu Saad, who had been *nazir* of the Habbaniya under the Mahdia, was reappointed. He had spent a long time as a Mahdist official in Omdurman. On his return he failed to re-adjust to what was required of a *nazir* in Darfur. He was seen as too much the government's man and, more importantly, as being stingy. As the Assistant District Commissioner reported, he did not entertain the tribal elite with 'lashings of tea and sugar'; and he failed in his obligation to redistribute wealth among his supporters. The result was that 'tribal "discipline" declined steeply, as sheikhs refused to produce

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[26] Justin Willis, '*Hukm :* the creolization of authority in Condominium Sudan' (*Journal of African History*, 2005)
[27] MacMichael quoted in Willy Pettersen, 'The Few and the Many' (MA thesis, Bergen University, 1986)
[28] R. O'Fahey and Abu Salim, *Land in Dar Fur* (Cambridge, CUP, 1983)

tax, men for labour, or suspects for trial.' His successor, El Ghaali Taj al Din, could not have been more different. The British reported him to be 'a most outrageous *zalim'*. Yet he kept his post for 15 years, because he met the people's expectations and gained unchallenged prestige in the tribe. As time went by, colonial standards became tighter. In 1942, El Ghaali was taken to court for 'eating', and convicted by his peers and judges, the neighbouring *nazirs*. Not coincidentally, the Habbaniya were unpopular with their neighbours. El Ghaali protested, probably correctly, that *'he could not live on his pay and that all nazirs eat their dar.'* He had to resign and his educated son Ali took over, but only three years later the Habbaniya *omdas* were dismissed for refusing to sit on the tribal court with him. The neighbouring *nazirs* revealed their hypocrisy by supporting the *omdas,* on the grounds that Ali had prevented them from 'eating', 'while not distributing the proceeds of his own 'eating' to them.'[29] Ali was caught between two sets of incompatible expectations: for rectitude on the part of government and for liberality and a blind eye to 'eating' from his tribe.

To the Baggara at least, it seems that 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. Nevertheless, accusations of 'eating' and *zulm* were extremely useful weapons in tribal politics. One last Arabic word from Cunnison's description of the Kordofan Humr adds another dimension to these ambiguous attitudes. *Haram* is the Islamic work for sin. And a *harami* is an evil doer, by the dictionary a thief or a bandit. For the Humr, it meant something much more subtle and positive, summing up their respect for wealth and power. 'The *nazirs* are haramy, the Government is too; but they have the power and they deserve to be.' And just like the Habbaniya, the Humr saw 'eating' as perfectly ethical: 'by hiding their cattle Humr "eat" the Government in withholding tax; if the Government discovers the cattle and imposes fines, then it is the Government which is 'eating' the Humr. The game is one in which the Government is every bit as *haramy* as the Humr, and just as manly.'[30]

Ambiguity about 'eating' was not confined to the Baggara under the British. A Fur lord of Diima in the early 19th century was called Isa Kul Barid. His nickname Kul Barid is variously interpreted as 'all cool', meaning patient and benevolent, or as *'akal barid'*, because he 'ate his people and was "cold" or haughty towards them.'[31] *'Barid'* is just as ambiguous as *'akal'*, so a third alternative is perfectly possible: that he 'ate coolly' or 'lightly', meaning his demands were more reasonable than most. The depth of confusion over 'eating' only really becomes clear when one finds that under the Fur Sultanate 'eat' was a standard word for the legitimate use of state revenues. A charter of Muhammad al Husayn (1838-73) confirms the assignment of a piece of land to the *faqih* Abdallah and that 'he should <u>eat</u> the *fitr, zakah, hamil* and the customary taxes.'[32]

Some British political officers did their best to understand what was going on around them. But they were overburdened and thin on the ground. Among the *nazirs* and *omdas* and possibly even among the *nas,* there was a conspiracy to keep them in the

[29] Vaughan, 'State effects?'
[30] Cunnison, *Baggara*
[31] O'Fahey, *Darfur Sultanate*
[32] O'Fahey and Abu Salim, *Land in Darfur*

dark, and their greatest misunderstanding may have been over the scale of the responsibilities the tribal leadership carried, and what it cost them to maintain their leadership position, in the face of a *nas* which was more than capable of letting them know what it wanted. This is not to suggest that extortion, bribery and other forms of *zulm* were not widespread; rather that it was extremely difficult to identify it where a leader had, or appeared to have, the support of his tribe.

Customary Justice

Critics argue that the British adopted the *idarat al ahlia* as a way to keep Egyptians and educated Sudanese out of the administration, following political difficulties with those groups in the early 1920s. The first Powers of Nomad Sheikhs Ordinance was gazetted in 1922. In Darfur, at any rate, this was a clear case of policy catching up with reality. When the Ordinance was passed there were already 135 *shaykhs* exercising judicial powers in northern Sudan.[33]

Even before the British conquest of Darfur in 1916, MacMichael, the political officer responsible for planning it, was recommending that 'it would undoubtedly be necessary for some years to come to decentralize all administration as far as possible and to avoid weakening the hands of the tribal chiefs.'[34] The Governor General's proclamation, dropped out of an aircraft over El Fasher to announce the deposition of Ali Dinar, assured the population that

> The Sudan Government will leave in power all established heads of tribes who render the obedience to government and are just and acceptable to the people.[35]

Identifying who was 'just and acceptable to the people' was to turn out to be a big challenge. But the fact remains that the British inherited their first version of the *idarat al ahlia* straight from Ali Dinar. As MacMichael was to write:

> The more I see and understand of the system on which this country is run do I pay a grudging respect to Ali Dinar. It is no small thing to have kept it in entire subjugation, paying its taxes, never revolting .... and I fancy that the big men he has periodically put to death – and when you think of it there were not many – probably deserved it.[36]

It was, of course, pure bonus that Ali Dinar's system appeared to fit, virtually unchanged, into the fashionable British theories of Indirect Rule announced four years later.

I say 'appeared to fit' for a reason. There is an extensive literature on Indirect Rule, focussed on the extent to which it concealed a hypocritical British policy to exploit large areas at low cost; and on the way it has distorted the political development of the countries where it was applied. That is not my interest today, but it is relevant to point out that Darfur did not actually fit the theory very well. Lugard's *Dual Mandate,* the bible of Indirect Rule, describes two possibilities. The first, preferable,

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[33] Nadia Khalaf quoted in Pettersen, 'The Few'
[34] Pettersen, 'The Few'
[35] *Ibid.*
[36] *Ibid.*

arrangement is for a colonial Resident to act as more or less arm's-length adviser to a state which already has its own advanced institutions and bureaucracy. Examples included the Indian native states and the Islamic states like the Sokoto Caliphate in northern Nigeria. The second arrangement is for regions where there are almost no institutions, even at the level of the tribe. Here the Lugardian prescription was to start from the bottom, encouraging tribes to form and coalesce into larger, more manageable units. This was broadly the policy adopted in southern Sudan. In Darfur the British created a situation which was neither one thing nor the other. Although shaky after the Mahdia, the Fur Sultanate was a workable example of an established state with advanced institutions and a bureaucracy. Once the Fur Sultan was gone, however, the British were left with the institutions but no state in which to put them. They had some success propping up a mini-state in Dar Masalit and a severe failure trying to establish a mini-Fur Sultanate in Zalingei. Once that experiment ended in 1936, apart from the Masalit Sultanate they were left with a workable *idarat al ahlia* but no Indirect Rule. The Governor and the District Commissioners were going to have to continue to manage the *idarat al ahlia* themselves.

Tradition dates customary justice in the Fur Sultanate to the half-legendary Sultan Daali of the late 15th or 16th century, and his *kitab Daali:* the Book of Daali. *Shari'a* law came later but it did not replace customary law so much as support it. By the end of the 19th century, a *shartay* (a Fur equivalent to a *nazir*) would judge by customary law, but with the advice of the Islamic *fuqara*. There are almost no records of individual cases, but the basic structure can be understood from the list of crimes on which fines were payable: homicide, injury, adultery/fornication, straying cattle, fire raising, insult; and so on. Fines were paid in cattle or in *takiyya,* lengths of cloth which were used as currency. The payments were divided between the injured party, different levels of the *idarat al ahlia* and the Sultan. O'Fahey gives an example of a fine for adultery of thirty *takiyya*. Half went to the Sultan's *maqdum* and half to the *shartay* and his *dimlij*.[37]

The literature gives the impression that the Sultanate saw fines as just another source of revenue. This misses two crucial points. It was providing the vital service of justice in return for that revenue. Second, and much more important, the fines represented the state's direct interest in the maintenance of public order. Customary law and *Shari'a* both treat murder, and other acts which would be criminal under western law, as civil disputes between two parties. In contrast, the Fur Sultanate treated homicide and even relatively minor acts as criminal. The fines represented a punishment levied by the state over and above any compensation made to the injured party. In the late 18th century, the Sultan would punish the community as a whole for a breach of the peace with a fine of 'what proportion [he] thinks right of the property of the village ... of the whole, of an half, of a third .. and this most rigorously estimated.' In a case of a battle between the Mahria and Mahamid camel tribes, the Sultan 'seized one half of the camels of every Arab, and where they found five took three, as the fifth could not be divided.'[38]

The Condominium ordinances allocating judicial powers to the 'Native Sheikhs' created something very similar to the Fur Sultanate's amalgam of customary law,

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[37] O'Fahey, *Darfur Sultanate*
[38] Browne, op. cit.

Shari'a and criminal law. The powers allocated were to run in parallel with both *Shari'a* and the Sudan Penal Code. The preamble to the 1922 Ordinance read as follows:

> Whereas it has from time immemorial been customary for nomad sheikhs to exercise powers of punishment upon their tribesmen and of deciding disputes among them, and whereas it is expedient that the exercise of these powers should be regularized.[39]

Just as under the Fur Sultanate the 1922 Ordinance was based on fines, and the list of offences was very similar. The Ordinance has just nine short paragraphs. Rules for implementation were set by the Governor of each province, including the definition of major offences. The *shaykh* could only judge minor offences on his own. For the rest, he had to sit with a council of Tribal Elders.

Subsequent Ordinances added the right to impose short prison sentences and floggings and gave more formal status to the Tribal Elders. Any decision without the unanimous support of the elders went to the Governor or District Commissioner for approval. Just 10 years later, the 1932 Native Courts Ordinance completed the shift from *hukm* by the *shaykh*s to *hukm* by a Court with a *shaykh* as President.[40] The 1932 Ordinance abandoned the formula 'from time immemorial' and opened the possibility of Native Courts giving judgement on issues which were not covered by custom, including criminal offences under the Sudan Penal Code, though in 1934 a new Governor General put a halt to this, signalling that political officers should 'ensure that native administration is run on parallel, but not identical lines with the State system of justice.'[41]

This was the correct decision. Customary law, with its emphasis on conciliation and compensation, is not designed to handle premeditated murder and other criminal acts. Among the Berti, for example, *diya* is only paid for 'accidental killing or damage.'[42] This is why the 1927 Ordinance specifically excluded homicide, robbery, brigandage and offences against the state from the jurisdiction of *shaykhs*. That it was right to do so is amply demonstrated by the current situation in Darfur, where the *idarat al ahlia* has proved unable to deal with what is, in large measure, brigandage combined with offences against the State.

The result of the Governor General's decision was a reasonably clear structure in which the native courts judged cases under customary law up to the limit of their powers of punishment. Above that limit, cases went to government courts, with the District Commissioner or a Judge as presiding magistrate, which applied the Sudan Penal Code. In common with many Islamic countries, *shari'a* courts under a *qadi* dealt principally with family law.

A final important point on justice under the *idarat al ahlia*. 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 ahlia*.

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[39] Sudan Government Gazette, No 396, June 1922
[40] Sudan Government Gazette, No 558, February 1932
[41] Quoted in Pettersen, op. cit.
[42] Holy, Neighbours; see also Cunnison, 'Blood money'

The District Commissioner 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 judgement of an ordinary court of law.[43]

The Native Court had the full power of government behind it.

Taxation and Administration

The Powers of Sheikhs Ordinances were entirely judicial; no administrative powers or responsibilities are mentioned. Yet taxation was always at least as important a part of the tribal leaders' job as justice. Under the Condominium, they also became involved in administration relating to roads, wells, education, and public health.

Before the colonial era, state revenues were founded on the Islamic taxes of *zakat, ushr* and *fitr*. The first is a wealth tax, which in Darfur essentially meant livestock, at a rate of 1/40th. The second, also commonly known as *zakat*, was a crop tax of 10% of the harvest. The last was a poll tax paid at the *Id al Fitr* holiday after Ramadan. Babikr Bedri describes his work as a tax assessor during the Mahdia. It was not an easy job; a sense of religious obligation should have encouraged tax compliance, but it did not. With their hand on the *Quran*, leading citizens would cheerfully tell lies about their crops and the size of their family. [44]

Nachtigal describes the administrative hierarchy in Fur areas in the 1870s. Village headmen were grouped under literate *faqihs*. When the *shartay* ruling the district wanted to issue an instruction, it was through his subordinate *dimlijs,* who called the *faqihs* together to deliver it.[45] For tax collection, 'after swearing the shaykh and faqih on the Quran'*,* presumably that their self-assessment was correct, the *dimlij's* men collected the tax for delivery to the *shartay*.[46] No contemporary records say how big a share of the tax went to the *faqih, dimlij* and *shartay*. Oral reports in the early Condominium said that the *shartay* kept as much as 50%.[47]

Until the colonial period, cash was rare in Darfur and almost all taxes were paid in kind until the 1920s. Most of the goods, especially grain, were bulky. In good years revenues in kind were more than the Sultanate could actually use. The system described was for the Fur heartland. Other tribes close to the heartland paid on a similar basis. Those on the periphery, like the Gimr and the Tama, paid tribute through their own sultans. Nomads on the periphery were expected to pay tribute, but this sometimes had to be collected by force, through a raid carried out by the Sultan's *maqdum*, or commissioner. The Sultanate collected a range of other taxes, on markets for example, but the most important revenues came from traded items, slaves and ivory in particular, and from import and export levies.

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[43] 1932 Native Courts Ordinance, Sudan Government Gazette 558
[44] Babikr Bedri, *The Memoirs of Babikr Bedri* (Oxford, OUP, 1969)
[45] Gustav Nachtigal, *Sahara and Sudan*
[46] O'Fahey, *Darfur Sultanate*
[47] O'Fahey, *Notes from the W. Darfur Handbook* (I am grateful to Sean O'Fahey for an e-copy of this)

After 1916, the British collected taxes in kind, through a system of assessment boards and junior officials, or *mu'awin*. This more bureaucratic approach may have been taken over from the Mahdist practice. It had a number of problems. The assessment boards were unpopular and as a Governor reported in 1922, *'we never had sufficient DCs and ADCs to take charge of the usher boards and muawin do not always lend a sufficiently ready ear to complaints of over-assessments.'* Corruption and over-assessment by a *mu'awin* was one cause of the Nyala uprising in 1921, the worst rebellion the British were ever to face in Darfur.[48] The reduction of the *shaykh's* share from a third to just 5% seems certain to have added to the difficulty. It was hardly surprising that the *shaykhs* were reported to be collecting 'zeka for themselves.'[49] The British also faced the same problem as the Sultanate, that large quantities of grain, the main tax revenue, were not particularly useful.

In 1924, to try to reduce some of these problems, the British replaced *zakat* and *ushr* with flat rate cash taxes, set at rates roughly equivalent to the current values of grain and cattle. The assessment boards were abolished. Although reported as a success, there were two potential difficulties: the fact that current values might become unreasonable if market prices changed, and the loss of Islamic legitimacy. Shortages of cash in an economy which still lacked major markets were a more practical problem.

Extending the tax coverage to tribes which had only paid tribute to the Sultans was another problem. At one point the *nazir* of the Rizayqat, Ibrahim Musa Madibbu, threatened to resign, at least partly because he could not get his *omdas* to pay the new tax.[50] In 1932, government gave up the struggle, transferring the cattle-herding tribes from poll and herd tax back to the tribute system.[51]

To avoid public unrest, the Condominium always aimed to keep taxation light, and to maintain the principles of *zakat*, *ushr* and *fitr*, even if the method of assessment was changed and payment was required in cash.[52] Direct tax consequently became a quite unimportant item in Government of Sudan revenues. It fell from 49% in 1903 to below 20% in the 1920s and just 9.4% in 1938. In absolute terms, the 1938 figure was only half that for 1921. The slack was taken up by trade and consumption taxes, most especially that on sugar.[53]

Under the Fur Sultanate, the tribal leaders of the *idarat al ahlia* took their pay entirely as a share of the revenues from taxes and judicial fines in their area. Initially, the British allowed this to continue. In the late 1920s, they began to move the more senior ranks onto fixed salaries, while leaving the *omdas* and *shaykhs* to share 10% of taxes collected. The overall trend was to place revenues from fines and taxes in a Tribal Chest or treasury, transforming personal rule into a more bureaucratic structure; which steadily looked much more like a local government council. It was at this point that the phrase Native Administration took on its full meaning. The aim was to create a hierarchy of Native Administrations under four *maqdum's* courts at

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[48] Vaughan, 'State effects?'
[49] Quoted in Pettersen, 'The Few'
[50] *Ibid.*
[51] Governor General's Report, 1932
[52] Warburg quoted in Pettersen, op. cit.
[53] Governor General's Reports, 1921, 1929 and 1938

Kutum, Nyala, Zalingei and Al Tuwayshah. This was believed to mirror, approximately, the structure under the Fur Sultanate; it also reflected the politics and personalities of the time. The Al Tuwayshah Maqdumate, for example, was to accommodate the most powerful Baqqara tribe, the Rizayqat, along with the Birqid who had little in common with them.[54]

The structures were quite bureaucratic. The *maqdum* had a chief *qadi* and a *wazir,* plus a number of salaried *ajawid,* or elders. These were to represent the major tribes on the *maqdum's* court. The court's main purpose was to hear appeals on decisions made by the *nazirs* and others who held courts under the Native Sheikhs Ordinance. As well as being president of the court, the *maqdum* was also chief executive of the Native Administration, complete with budget, accounts and a Native Treasury, and its prison and police. Revenues from the traditional taxes revenues were to be split, 50:50, between the Native Administration and the Government, and the Administration was responsible for roads, wells, markets and veterinary services.[55]

It is clear that this is a description of what the British hoped to achieve, not the reality. The only successful *maqdumate* seems to have been Nyala, and even that left major tribes like the Bani Halba outside its remit. In Kuttum, the treasury was reported to be successful, but the *maqdum* could not control the court. In Zalingei, the emirate collapsed in corruption and oppression.[56] It is not clear that the Al Tuwayshah court was ever established. There were two principal reasons for these failures. Few Darfuri leaders had the personality and integrity to fill the post of *maqdum*, especially the ability to win support across different tribes. The ones who seemed to have this ability came from families which had been important under the Sultanate: Adam Rijal, in Nyala, the *Dadinqawis* in al-Fashir and the *Dimanqawis* in Zalingei.[57] Secondly, many parts of Darfur, especially those on the periphery, did not have the minimal cohesion needed to make the model work. The *maqdumate* of the north failed on both points. Although he came from the family which had held the job under the Sultans, Yusuf al Magdum Sharif did not succeed. But his task was much the most difficult. His area covered northern tribes, such as the Zaghawa and the Mahriyya, which were notoriously troublesome and had never been under effective control.

Indirect Rule is often accused of creating overbearing tribal chiefs. With their romantic ideas about noble Arab nomads, uncritical British officials allowed them to exploit their people. Ali al Tom, *nazir* of the Kababish in Kordofan, is a well known example.[58] But in Darfuri tribes there was a considerable degree of accountability and political competition to keep the tribal chiefs in check. Nevertheless, their relationship with British officials did give the *nazirs*, at least, an extra card to play in the game of tribal politics. There were those at higher levels in the Sudan political service who were aware that this needed to be watched. One objective of the bureaucratic ideal just described was to get away from 'direct rule' by colonial district

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[54] Pettersen, 'The Few'
[55] Pettersen, 'The Few'
[56] idem
[57] O'Fahey & Tubiana, *Darfur: Historical and Contemporary Aspects* (www.smi.uib.no/darfur)
[58] Willis, '*Hukm*'

commissioners working too closely with the tribal leadership, replacing them with something more formal.[59]

Land, Territoriality and Mobility

When it started, the current civil war in Darfur was seen as an insurgency by a marginalised people against the Government, and the exploitative elite which headed it. Then it was identified as a race war between Arab supremacists and non-Arabs. The most recent interpretation is that it is a conflict over land, where land does not just mean farm land and grazing. It also means the possession of a tribal homeland, in Arabic a *dar*. In Mamdani's view the British 'divided Darfuri society into two groups: tribes with *dar*s and tribes without', and 'the [dar-less] Arabs of Darfur were doubly marginalized'; once as Darfuris and once more as a people without a territory to call their home.[60] The evidence really does not support Mamdani's analysis, but a claim for a *dar* is now a central plank in the negotiating position of many Arab tribes. Historical or not, politically it is now a fact.

I will use three examples to try to illustrate the broad principles of land tenure in Darfur. The first example is the land grant, or *hakura,* described in the box. This sets out how a land grant from the Fur Sultan to people from the Zayyadiya tribe was integrated into the tax and justice arrangements of the original tribe in whose *dar* ('*belad*' in the box) the land fell. This single, relatively small grant already includes three layers of rights to occupancy, bundled one inside another like a Russian doll: the people of *dar* Beira, presumably Fur; the Zayyadiya themselves; and the 'other settlers from other tribes' inside the Zayyadiya *hakura*. It is to be noted that this is an entirely political arrangement. Neither the Zayyadiya nor the 'settlers from other tribes' were paying rent; the agreement related to the division of tax and other fees payable on the land, and to responsibilities for justice. In other words, access to farm land was open, subject to agreed terms for integration into the existing political and judicial structure.

> Hakura Abu Mukhayr
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> "…. it was recognised that the Zayyadia were 'Siad Et Tin' holding it in unbroken occupation from Mirni wad Sulman. …. as Siad Et Tin [they] have two thirds of the tithe — other settlers from other tribes have one third rights to the work of their own pioneering (ie rights on tithe).
>
> "In the case of Hukm (Amara) the original Hakim of the Belad Beira had rights to 2/3rds and the Zayyadiya as Siad Et Tin to 1/3rd. "e.g. all small cases (i.e. insult – minor assault – women's affrays etc.) — in these matters the Awaidh of the Melik of Beira or his agents are 2/3rds, the Zayyadiya Shaikh 1/3rd. This applies only to tribes other than the Zayadiya, The Melik of Beira does not concern himself with Zayyadiya Hukum."
>
> O'Fahey, Kutum 1976, www.smi.uib.no/darfur/

The Ma'alia of eastern Darfur have been quoted as an example of a *dar*-less tribe fighting for its rights. They were finally allocated a *dar* and a *nazir* to rule it in 1995.[61] The Ma'alia have had a long and chequered history; in 1874, Nachtigal reports them as variously fighting for and against the Rizayqat, in their battles with the Sultanate, and as bandits on the road to Kordofan.[62] Half a century later, the Sultan Ali Dinar was still complaining to the British about Ma'alia robberies on the

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[59] Bence Pembroke, 1927, quoted in Pettersen, 'The Few'
[60] Mamdani, *Saviors and Survivors*
[61] Yousif Takana, *The Politics of Local Conflicts and Boundaries in Sudan* (Sudan Working Paper 2008:2, Christian Michaelsen Institute, Bergen)
[62] Nachtigal, *Sahara and Sudan*

road to Kordofan. Throughout the British era, attempts to unite the Ma'alia with the Rizayqat alternated with unsuccessful periods under their own *nazir*. Their situation is made more complex by the fact that their territory was originally part of Dar Berti. The Ma'alia have a firm claim to the land. They developed what was a waterless area by turning the baobab trees into water storage cisterns. Here again the point is that claims to territory are overlapping and essentially political. Neither the Berti nor the Rizayqat were demanding the right to farm the Ma'alia land. The colonial record indicates that the Berti had largely lost their claim as overlords of this part of their *dar* some time earlier. The *nazir* of the Rizayqat, on the other hand, was less than enthusiastic about being responsible for the Ma'alia at all. It was simply the best solution the British could find for the fact that the Ma'alia themselves were unable to nominate a *nazir* of sufficient status and integrity to do the job effectively.

Below the political level just described, Holy's description of land tenure among the Berti provides a clear example of a pattern that is probably common in most settled areas of Darfur. The term *hakura* has been much debated, ever since O'Fahey highlighted its importance in written charters of the Fur Sultanate. These documents are quite ambiguous, but some interpret them as assignations of private property; such that 'valuable land was alienated from its earlier ethnic associations.'[63]   The Berti do not see it that way.   For them, *sid al hakura* is 'lord of the lineage territory', ie a direct descendant of the group which first settled the area, who holds the land as representative of that group. In most cases a *shaykh* holds this position, maintaining the link between land and the political structure. Land within the *hakura* is further sub-divided into a number of *fawasa* overseen by a *sid al fas* (lord of the axe, ie possessing the right to clear the land). For the Berti in the 1960s, land was freely available. Anyone could open up uncleared land, with the consent of *sid al fas* taken as given provided he was paid the *ushr*. The only exception related to gum arabic trees. In uncleared land, they belong to *sid al hakura.* If gum trees appear on cultivated land, they belong to the farmer, and the *ushr* goes to *sid al fas.*

Once collected from the producer, the *ushr* tax was divided between the different post holders and the Government. A *shaykh* who was also *sid al fas* would deliver the tax to the *omda,* who took two thirds and left one third to the *shaykh*. In the same way, the *omda* delivered two thirds to the Government and kept one.

The Berti distinguish between a *shaykh* who is *sid el fas,* or 'owns land', and a *shaykh* who only 'owns people.' The latter is *amari.* If, for example, there are two kinship lineages in a village, the *amari* is *shaykh* of those of the lineage which did not first settle the area. Even if his following is much larger and more successful, the *amari* will still give a third of his *ushr* tax to *sid al fas.* This structure exactly parallels the *hakura* described at the beginning of this section, where the Beira *hakim* (*amara*) took two thirds and gave one third to the Zayyadiya *'siad et tin'* (*tin* means 'soil').

Neighbours and Kinsmen, Holy's title, aptly sums up how the institutions embodied in a *dar* manage social relations between kinship groups who are sharing an area as neighbours. What appear to be rights to land are more accurately defined as rights to the government of the area, in the form of tax and justice. And those rights also

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[63] Michael La Rue, 'Mud on the belly of the bull', in D. Crummey (ed.), *Land, Literacy, and the State in Sudanic Africa* (Trenton NJ, Red Sea Press, 2005)

embody the obligations of the people using the land to contribute to the common good, through taxes, and submit to the justice of the area. One last example to make the point, Sultan Muhammad al Fadl granted the Korobat, *jallaba* traders, a *hakura* in Dar Konyar. They were successful and their slaves started to cultivate extensively on land outside the *hakura*. 'On these areas the *Shartai of* Dar Konyar took *"Futra"* and *"Zaka."* The slaves were [also] subscribers to "*dia*" collections by the *Shartai* of Dar Konyar. But the Korobat at Gelli could not be called on for this service.'[64]

Mobility has always been a critical part of life in Darfur. Farmers need to move in response to drought or better rains, and also to capture new opportunities, as the Ma'alia did by opening up the waterless *goz* sands of eastern Darfur. Each year cattle and camel herders need to follow the rain through the seasons. Much of customary law is designed to manage this mobility. Colonial records describe the system under the last Fur Sultan, Ali Dinar:

> If the people belonging to one Shartai and one Dar wished to go with their flocks and graze in the Dar of another they had to ask permission of the latter and could only come with his approval. If A's people came with B's approval into his Dar to graze and water their flocks, during the time they were in B's Dar B passed judgment upon them for misconduct but A came and collected taxes due from them to Ali Dinar.

> The people of one Shartai if desirous of joining the Dar of another Shartai merely asked the latter's and the former's permission for their transfer. If the people of one Shartai went to the Dar of another and lived there and then refused to return to their own Dar; and their Shartai complained they were forcibly returned by Ali Dinar. Occasionally two Shartais would agree as to the disposal of their people.[65]

Perhaps it is worth quoting, for those who may suggest that this is a British invention, a 1900 charter of Ali Dinar, the last Fur Sultan, appointing Muhammad Ali Salih as 'general sheikh' of the 'Iraygat. The charter sets out the boundaries of the territory he is responsible for and instructs 'al Dimaysat, al Minawiya, Awlad Qirru, al Nasriya and all the tribe of al 'Iraygat' to obey him and to gather together in one area and 'that no one should make departure without his permission and those who happened to come from other places must report themselves to him.'[66] This is as comprehensive a statement of a pre-colonial *dar* as could be. It is particularly apt in that the 'Iraygat are a northern Arab tribe which has been accused of playing a leading role in the *janjawid*, and which might therefore be expected to be among the marginalised *dar*-less Arabs.

The colonial government of Darfur spent a large part of its time dealing with boundary disputes. Some argue that it created hard divisions between tribes which are part of the problem today. It is certainly true that they did not get all their decisions right. In one important case they recognised this and changed the decision. The Condominium first set the boundary of Darfur 40 miles south of the Bahr el Arab,

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[64] O'Fahey, *Darfur Sultanate*
[65] *Ibid.*
[66] S. O'Fahey & Abdul Ghaffar, *Documents from Darfur* (Occasional Paper No 1, Centre for Eastern and African Studies, Bergen)

including this territory in Dar Rizayqat by doing so. This was later reduced to 20 miles, and arrangements were made to allow the Dinka to use areas north of that boundary at certain times of the year.[67] Vaughan describes very clearly the effort that went into assisting the tribes to agree the management of this boundary. In general, Arab tribes did better out of the British: the Kababish of Kordofan and the Bani Halba are prominent examples. The first won the support of the British before the invasion of Darfur in 1916, with the result that the boundary between Darfur and Kordofan was drawn very much in favour of the Kababish, relative to the Meidob on the Darfur side of the line.[68] The Kababish have held the upper hand over the Meidob ever since, although the latter were by no means powerless to fight back. Of all the colonial boundary decisions this was perhaps the worst, yet it has not, so far as I am aware, had any influence on current events in Darfur.

The history of conflict between the Bani Halba and the Fur dates back at least to the early 19th century when the Sultan Muhammad al Fadl 'irritated by the power, wealth and independent attitude of the Beni Holba rendered them innocuous by the "bloodbath of the Beni Holba...."'[69] It is probable that this reflected competition for control of important areas south of Jebel Marra. Of all the Arab Baqqara, the Bani Halba have the closest direct contact with the Fur heartland centred on Zalingei. Until the Condominium, the Fur considered that their Dar Diima extended all the way to Wadi Bulbul, quite close to Nyala. The British put the line further north and west. 'All Arabs North of this line must move South, into Southern Darfur District. Fur to the South of this line may take their choice of moving North or remaining as "Aghrab" ('Strangers') under the Arabs. Arabs may graze over the Fur boundary but not make villages or cultivation.'[70]

At a later period in the Condominium, it appears the rule on cultivation was relaxed. The Zalingei District Book describes the situation:

> During the rains the Dar is filled with Arabs grazing, and the Fur mainly speak Arabic as do all the Nyala border Fur. There is a certain amount of trouble with Arabs over damage to crops and use of wells, and continual hide and seek over listing [ie for tax purposes]. It has now been decided that the *nas* who *'Kharif'* in a *Dar* will be listed in that *Dar,* and the poll tax rates in Bani Halba will be raised to the Fur standard to prevent tax evasion.[71]

This example is important. Fighting between the Fur and the Bani Halba in the Wadi Salih area was a major factor in the 1987 civil war and one of the many current conflicts as well. It is also one of the clearest examples of the fact that a *dar* is not a tribal homeland, as is now claimed. As Holy puts it, 'the boundaries of Berti society are not territorial but social or political.'

[67] Vaughan, 'State effects?'
[68] Hales, op.cit.
[69] Nachtigal, *Sahara and Sudan*
[70] J. Gillan, 'Jebel Marra Tour Notes,' SAD 723/3
[71] Sean O'Fahey, 'Darfur and the British – Zalingei District Book' (unpublished). I am grateful to Professor O'Fahey for allowing me to see this.

"Reforming" the *Idarat al Ahlia*

From 1927 onwards, with variations in the language and some back steps, the colonial Government steadily worked to change the 'native administration' and absorb it into a system of democratic local government.[72] This vision culminated in the Local Government Ordinance of 1951. For the first time, the administrative and judicial sides of the *idarat al ahlia* were clearly separated.   The days of 'eating' were over, in principle at least, and all revenues were to go to the Council.

The establishment of a Ministry of Local Government, in 1954, heralded the end of the policy that each Native Administration should be staffed from among its own people, and that formal education was not necessary for such posts. The 1960 Local Government Act aimed to provide councils with an executive staff recruited by the Ministry centrally. The *idarat al ahlia* was under attack from dissident elements within each tribe and from liberal party politicians. At the same time the tribal leadership were acquiring personal interests outside their tribe. After the October Revolution in 1964 there were proposals under the democratic government to abolish the *idarat al ahlia.*[73] These were initially resisted, partly through the tribal leadership's influence on the political parties, but in 1971 the *idarat al ahlia* was abolished under the new military regime's People's Local Government Act. This combined decentralisation from Khartoum to the provinces with centralisation within each province. A Provincial Executive Council took over all budgets and executive powers from the existing local councils. At the same time, the local councils were divided into much smaller units: 500 in all of Sudan, in place of just 86. Dar Masalit, for example, was divided into one Town Council, for Geneina, and three Rural Councils.[74] In a precursor of events in the 1990s, these changes led to a series of disputes over boundaries: 16 in South Darfur alone.[75] In a trend apparent from the 1950s, the focus of these reforms was firmly on administration and political management. Little if any consideration was given to what would replace the judicial functions of the *idarat al ahlia.*

In 1984, the Native Administration was re-instated in Darfur by an administrative circular from the Deputy Governor. The tribal leadership was to have both administrative and judicial powers. How far this was to be a return to the structures of the colonial Native Courts Ordinance 1932 and Local Government Ordinance 1951, is not clear. It seems to have been more like a reversion to the early colonial period when all powers were vested in the *nazirs* and *omdas.*

From the mid 1990s onward, the current Government of Sudan has made a range of changes to the *idarat al ahlia.* It is reported that the new acts set a framework which is 'structurally similar to what used to be practiced.' A local government unit is now called a locality and it is responsible for most basic services and development. For this it keeps 60% of agricultural and livestock taxes, compared with 50% in the

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[72] Quoted in John Howell, *Local Government and Politics in the Sudan* (Khartoum, KUP, 1974)
[73] *Ibid.*
[74] *Ibid.*
[75] Muhammad Abdul-Jalil, and Yousuf, 'Native Administration and local governance in Darfur', in de Waal, *War in Darfur*

colonial system of the 1930s. The Local Government Act was paralleled by a 2004 Town and Rural Courts Act dealing with customary law courts. [76]

It was not, however, the legal framework which had the greatest impact on the *idarat al ahlia* under the current Government. That was to come from a radical territorial redivision.[77] Some have seen this as a re-run of the colonial principle of 'divide and rule.' The British had, in fact, put considerable efforts into the opposite policy, what might be termed 'consolidate and rule indirectly.' They spent nearly 40 years trying to get the Ma'aliya to join the Rizayqat, the Fallata to join the Habbaniya and the different Zaghawa clans to come together under one leadership. William Luce's meeting with the Gimr chiefs was just one instance of the distinctly frosty colonial response to attempts to sub-divide tribal units at lower levels in the hierarchy.

Whatever their reasoning, the current regime failed to learn the lesson taught to Numeiri: administrative sub-division leads to a proliferation of boundary disputes and tribal fights. By 1995, what had been just two districts under the British became 38 localities and sub-localities. Takana describes the result: 'not a single tribe in South Darfur is not engaged with its neighbors in the boundary issue.' This political competition even went below the tribe, with different *omodiyyas* competing for and winning their own localities. The Habbaniya, for example, ended up with six. Some 30 years after the *omdas* had first tried to unseat their *nazir*, Ali El Ghaali, they had finally won. Multiple small units cost money; consolidation was what made the *idarat al ahlia* economic. In 2001, Government decreed a reduction of 30% in the number of localities, but it was too late.[78] Facts had been created on the ground. The earliest, perhaps the worst, effects of redivision were seen in Dar Masalit, where the creation of new emirates for Arab groups contributed to, even led to, outright war in 1995. The situation in Dar Masalit remains extremely tense to this day.[79]

All these developments have been accompanied by a fundamental change of attitude towards the structures of political and social organisation which underpin the *idarat al ahlia*. Many groups now see it in their interest to deny the whole concept of a *dar* as a unit in which kinship and territoriality are managed in accordance with the principle that the original settlers maintain some rights over the land in their *dar*. Claims made by the Tarjam in a dispute with the Fur during the current conflict make this plain:

a. To release the Targum tribal leader Mohamed Yagoub, the Omda, and other Targum members from custody.
b. Fur tribe should recognize the Targum as Sudanese citizens who are entitled to every right on these lands which belong only to God Almighty.
c. The Fur must drop the claim that Targum are to follow them and agree that the Targum should have a 'Nazirate' independent administration of their own.
d. To cancel all cases against all persons who were engaged in this tribal war.
e. All roads should be opened and access to drinking water spots should be allowed.[80]

If point b were to be accepted as the general rule, it would be the death knell of the *idarat al ahlia* in its current form. The most likely outcome of the Tarjam's position

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[76] *Ibid.*
[77] Takana, *Politics of Local Conflict*
[78] *Ibid.*
[79] Personal contact in Geneina, 2010
[80] Quoted in Takana, *Politics of Local Conflict*

is that land becomes individual property, and society is re-organised in geographic units, with some form of local council and a state-sponsored judicial system. This would mean abandoning the flexibility and social cohesion on which many Darfuris still depend for their livelihoods.

It is some encouragement that Darfuris consulted in the Darfur-Darfur Dialogue and Consultation (DDDC) did not support the Tarjam's view. Even among younger people in North Darfur, who were clearly more sympathetic to that view, the consensus was that the best way to reduce conflict is to support decisions by the 'native administration' and 'ensure that users of *hakoora* land recognize and respect the rights of its owners.'[81]

The International Community's Strategy for Darfur

Western governments are extremely risk-averse about Darfur, wishing to avoid, in the words of one official, 'anything toxic.' In this context 'toxic' means talking to, or supporting the Government of Sudan in any way. As an extreme example of this attitude, senior Darfuris recall the way Condoleeza Rice refused to speak to the Wali of North Darfur in El Fasher.

This attitude is unfortunate, because it is extremely hard to see a solution which does not give a major role to government. Western governments' influence on events will be severely limited by their unwillingness to deal with Government. In 1989, the El Fasher Reconciliation Agreement to end the first Darfur civil war made nine stipulations. Seven were actions for Government:

1. The presence of Government in the form of armed forces should be guaranteed.
2. The Government shall deport aliens entering Darfur illegally.
3. The Government undertakes to open routes of migration for the nomads. It shall maintain a heavy presence to safeguard the rights of both pastoralists and farmers.
4. The Government shall evict any groups that have occupied villages or farms.
5. The Government shall dissolve any organizations that do not work according to the law.
6. The Government shall scrutinize the activities of all foreign organisations working in the region.
7. The Government shall issue laws which mete out severe penalties on those who burn pastures, close migration routes, ...

Government failed to deliver that time, and its subsequent actions have destroyed almost all its political capital in Darfur. Nevertheless, in consultations Darfuris are almost unanimous that it is necessary to 'Empower native administrations with the authority and required capacity to actively participate in helping maintain security.' And Native Administrations cannot work without effective support from Government. In the words of the tribal leaders and stakeholders of Western Darfur, 'It is critical that the authority of native administrations is supported so that it can effectively

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[81] Darfur-Darfur Dialogue & Consultation, *Building Consensus on Common Ground Issues: N. Darfur Youth, 2009* (www.dddc.org)

impose its powers to help control illegal weapons, deal firmly with outlaws, etc., until peace prevails and peaceful coexistence is reached between concerned parties.' [82]

Because of their reluctance to deal with Government, Western countries have delegated Darfur to the United Nations, to the African Union and to NGOs. The UN strategy has four tracks: political settlement, peacekeeping, humanitarian assistance and recovery and development. The main focus is on the first track, a political settlement between the different rebel groups and Government: the conflict is still seen as a rebellion by a marginalised people against an oppressive government. Since 2009, the UN-supported Joint Mediation Support Team has been facilitating negotiation between Government of Sudan and different rebel groups, but these have made little progress. In 2011, a number of countries including the USA agreed the idea of a Darfur Political Process (DPP), designed to shift the focus of peace efforts back to Darfur itself and to put it in the hands of elected representatives, traditional leaders and civil society. 'The DPP has deeply divided the UN and AU. Mbeki, like the Sudanese government, favours pushing ahead with it without delay. The UN and many western governments argue that it cannot be launched amid military offensives .....'[83] It is still impossible to overcome the reluctance to work with Government in Darfur, even with the support of the African Union.

While there are many good reasons to be suspicious of Government of Sudan, it will be impossible to address the issues I have discussed in this paper without accepting some form of Darfur Political Process which takes discussions out of the hands of those whose principal, if not only, interest is in gaining a share of power.

One example may help to illustrate the depth of the international community's lack of knowledge and understanding about the *idarat al ahlia*. 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 Ajaweed, a traditional procedure for the resolution of conflicts, shall be institutionalized and assume the function of a truth and reconciliation mechanism. ..... the Ajaweed 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 Ajaweed shall conduct their procedures with a view to facilitate confessions and apologies.

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[82] Darfur-Darfur Dialogue & Consultation, *Building Consensus on Common Ground Issues: Zalingie, W. Darfur, 2009* (www.dddc.org)
[83] **ReliefWeb report** — http://reliefweb.int/node/394280

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.[84]

However, there are two UN projects which are attempting to address issues which would come under the banner of the *idarat al ahlia*. Under the Darfur Community Peace and Stability Fund (DCPSF), NGOs are working with tribal leaderships, in some cases funding their activities. The approach is ad hoc and there is no overall strategy, or capacity to form one. It took the British many years to achieve a rather imperfect understanding of the institutions underlying the *idarat al ahlia,* 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 embarassing 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.

The other UN programme is the Darfur Rule of Law Programme started in 2004. The approach is wholly 'Western':

> to build on the existing legal infrastructure by strengthening the immediate protection of civilians and providing a form of legal redress for human rights violations, protection deficits and lack of security. UNDP works ... with all the legal institutions in Darfur – including the judiciary, the attorney-general's office, lawyers, paralegals, the police and other law-enforcement bodies.

Programme activities include mobile legal aid clinics and the appointment of 'paralegals, known as Community Mobilisers.' The programme is designed on a standard international blueprint, one which is blind to the *idarat al ahlia,* to *Sharia*, and to customary law.

Weak as the effort has been, there are already signs that important sections of the international community have lost interest in Darfur. Of the programmes mentioned above, the latest press relief on the Rule of Law Programme website is 2008, the latest DCPSF updates and workplans are for 2009, and the latest press release on the DDDC website is also from 2009.[85]

Change and Continuity

The more one learns about Darfur, the greater one's admiration for the people who have built its institutions and made them work. Just as MacMichael came to appreciate how well Ali Dinar had handled a difficult job, so I think many Sudanese now appreciate what the British did, despite some glaring errors. To quote one recent Sudanese comment, 'If properly maintained, the colonial native administration could have worked successfully to maintain law and order in any traditional communities.' More than that, there was progress. The same commentator describes the 1951 Local

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[84] Max Planck Institute, Khartoum Peace Institute, *Heidelberg Darfur Dialogue Outcome Document* (Heidelberg/Khartoum, MPI/KPI, 2010)
[85] See www.sd.undp.org/projects/dg8.htm, www.dddc.org, and www.sd.undp.org/DCPSF.htm

Government Act as 'in many respects the best system of local government the Sudan has ever had.'[86] Tribal leaders whose grandfathers made their living from slaving and whose fathers fought Ali Dinar's troops on horseback had begun to get used to the bureaucratic forms of court procedure and council administration.

There have been a number of attempts to define a critical break in Darfur history, a break which lies at the root of the current problems. The end of the Fur sultanate, after which the British re-tribalized Darfur, is a popular one. Numeiri's reforms of 1970 and the politicization of the *idarat al ahlia* since the mid-1990s are others. Having read my way through from Browne in 1794 to de Waal, Takana and others in the 21st century, I find it much easier to see continuity. The Kababish were raiding in 1794. They probably still are. The Fur Sultan was issuing warrants which said much the same as a Governor General's warrant in the 1940s: that 'Sheikh *fulan* has been found to be honest and upstanding and the people under his benevolent rule will obey him all things.' All three parts of the statement were often lies; and the Sultan probably had his fingers crossed when he signed it, just like the Governor General.

The same applies to fights between tribes. We do not have many records of these under the early Sultanate, but we do know the Sultan's reaction to those he heard of was ferocious. One can suspect that his officials – the *maqdums* and others – dealt with many more. Even guns on the Chad border are not new. In 1912, Ali Dinar wrote to Muhammad Bakhit Abu Risha, the independent Sultan of Dar Sula, to complain 'you have been negligent in regard to firearms ... your people have begun to sell them to strangers'.[87] In reply, Muhammad Bakhit complained that Darfuris had robbed a group of his hunters of fifteen big elephant tusks. Despite the relative success the British had in keeping the peace, there is hardly a single year of the Condominium in which the Governor did not report a number of tribal fights. As late as 1945, the greatest problem was tribal enmity leading to armed fights. 'The repercussions of two such enmities were only suppressed after prolonged legal and administrative proceedings.'[88] The current authorities in South Darfur might take consolation for their problems from the fact that in 1949 the Governor was distracted by 'unnecessary and vexatious boundary disputes between Habbania and Rizeigat, Habbania and Beigo, Taaisha and Gimr, which dragged on through the year and absorbed a great deal of administrative time.'

Conclusion: How to Govern Darfur?

I have tried to draw a picture of a society which worked. At the bottom of this two-layer society, the tribes were cohesive and functional. There was a solid social contract between the individual and society. The tribal leadership was close to, and politically responsive to, the ordinary people. Competition for followers ensured accountability. The top layer of this society was formed by the relationship between the tribal leadership and the state; whether it was the Fur Sultanate, the Anglo-Egyptian Condominium, or the Government of Sudan. Here too there was a social contract essentially that the *nazirs, omdas* and *shaykhs* would keep the peace, justly, and deliver taxation in return for the state's even-handed support. Under the Sultanate

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[86] Muhammad Abdul-Jalil, and Yousuf, op. cit.
[87] L. Kapteijns and A. Ahmed, *The Chado-Sudanese Frontier on the Eve of Colonial Conquest* (Sudan Texts Bulletin, III, 1981)
[88] Governor General's Report, 1945

and the Condominium, at least, the state was able to project credible power and to maintain the position of neutrality needed to make good on its side of this contract.

This society had well understood institutions for managing mobility, which were articulated through two fundamental social obligations: the payment of tax and the acceptance of justice. In this framework the *dar* is not a homeland, it is a territory in which one group has, by virtue of being the first to arrive, become the representative of society, which function it serves by collecting tax and providing *hukm*.

Of course this highly ideal model conceals a multitude of imperfections. A system based on personality and on an unwritten code held in the communal memory, is bound to drift away from the ideal more often than not. The Rizayqat, for example, never accepted the social obligations of the Fur Sultanate. Between major tribes, blood money obligations only became standard under the Condominium. However, within their respective boundaries, the Fur Sultanate, the Condominium and, in its early years at least, independent Sudan all had hegemony in Darfur; hegemony in the sense of control achieved through 'a complex mix of coercion and consent ...[with] a singular dominant way of seeing politics'.[89] That single dominant way of seeing politics was founded on an acceptance of the principles I have just laid out: that the individual's identity was defined through a combination of kinship and territoriality, embodied in the tribe; that all citizens owed the state tax and submission to its justice; that the tribal leadership was acceptable as the representative of the state; and that mobility and relations between different ethnic groups would be managed through the institution of the *dar*.

As Vaughan describes, consent on the fundamentals left ample space for prolonged negotiation over implementation. Which tribal leaders were acceptable, where the boundaries of each *dar* lay, who belonged to which *dar,* what constituted *zulm,* and what was the appropriate level of 'eating', were all fertile areas for struggle.[90] This leads to the most important conclusion of my talk. A system like the *idarat al ahlia* needs continuous and intensive management by a capable state. It is not some state of nature in which peaceful communities will co-exist, once a just distribution of resources is achieved. Nachtigal describes the Fur Sultan's constant round of ceremonial duties, his demands that the *faqihs* of Darfur join him for Ramadan, and his continuous struggle to impose control, especially on the tribes at the periphery of the Sultanate. He worked hard. Throughout the Condominium, governors' reports harp on the effort required to stop boundary disputes, to prevent *omdas* from overthrowing their *nazirs,* and to persuade different tribes to form reasonable administrative units. In many areas they failed. But they held the second line of defence. They prevented outright war, they kept to the basic principles of the system, and they maintained the consensus that it was a good system.

If anything, that consensus was weakest among the British themselves. By the 1940s their support for the *idarat al ahlia* was being watered down by efforts to introduce electoral democracy, and the rule-bound structures of local government. Their discomfort over the matter of 'eating' meant they underestimated the risk of weakening the tribes at their most important point: the relationship between the

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[89] Vaughan, op. cit.
[90] Vaughan, op. cit.

shaykh and his followers, with its subtle trade-offs between taxation, 'eating' and re-distribution among the followers. This process accelerated after independence, ending in the 1970 abolition of the *idarat al ahlia*. Although that decision was rolled back, it was a big step towards the current situation, in which the consensus behind the *idarat al ahlia* in Darfur is close to being broken.

When I started this research, I hoped to see a clear way forward for Government in Darfur. I was inclined to believe that if the *idarat al ahlia* has survived this long, it must still have a part to play; especially so since nothing better is in sight. After eight weeks' reading, I am much less certain. One thing is clear. No progress is likely without an effective government; one which is both demonstrably even-handed and demonstrably capable of supporting the rule of law, with force if necessary. At the moment the Government of Sudan is neither of those things. Every reconciliation conference between warring tribes ends with a list of actions for government, which are not performed. It is also clear that a political agreement in Doha between Government of Sudan and rebel groups representing a minority of Darfur tribes can contribute little to the issues I have described. If anything, power-sharing in a Darfur Government will reinforce the political competition which has driven current conflicts.

What is much less certain is whether the consensus supporting the principles of the *idarat al ahlia* can be re-established. In giving a *dar* to every minor lineage which demands it, government has opened Pandora's box. There is a large younger generation that no longer has direct experience of living entirely within the social obligations of a rural tribe. With oil revenues and a large modern metropolis in Khartoum, the economic balance has shifted a long way against the farmers and herders of Darfur. Will it really be possible to re-establish a social structure based on *zakat*, as 10% of a dryland millet crop, and fines paid at the rate of two head of cattle for adultery?

Since the 17th century the different rulers of Darfur have built a state, and extended the boundaries of that state, using their particular answer to the question of my title: How to Govern Darfur? That answer was based on the institutions of the *idarat al ahlia,* which formed what I have come to think of as the Darfur Social Contract. The civil wars which started in the late 1980s represent a breakdown of that social contract. This was caused by the state's inability, or unwillingness, to honour its side of the contract. But there was a larger failure. Economic development and social change meant that the institutions of that contract were losing their relevance. By mismanaging its attempt to transform the *idarat al ahlia* into a more modern set of institutions, the state has come close to breaking the contract altogether. It has undermined the Darfuris' acceptance of their side of the contract: their citizens' obligations to pay tax and acknowledge the rule, *hukm,* of the State's representatives.

In conclusion, do I have an answer to my question: How to Govern Darfur? Perhaps I do. It is summed up using the concept of 'hegemony' I gave earlier: a complex mix of coercion and consent built around a single, dominant idea about how society works. Coercion will be needed, by professional security forces which fully understand Darfur society and politics, but which are not captured by any part of that society. In other words, neither the *janjawid* nor UNAMID fit the bill. And consent must be rebuilt. As the Condominium found, this takes continuous effort by a

Government service which is respected, but not necessarily popular. To use the Humr's word, it must be *haramy*: cunning and ruthless, but not unfair.