



**NAVAL
POSTGRADUATE
SCHOOL**

MONTEREY, CALIFORNIA

THESIS

**GIVING RECONCILIATION A CHANCE IN SUDAN:
SEEKING AN ALTERNATIVE RESPONSE TO THE
DARFUR CONFLICT**

by

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December 2009

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REPORT DOCUMENTATION PAGE			<i>Form Approved OMB No. 0704-0188</i>
Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0188) Washington DC 20503.			
1. AGENCY USE ONLY (Leave blank)	2. REPORT DATE December 2009	3. REPORT TYPE AND DATES COVERED Master's Thesis	
4. TITLE AND SUBTITLE Giving Reconciliation a Chance: Seeking An Alternative Response to Darfur Crisis		5. FUNDING NUMBERS	
6. AUTHOR(S) Maj Robert T. Birech		8. PERFORMING ORGANIZATION REPORT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) Naval Postgraduate School Monterey, CA 93943-5000		10. SPONSORING/MONITORING AGENCY REPORT NUMBER	
9. SPONSORING /MONITORING AGENCY NAME(S) AND ADDRESS(ES) N/A		11. SUPPLEMENTARY NOTES The views expressed in this thesis are those of the author and do not reflect the official policy or position of the Department of Defense or the U.S. Government.	
12a. DISTRIBUTION / AVAILABILITY STATEMENT Approved for public release; distribution is unlimited		12b. DISTRIBUTION CODE	
13. ABSTRACT (maximum 200 words) <p>In the Darfur region of Sudan, violent conflict between the Government of Sudan—supported by the Janjaweed militias drawn from the Arab community, and the rebel groups drawn predominantly from the three African tribes (the Fur, Massalit and Zaghawa)—has been depicted largely as an Arab–African war. This conflict has witnessed massive displacements of population (with 2.7 million Internally Displaced Persons and approximately 250,000 living as refugees in Chad), destruction of property, and continued suffering despite the signing of the Darfur Peace Agreement in 2006.</p> <p>This thesis explores the origins of this conflict, and describes the factors that prolong it. Using Darfur as a case study, it promotes a conflict resolution mechanism based on traditional conflict resolution methods intended to facilitate the rebuilding of trust and consensus needed for renewed coexistence among Darfurians. While not dismissing the need for justice and punishment for those responsible or involved in crimes against humanity (genocide and war crimes), any resolution of the crisis must also provide a way for local-level reconciliation to occur so that displaced people can return home. Otherwise, their continued absence is bound to complicate the peace process with the passage of time.</p>			
14. SUBJECT TERMS Sudan, Darfur, conflict resolution, reconciliation, Native administration system and <i>Judiyya</i> .		15. NUMBER OF PAGES 71	
		16. PRICE CODE	
17. SECURITY CLASSIFICATION OF REPORT Unclassified	18. SECURITY CLASSIFICATION OF THIS PAGE Unclassified	19. SECURITY CLASSIFICATION OF ABSTRACT Unclassified	20. LIMITATION OF ABSTRACT UU

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SEEKING AN ALTERNATIVE RESPONSE TO THE DARFUR CONFLICT**

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MASTER OF SCIENCE IN DEFENSE ANALYSIS

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ABSTRACT

In the Darfur region of Sudan, violent conflict between the Government of Sudan—supported by the Janjaweed militias drawn from the Arab community, and the rebel groups drawn predominantly from the three African tribes (the Fur, Massalit and Zaghawa)—has been depicted largely as an Arab–African war. This conflict has witnessed massive displacements of population (with 2.7 million Internally Displaced Persons and approximately 250,000 living as refugees in Chad), destruction of property, and continued suffering despite the signing of the Darfur Peace Agreement in 2006.

This thesis explores the origins of this conflict, and describes the factors that prolong it. Using Darfur as a case study, it promotes a conflict resolution mechanism based on traditional conflict resolution methods intended to facilitate the rebuilding of trust and consensus needed for renewed coexistence among Darfurians. While not dismissing the need for justice and punishment for those responsible or involved in crimes against humanity (genocide and war crimes), any resolution of the crisis must also provide a way for local-level reconciliation to occur so that displaced people can return home. Otherwise, their continued absence is bound to further complicate the peace process with the passage of time.

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LIST OF ABBREVIATIONS AND ACRONYMS

AU	African Union
AMIS	African Mission in Sudan
CAR	Central Africa Republic
CPA	Comprehensive Peace Agreement
DDDC	Darfur-Darfur Dialogue and Consultation
DDF	Darfur Development Front
DPA	Darfur Peace Agreement
EU	European Union
GNU	Government of National Unity
GoS	Government of Sudan
ICC	International Criminal Court
IDP	Internally Displaced People
JEM	Justice and Equality Movement
LRA	Lord's Resistance Movement
MILOB	Military Observer
NGO	Non Governmental Organization
SLA/M	Sudan Liberation Army/Movement
SLA/AW	Sudan Liberation Army Abdul Wahid al-Nur
SLA/MM	Sudan Liberation Army Minni Minnawi
SPLM	Sudan Liberation Army
UNAMID	United Nation African Mission in Darfur
UNMIS	United Nation Mission in Sudan
UNSC	United Nation Security Council
PSC	Peace and Security Committee
R2P	Responsibility to Protect

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ACKNOWLEDGMENTS

I owe my sincere gratitude to my advisors Dr. Anna Simons and Dr. Marcos (Mark T) Berger for their advice and guidance throughout the study period. Their unique observations on the subject, drawn from their wide experience, made a remarkable difference.

I also want to thank all the faculty members of the Department of Defense Analysis for their dedication in imparting and sharing their wealth of knowledge, which will definitely go a long way in shaping my future endeavors both in and out of the Kenya Armed Forces.

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I. INTRODUCTION

A. BACKGROUND

The history of Sudan is a history of continued conflict since it attained its independence from the Anglo–Egyptian condominium in 1956. The two key variables for human development—peace and security—have eluded Sudan, making life a harsh and brutish affair for many of the Sudanese who are either living as internally displaced persons or as refugees. Sudan, the largest country on the African continent, borders nine other countries: Libya and Egypt in the North; Ethiopia and Eritrea to the East; Kenya, Uganda and the Democratic Republic of Congo to the south, and the Central Africa Republic and Chad to the west. With this vast territorial expanse of nearly one million square miles straddling the Arabic north and southern black Africa and a diverse mix of culture, geography and ecological setup, Sudan no doubt faces significant challenges to achieving anything resembling peace and security as a modern nation-state (Woodward, 1979).

The face that Sudan presents to the outside world is one that is culturally Arab and religiously Muslim, having joined the Arab League at independence. Internally, however, the country is much more complex, exhibiting sharp cleavages that run along ethnic, racial, tribal, geographic and religious lines. While the Nile valley is predominantly occupied by Arab tribes, the East is home to the pastoral Beja tribe who trace their ancestry to the Nubians, the ancient peoples of the Nile. The Western region, Darfur, though entirely Muslim, is ethnically and racially mixed courtesy of a history of migration and commercial interaction over many centuries. In the south, animist and Christian communities have their own distinctive traditional tribal structures.

The latest conflict in Darfur, the western region of the Sudan, continues despite the signing on 05 May 2006 of the Darfur Peace Agreement (DPA) in Abuja, Nigeria. Being remote even by Sudanese standards, little was known about Darfur until 2003,

when reports started seeping out about the atrocities that confused the world that was used to hearing about the north-south conflict, popularly explained as a clash between the Muslim north and the Christian south.

Now in its seventh year since it first attracted international attention, the conflict in Darfur has caused untold suffering to the people there, approximately 250,000 of whom are refugees in Chad, while over 2.7 million remain internally displaced, surviving on food aid from various Non-Governmental Organizations (NGOs). Regional and international efforts to mediate the conflict have achieved minimal success due, in part, to the proliferation of rebel groups complicating the peace process, and to some extent the Khartoum government's lack of commitment to implementing its end of the bargain.

Following the Rwandan genocide in 1994, which shocked the world, many declarations were made ranging from the "not on my watch" comment by American President George Bush to the passing of the "responsibility to protect" (R2P) Protocol by the United Nation (UN) during the 2005 World Summit (UN Report, 2005). Barely a decade down the line since the Rwandan genocide, observers of the events taking place in Darfur began reporting instances of genocide or ethnic cleansing in progress. The bloodshed in Darfur started in 2003, when two armed rebel groups, the Sudan Liberation Army/Movement (SLA/M), and the Justice and Equality Movement (JEM) attacked Sudanese government installations (SudanNews, June 2005). The emergence of these rebel groups was a culmination of the desire of the Darfur people to end the region's endemic economic and political marginalization. The rebel groups are from the three main non-Arab tribes: the Fur and Massalit (sedentary farmers), and Zaghawa (cattle herding nomads). Periodic tensions between the ethnic groups in Darfur can be traced to 1930s, and most recently surfaced in the 1980s (Dagne, 2006, February 26), when drought and famine ravaged the region, increasing the competition for land and water points.

Map of Sudan



Map No. 3707 Rev. 10 UNITED NATIONS
April 2007

Department of Peacekeeping Operations
Cartographic Section

Figure 1. Sudan Map

Retrieved July 2009, from <http://www.un.org/Depts/Cartographic/map/profile/sudan.pdf>

The conflict in Darfur has local, national, regional and international repercussions. The effects of the conflict have spilled over to Chad and the Central Africa Republic (CAR), straining tensions with these countries that are struggling to contain their own insurgent groups.

The conflict is also setting a precedent in the international justice system, being the first conflict where an arrest warrant has been issued against a sitting president by the International Criminal Court (ICC, 2004, March). The warrant lists seven counts broken down as follows: five counts of crimes against humanity—murder, extermination, forcible transfer, torture and rape; and two counts of war crimes—intentionally directing attacks against the civilian population not taking part in hostilities, and pillaging. The fact that the prosecutors have said there is insufficient evidence to support charges of genocide has generated debate about the merits and implications of the ICC's action. Those opposed to the ICC see the charges as creating an obstacle to the ongoing peace process. While the USA, EU and France hailed the warrant; the AU, China, and Arab League have expressed regrets. Sudan's reaction was quick, dismissing the ICC's action as a "neo-colonialist" move meant to destabilize it (BBC, 2009, Mar 04). Khartoum consequently expelled sixteen humanitarian organizations operating in Darfur.

B. SCOPE AND PURPOSE

The purpose of this thesis is to analyze the nature of the conflict in Darfur, why it has persisted from 2003 to the present, while examining its disastrous consequences on the population. In particular, this thesis seeks to draw lessons that will inform recommendations for the resolution of the conflict. This study will endeavor to look at the historical, social, cultural, economic, and political marginalization of the region. It will also assess the role played by the various stakeholders in the conflict to include local, regional, and international actors. This analysis will lead to the recommendation that a reconciliatory approach drawing from grassroots conflict resolution mechanisms be considered the most viable solution to the crisis. This approach is informed by the fact that the signing of the Darfur Peace Agreement (DPA) on May 05, 2006 between the

warring parties has not resolved the crisis, thus the need for a process that includes establishing social coexistence and mechanisms to resolve the conflict at the local level.

One significant fact that emerges from the literature written on the Sudan and the Darfur crisis in particular is that it is a complex emergency resulting from a combination of factors that have a long history. Sudan has been at war for forty out of the fifty years of its independence.

C. RESEARCH QUESTION

Generally, insurgencies or rebellions start for a reason—the existence of injustice or perceived injustice, which have not been or cannot be addressed by the government of the day. A rebellion begins with a small core group who believe that their cause justifies mobilizing the population for armed conflict. Because the government is unwilling or unable to resolve the grievances or set the conditions for peaceful resolution, the conflict festers.

The persistence of conflict in the Sudan has remained its defining characteristic since the country attained independence in 1956. When the world was about to celebrate the end of the north-south conflict following the signing of the ceasefire protocol in 2002, word started seeping out about the killings in Darfur. Conflicts arise due to a number of factors, which include differences in political ideologies, bad governance, ethnic nationalism, economic or religious fears, and in some cases from a combination of two or more of these factors. The need to find a solution for the conflict in Darfur has become more urgent now given the conflict's effects within both Darfur and the entire region. This is what has inspired this thesis.

Darfur's population is largely rural with sedentary farmers and pastoral nomads living side by side. The debate that has reduced the crisis in Darfur to a clash between the settled farmers who happen to be non-Arabs against nomadic pastoralists who are Arab can be misleading, leading to inappropriate solution sets being prescribed. Local competition has been worsened by the ecological changes that have been slowly taking place in the Sahel with the Saharan desert extending southwards, forcing a population migration in search of water, pasture and better soils.

This study will look at the history of Sudan to learn how demographic shifts, resource scarcity, and the evolution of the political system have affected the cohesiveness of the society. Given the current state where 250,000 Darfurians are refugees in Chad and a further 2.7 million are living in IDP camps, the hope of their ever returning home depends on the type of resolution achieved between the warring parties. Further, the continued violence in Darfur has direct and indirect effects on the success of the Comprehensive Peace Agreement (CPA) that ended the civil war between the north and the south. It is with this background that a reconciliation approach driven by grassroots concerns is proposed as a lasting solution for the people of Darfur.

An important way to find a possible solution to this conflict is to understand the causes of the crisis and the problems involved in its management. To achieve this, the study will endeavor to answer the following questions:

1. What are the fundamental causes that led to the crisis?
2. How can a process of reconciliation be achieved?
3. Who are the stakeholders that need to be involved to secure the reconciliation peace process?
4. What needs to be considered for reconciliation to take root and create space for trust and confidence to be rebuilt among Darfur's people?

In answering these questions, the study will look at the various stakeholders so as to identify the spoilers capable of stopping a consensus from being built in Darfur.

Historically, over the course of many centuries of coexistence and cooperation among the various ethnic groups within Darfur, traditions of mutual understanding, respect, and interethnic tolerance developed among the Arabs and non-Arabs, farmers and nomadic pastoralists. One question this thesis poses is how can these systems, which served the region for many years, be revived and used so as to enable the people of Darfur to accept one another and live together again?

Besides understanding local dynamics, it is necessary to look at regional and international involvement in Darfur. The task of reconciling the people of Darfur is a

daunting one and will require a coordinated and united approach by all stakeholders so as to prevent the spoilers from impeding the process. Therefore, this study will also look at the role of other players (stakeholders) to include Chad, Libya, Egypt, Eritrea, USA, China, the African Union, the UN, and humanitarian organizations.

D. STRUCTURE OF THE STUDY

The current chapter provides an overview introduction to the conflict. Chapter II will briefly cover the factors that are said to have led to the current conflict. Chapter III will cover the factors that have prolonged the conflict. In order to understand the conflict in Darfur, there is a need to delve into Sudan's turbulent history and its unique position, lying between Arab North Africa and Sub-Saharan black Africa, a key variable that plays out in the clash of cultures in Darfur. Like most African conflict scenarios, the variables involved in this analysis are firmly rooted in Sudanese history (both pre-colonial and colonial) and its effects on the postcolonial governing regimes.

Chapter IV will present the proposed solution for reconciliation. It will highlight what needs to be taken into consideration in order for trust to take root in Darfur. Recognizing that reconciliation alone will not bring peace, measures for economic development, poverty alleviation, and provision of alternative means of livelihood need to be considered. Finally, Chapter V will provide the conclusions and recommendations from the study.

E. ARGUMENT

The argument presented in this thesis is that for decades the people of Darfur lived in harmony, intermarried, and had such cordial social relations that led many who visited the region to marvel at the lack of distinction in terms of color or race between those who claim Arab identity from local African tribes. The conflict that has caused vast suffering to the people of Darfur is a result of political manipulation, not the result of inherent tribal/racial differences. The social fabric that held the Darfurian society together in concert with a system of traditional conflict resolution and mediation mechanisms were systematically and deliberately eroded by successive governing regime's policies.

From the data available (see Table 2) one is tempted to see a correlation between the abolition of the native administration and the rise of the number of conflicts in Darfur, though other factors also contributed, ranging from increased environmental degradation to population growth.

F. METHODOLOGY

This study will use a process-tracing methodology to analyze the changes that have occurred in the Sudanese way of life with particular attention paid to the policies and strategies successive Sudanese regimes pursued that led to, and continue to sustain the current situation in Darfur, preventing any meaningful interventions from taking place. Only by understanding the historical, ecological, political, social, and economic structure of Darfur can we gain a better appreciation of the problem. This study will rely on secondary sources of data—books, journals, internet sources, and other written material on the Darfur case. It also draws on the author’s experiences serving as a Military Observer (MILOB) with the second African Mission in Sudan (AMIS II) from January 2005 to January 2006.

II. ORIGIN OF THE PROBLEM

A. INTRODUCTION

Throughout history, groups that have lived side by side for many years without tension have turned on each other, resulting in slaughter, as witnessed for instance in Rwanda, Sierra Leone, Bosnia, East Timor, and now Darfur. This begs one to ask what has changed to lead to such heinous acts. Though the history of Darfur was not without episodes of conflict and violence (see Table 2), the current levels are unprecedented.

This chapter will provide a brief history of Darfur and trace the root causes that have been advanced by many scholars who have written about the conflict. It is my belief that the current events in Darfur can only be understood in light of its history.

B. ENVIRONMENT AND RESOURCE SCARCITY

Lying entirely in the vast Sahelian belt of desert and semi-desert, savannah and oasis make climate a decisive factor in its Darfur's history. To understand the current conflict, we need to look at the effects of ecological crises between 1970 and the mid-1980s when the civil war between the Arabs and the Fur broke out. Expanding desertification forced the Arab nomads to migrate southwards in search of pasture and water. Suliman Mohamed (2006) has argued that, in the past, traditional agreements facilitated the movement of people and their herds from one ecological zone to another, as this was seasonal and for short periods of time. Whenever environmental effects became more severe and persistent, the migration became prolonged or even sometimes required permanent co-existence. However, when coupled with population growth, the strain became greater, building up tensions among the communities. Unfortunately, between the 1970s and the mid 1980s, this development occurred at a time when demand for land was at its peak for the farmers and other agriculturalists who had started selling their produce to growing urban markets in Darfur and elsewhere in Sudan (Johnson, 2003, p. 139).

This migration of the Northern tribes southward in response to encroaching desertification occurred a time when Sudan's leader General Jaffar Nemeiri had

abolished the native administration in the rural areas, but had yet to forge an effective alternative mode of governance. It is reported that in 1986 alone, a total of 384,010 people migrated south from north Darfur (Mamdani, 2009, p. 237; see Table 2 for the details). Conflicts and insecurity escalated in the rural areas as those with access to firearms took the law into their own hands and started resolving their disputes by force rather than by mediation.

The ecological crisis was aggravated by the location of the ethnic groups and communities in Darfur. The Darfur ecological zone can be divided into three distinct categories that correspond with ethnic and cultural borders (Suliman, 2006). The first of these zones is arid, predominantly inhabited by Arab camel nomads, and is the most disaster-prone and ecologically fragile. Second is the middle zone of Jebel Marra Massif, which is the richest area in the region in terms of soil fertility, rainfall, abundance of surface and underground water, and other natural resources. The occupants of this area are settled traditional farmers who are mainly non-Arab, with Fur comprising the major ethnic group. It is in this region where the first communal conflict occurred as a result of incursions by the northern camel nomads as well as the southern cattle nomads into the fields of Fur peasants. The third, lower or southern zone, is inhabited by cattle-herding Arab tribes and is highly susceptible to rainfall fluctuations. Because of these ecological and ethnic cleavages, any competition or quarrel took on an ethnic dimension, thereby worsening the situation. As John Markakis notes, “of all the ideological weapons used in African warfare—nationalism, socialism, religion, and ethnicity—the latter proved by far the more superior as a principle of political solidarity and mobilization as well as a dominant political force” (as cited in Suliman, 2006, p. 5). This implies that discord over resources, once it takes on ethnic overtones, with the survival of a group at stake, will persist even if the initial conflict over the resource question has been resolved.

Hassan Al Mangouri, in his study of the effects of desertification in Umm Kaddada district in Eastern Darfur has shown that the shift from traditional form of cultivation due to changing ecological conditions and population pressure served to accelerate desertification and the spread of sand dunes, which the render the it useless for farming (p. 46). This shift has led to a persistent circle of drought, deforestation, shorter

fallow periods, less soil fertility and declining crop yields, which inevitably increase the tensions and conflicts among the tribes of Darfur. Previous forms of livelihood involved crop rotations between millet, sorghum, groundnuts, sesame, watermelons, and gum arabic productions. This practice allowed the farmers to earn income by selling gum arabic for export, while benefiting from the nitrogen fixing and soil retaining properties of the trees, which restored fertility to the soil. With the advent of drought, aided by population growth, increased demand for fuel and pressure for more food production led to shortened periods of letting the land lie fallow, deforestation, and eventual soil degradation. These occurrences were further exacerbated by the in-migration of the northern nomads, thus speeding up the process of degradation.

Table 1. Number of Migrants from North to South Darfur, 1986.

Area Council	Number Of Migrants From North Darfur
Nyala (Central area)	108,976
El Dien (Eastern area)	372,849
Buram (Southern area)	95,240
Zalengei (Western area)	64,593
Ed el Ganam (Southwestern area)	42,352
Total	384,010

Source: Mamdani M (2009).

C. COLONIAL LEGACY: “THE MAKING OF NATIVES AND SETTLERS”

Darfur remained an independent Sultanate longer than any other region of Sudan, first coming under foreign rule in 1874 (Turco-Egyptian) and later succumbing to the Anglo–Egyptian condominium from 1916–1955 (despite Khartoum having been conquered and ruled by external powers in 1899). Given its long history of independence, the Darfur region developed systems of governance that emphasized co-existence among its multiethnic communities, recognizing the use of both Arabic and Fur languages.

Mahmood Mamdani (2009) argues that with the advent of colonialism a new project involving the retribalization of Darfur was undertaken to facilitate indirect rule, whereby land rights were vested in a tribe, with a distinction made between “natives” and

“settlers.” The native tribe was entitled to two customary rights: the ownership of land and the appointment of key posts in the tribal administration (pp. 166–170). This had the effect of discriminating against those categorized as settlers, regardless of how many generations they had lived in the area. Mamdani further argues that this colonial construction of a “traditional” system set Darfur back politically and socially to the pre-sultanate period. The effects of these changes surfaced in the 1980s when the Arabs demanded greater representation in Darfur’s regional government, and secondly in the 1990s when the government, in an effort to correct this perceived discrimination, undertook the restructuring of administrative boundaries (Flint and De Waal, 2008, pp. 59–60). The “homelands” awarded to the *darless* pastoralist communities generated intertribal conflicts, leading to the Massalit-Arab war of 1987. This shift in land tenure also helped reinforce systematic polarization of the people of Darfur along Arab–African lines that helps explain the dynamics of the current conflict.

D. GOVERNMENT POLICIES

Sudan has been characterized by political and economic power, concentrated in the Nile river valley, and dominated by a relatively small Arab population, to the disadvantage of populations in the “peripheral” areas of the East (Beja), the West (Darfur), and the South (who, though represented in the Government of National Unity (GNU), thanks to the signing of the CPA in 2005, still remain marginal. This is the subject of the *Black Book: Imbalance of power and Wealth in Sudan*, which enumerates the domination of all government sectors by officials drawn from three tribes: the Ja’aliyin of President al-Bashir, the Shaygiyya of Vice President Osman Taha, and the Danagala of Defense Minister Bakri Hassan Saleh, who live along the Nile near Khartoum (De Waal & Prunier, 2008, pp. 16–17). The two rebel groups centered in Darfur, the SLA and JEM, cite their reason for rebellion as the continued political and economic marginalization by the central Khartoum government. To unravel this marginalization argument, this section looks at the various policies undertaken by successive Khartoum regimes. Though the Darfur region is ecologically fragile and composed of a complex mosaic of tribal and racial interactions, which themselves can lead to conflict, government policies have to be considered critical in setting the

necessary conditions. Key among these were: abolition of the native administration, restructuring of the land tenure system and politically motivated changes made to the administrative boundaries, and mobilization of militias. It can be argued that these policies were undertaken to help sustain an otherwise weak state whose legitimacy did not extend much beyond the Nile Valley, and the immediate surroundings of Khartoum. This in turn leads to the question: what is the nature of the Sudanese state?

1. Nature of the Sudanese State

Sudan's size as the largest country on the African continent, has presented Khartoum with governance challenges. According to Robert I. Rotberg (2002), "Nation-states exist to deliver political goods—security, education, health services, economic opportunity, environmental surveillance, a legal framework of order and a judicial system to administer it, and fundamental infrastructural requirements such as roads and communications facilities—to their citizens" (p. 87). Given this description, where does Sudan lie along the spectrum of effective delivery of political goods? More specifically, how should Sudan state be judged when it comes to its western region? I will look at the weakness of the state in two ways: first, at its failure to extend and exercise effective control, and secondly, at its failure to deliver services to its peripheral areas, thereby generating discontent and rebellion.

The complex nature of the Sudanese state is captured by de Waal's (2007) observation that:

Describing the Sudanese state as either "strong" or "weak" fails to do justice to this complicated reality. It leads to the paradoxical situation in which the state is failing to deliver on basic governance functions for most Sudanese citizens, while the establishment demonstrates an astonishing capacity to not only survive but also prosper. The prospects of dislodging the dominant elite groups, however fractious they may be, are remote. (p. 7)

When the British conquered Darfur and united it with Sudan in 1916, they adopted the system of "indirect rule" to govern the region. Though the British "indirect rule" has been criticized for isolating communities from the benefits of the modern world, while exploiting them for the colonialists' benefit (Prunier, 2008, p. 29), nevertheless,

indirect rule did serve to help reduce and resolve conflicts whenever they occurred. After independence in 1956, Darfur remained marginal due to its distance from the center, and was marked by resource scarcity and poor infrastructure. The substance-based economic activities in this region, with one sector of the population specializing in farming, while the other specialized in pastoral nomadism, served to keep the region peripheral. In this period we could say the marginalization of Darfur was regional and not racial or ethnic.

It was not until the 1960s that a racial narrative began to take shape during the debate over the kind of constitution to be adopted in Sudan. Opposition to the Islamic constitution, which was being supported by the northern Khartoum regime, was rejected by delegates from the South, Nuba, and Darfur (Prunier, 2008, p. 41) as they preferred a secular constitution. This marked one of the first signs of cleavage, with the majority Muslims in the north separated from the other Sudanese along ethnic and regional lines.

2. Native Administration

The traditional governance structure in Darfur has undergone systematic weakening since independence in 1956. Under the native administration system the tribal leadership had legal authority until 1971, when it was abolished by enactment of the “People’s Local Government Act which divided the region into regional, district and area councils” (Abdul-Jalil, Mohammed, and Yousuf, 2007, p. 50). Though renewed in 1986, the Native Administration Act had significantly changed, with much reduced powers for the traditional leaders and greater reliance on elected or appointed officials. Other major changes included the redrawing of state boundaries breaking up tribal homelands (*dar*).

The traditional system of governance had organic and long tested mechanisms for managing and resolving disputes. With the passage of the People’s Local Government Act tribal leaders lost their jurisdictional authority, meaning that one tribe could be granted control by the central government over land belonging to another. This increased competition and clashes. In addition, the previous tribal system had delineated simple, but well established and recognized routes to manage the migration of nomads during dry seasons. With the abolition of this system, conflict management tools like this were lost. Another consequence of abandoning the traditional system is that with it went traditional

environmental conservation mechanisms, thus exacerbating environmental degradation. Available data shows that before 1970 only five conflicts in Darfur required formal mediation (see Table 2 for details), while from 1970 onwards an average of one conflict per year required formal resolution agreement (Mamdani, 2009, p. 235).

Table 2. Summary: Conflicts Resolution Agreements in Darfur 1932–2000.

No	TRIBAL GROUP INVOLVED	YEAR	MAJOR CAUSES OF THE CONFLICT
1	Kababish, Kawahla, Berti and Medoub	1932	grazing and water rights
2	Kababish, Medoub and Zayyadia	1957	grazing and water rights
3	Rizeigat, Baggara and Maaliya	1968	local politics and administration
4	Rizeigat, Baggara, Maaliya and Dinka	1975	grazing and water rights
5	Beni Helba, Zayydia and Mahriya	1976	grazing and water rights
6	Northern Rizeigat (Abbala) and Dago	1976	grazing and water rights
7	Northern Reizeigat and Bargo	1978	grazing and water rights
8	Northern Reizeigat and Gimir	1978	grazing and water rights
9	Northern Reizeigat and Fur	1980	grazing and water rights
10	Northern Rizeigat and Bargo	1980	grazing and water rights
11	Taisha and Salamat	1980	local politics and administration
12	Kababish, Berti and Zayyadia	1981	grazing and water rights
13	Rezeigat Baggara and Dinka	1981	grazing and water rights
14	Northern Reizeigat and Beni Helba	1982	grazing and water rights
15	Kababish, Kawahla, Berti and Medoub	1982	grazing and water rights
16	Rezeigat and Mysseriya	1983	grazing and water rights
17	Kababish, Berti and Medoub	1984	grazing and water rights
18	Rezeigat and Mysseriya	1984	grazing and water rights
19	Gimir and Fallata (Fulani)	1987	administrative boundaries
20	Kababish, Kawahla, Berti and Medoub	1987	grazing and water rights

No	TRIBAL GROUP INVOLVED	YEAR	MAJOR CAUSES OF THE CONFLICT
21	Fur and Bidayat	1989	armed robberies
22	Arab and Fur	1989	grazing, cross-boundary politics
23	Zaghawa and Gimir	1990	administrative boundaries
24	Zaghawa and Gimir	1990	administrative boundaries
25	Taisha and Gimir	1990	Land
26	Bargo and Rezeigat	1990	grazing and water rights
27	Zaghawa and Maaliya	1991	land
28	Zaghawa and Marareit	1991	grazing and water rights
29	Zaghawa and Beni Hussein	1991	grazing and water rights
30	Zaghawa and Mima and Birgid	1991	grazing and water rights
31	Zaghawa v. Birgid	1991	grazing and water rights
32	Zaghawa and Birgid	1991	grazing and water rights
33	Fur and Turgum	1991	land
34	Zaghawa and Arab	1994	grazing and water rights
35	Zaghawa Sudan v. Zaghawa Chad	1994	Power and politics
36	Massalit and Arab	1996	Grazing, administration
37	Zaghawa and Rezeigat	1997	Local politics
38	Kababish Arab and Medoub	1997	grazing and water rights
39	Massalit and Arab	1996	Grazing, administration
40	Zaghawa and Gimir	1999	Grazing, administration
41	Fur and Arab	2000	grazing, politics, armed robberies

Source: Mamdani M. (2009, p. 346).

On top of this came enactment of the Regional Government Act in 1979. Its premise was to make the provincial government closer to the people. Under this Act all regions had governors appointed from among the locals, except for Darfur where Governor al- Tayeb al-Mardi, from the Nile Valley was appointed, not with Darfur issues in mind but to coordinate the support the Nimeiri regime was providing to Chadian, Hissen Habre, who was leading a rebellion against the Chadian government (Prunier, 2008, p. 48). Residents of Darfur interpreted this move as proof of how little the Khartoum government cared about their welfare in relation to geopolitical calculations. In their view, President Nemeiri was more concerned with the prospect of losing his anti-Libyan base of operations than he was about the unrest his appointment of a non-Darfurian governor might generate.

This appointment also had the effect of increasing racial antagonisms, which had been building because of the many years of marginalization by the central authorities. Al-Tayeb's appointment just served to confirm the lack of concern by the regime. However, Nimeiri did eventually give in to the unrest when he sacked the governor and replaced him with a local, Ahmed Ibrahim Diraige, whose credentials as a member of the Darfur Development Front (DDF) gained him wide acceptance (Prunier, 2008, p. 50). Unfortunately, Diraige's efforts to revive the deplorable state of Darfur after so many years of neglect received little support from the central Khartoum regime. Diraige's task was further complicated by the drought and famine that were raging in the 1980s. Government policies on local agriculture, infrastructure, and provision of water holes were deficient to say the least. Although the government claimed not be able to spare any funds for these projects it continued to supply arms to Hissen Habre's guerrillas; this again showed where the priorities of the Khartoum government lay.

Further changes in administrative structure done with the intention of changing the demographics of Darfur in favor of the Arabs were made in 1994, when Darfur was split into three states: South Darfur whose headquarters was at Nyala, North Darfur with headquarters in El-Fasher, and West Darfur headquartered in El Geneina. This divided the Fur, the largest tribe, and rendered them a minority in all three states (International Crisis Group, 2007, p. 8). With these changes, and the annexation of the northern part of

Darfur to the Northern state, isolated Darfur denying it revenue from trade with Libya. This maneuvering by the Khartoum regime was intended to weaken the power of the non-Arab tribes to gain leverage in future political contests, particularly in elections that would require numbers.

All of these decisions and changes served to increase tensions and suspicions among the peoples of Darfur. For example, further reforms in 1995 divided *dar* Massalit into 13 emirates, with six emirates being given to Arab tribes, mostly immigrants from Chad. This led to the diminished status and loss of authority for the Massalit Sultan, resulting in devastating ethnic conflict between the Massalit and the Arabs (Abdul-Jalil, Mohammed, and Yousuf, 2007, p. 57).

3. Land Tenure

Historically, two methods of land ownership were recognized in Sudan: individual and communal. Individual ownership was mostly limited to the area around the Nile valley, from Gezira downstream. In Darfur, on the other hand, land was collectively owned by the members of the tribe with the tribal leadership determining its use. Tribal leaders had extensive powers to allocate parcels of land to their members for dwelling, grazing, agriculture, or other forms of use. In 1970, President Jaafar Nimeiri's military regime passed the Unregistered Land Act, declaring all un-registered land to be the property of the state (Tubiana, 2007). This meant that the majority of the land in Sudan, and almost the entire region of Darfur, was to be considered state owned. This Act opened the door to widespread abuse of rural land tenure as the state could now freely allocate land to whomever it deemed fit.

Darfur's traditional land tenure system, which developed during the Fur sultanate, and operated according to clear guidelines on land use, ensured harmony in the multi-ethnic Darfur sultanate (Tubiana, 2007). Individual rights to land were recognized and could be inherited, but land could not be passed on or sold to outsiders. Thus, land remained the joint property of the clan/tribe, with provisions made to accommodate those outside the tribe to use but not own land.

According to Sean O’Fahey and Abu Salim “Masters of the land, the sultans, distributed *hawakir* (territories with clear boundaries, singular *hakura*) to Fur leaders and dignitaries, to leaders from other groups who were their vassals and to Faqis (Muslim scholars)” (as cited in Tubiana, 2007, p. 73). This system ensured that no tribe was excluded from access to land, thus ensuring tribal co-existence. However, the legal authority of the 1970 Act, that assigned all unregistered land to the state, increased the agitation by the “*darless*” Arabs to be allocated their own “*dar*.” This helped ignite competition between tribes that had previously managed their affairs through the traditional land tenure system, and with the government supporting the Arab tribes the conflicts escalated to the current levels. What is important to add is that the traditional system had also ensured that key features associated with agricultural land, such as water holes and pasturelands were likewise shared according to clear guidelines. This too, had helped preserve harmonious co-existence between the Arabs (nomads), and non-Arab farmers.

For the people of Darfur as in most African societies, the value of land is not merely economic. It is critical to the identity, and is embedded in the social structure and history of the community. As a hub around which customs, culture and traditions revolve, land holds very high symbolic or emotional value. This is yet another reason the division of *dar* Massalit generated so much resentment and communal conflict with the Massalit tribe striving to protect their identity and position in the tribal hierarchy.

E. THE NORTH–SOUTH CIVIL WAR AND THE PEACE PROCESS

The civil war between northern and southern Sudan, which lasted for 21 years, officially came to an end following the signing of the Comprehensive Peace Agreement (CPA) on 9 January 2005. The north-south civil war and the peace process have had both direct and indirect effects on security and stability in Darfur. First, the government of Sudan (GoS) recruited militias from Darfur to fight in the south. For example, during the 1980s Nimeiri mobilized *murahaleen* (militias) that included the Baggarra Reseigat from southern Darfur (Johnson, 2003, pp. 81–83). This resulted in the increased militarization of Darfur, with many Darfurians being trained in warfare and becoming accustomed to

operating in a war economy. Another example of the north-south war spilling over into Darfur came in 1991 when the SPLA sponsored incursions led by Daoud Boulad, a Darfurian who was formerly a member of the Islamic movement. Boulad was arrested and eventually executed making the end of his movement. This increased the tension between the Arab vs. African tribes, leading to a massacre of the Dinka in El-Daein South Darfur in 1986 (Daly, 2007, p. 239). The Dinka, found predominantly in south Sudan, had fled the north-south civil war and sought refuge in South Darfur. Following Boulad's unsuccessful rebellion, they were seen as supporting the southern rebellion, which the government now viewed as spreading to Darfur. Thus, the government mobilized the *murahaleen* militias against them.

Secondly, the civil war drained development resources, leading to further marginalization of Darfur. Coupled with international economic sanctions and IMF suspension of aid to Sudan, no donor could provide any assistance besides relief aid.

The third effect of the north-south peace process was its exclusive nature. The peace process has been viewed as having reduced the problems in Sudan to a single North-South problem, disregarding the claims of people in other peripheral regions such as Eastern Beja and Western Darfur. This continues to raise questions about how comprehensive the CPA is, or should be considered to be. At the same time, the peace process signaled that the reward for armed struggle *is* negotiation. Indeed, some believe that this encouraged the rebellion in Darfur. This argument is in agreement with Allan Kuperman's (2005) thesis about "genocidal rebellion." Kuperman sees the situation as one in which a rebel group was willing to risk the lives of its people by rising up against a relatively strong government in the hope that international humanitarian intervention would help facilitate their victory. According to such a view, the Darfur conflict can be considered to have resulted from the rebels calculating the expected benefits from humanitarian intervention.

F. MOBILIZATION OF MILITIAS AND MILITARIZATION OF THE REGION

Throughout this period, the Sudanese government manipulated mounting racial tensions between the Arabs and blacks non-Arabs in Darfur to its own ends. These tensions reached extreme dimensions during the civil war of 1987–1989 between the Fur and united Arab tribes referred to as the “Arab gathering” The government in Khartoum inflamed the clash by supporting and arming the Arab tribes, in part to prevent southern Sudanese rebels from gaining a foothold in the region. Because of this policy of government support to Arab militias, the African tribes (Fur, Massalit and Zaghawa) in turn formed self-defense groups, out of which came the first Darfur insurgent group in 2003 (Straus, 2005, p. 126). In effect, Khartoum was fighting a proxy war with the people of Darfur (mainly the black African tribes) using the Arab Janjaweed militias. The name Janjaweed was originally derived from “*fursan* (horsemen, Knight) *mujahedeen*” (International Commission of Inquiry Report, 2005, p. 30). Janjaweed are Arab tribal militias recruited and armed by the government to support the army’s military operations. However, the Khartoum authorities deny supporting these notorious militias. The International Commission of Inquiry, established in pursuant to United Nation Security Council resolution 1564 (2004), to investigate the crimes in Darfur confirmed that the Janjaweed not only received weapons and logistics from the government, but they also have close ties with government officials (p. 34). The name was also used as a derogatory term to categorize bandit and criminal groups in Darfur.

In 2002 the governor of Darfur General Suleiman recognized the futility of using militias to fight the rebels, and instead advised a strategy of negotiations, stating that the Darfurians had genuine grievances regarding their political and developmental needs, which needed to be addressed (Flint and de Waal, 2008, pp. 116–123). But instead of being heeded, General Suleiman was sacked, Musa Hilal (a notorious Janjaweed leader who has since been indicted by ICC for human rights abuses) was released from jail, and militia recruitment intensified, three events that set the stage for the bloodiest period (2003–2004) in Darfur.

G. CONCLUSION

In sum, we can say that the violence that rocked Darfur has its roots in historical injustice, uneven distribution of resources, and debilitating environmental conditions, which were exacerbated by poor political leadership that in turn set the stage for ethnic/racial flare-ups. Faced with a strong rebellion, the GoS adopted tactics that had been developed and employed in the North-South civil war that, among other things, involved arming the Janjaweed militia. This served to further polarize the ethnic/racial divisions in Darfur into an Arab-Africa conflict that acquired currency with the media and those writing about this conflict, since it seemed to mirror the North-South civil war that pitted the Muslim north against the Christian or animist Africans of southern Sudan. Despite concerted efforts by the AU, with the support of the international community, the conflict persists to date. The next chapter will address the factors that have prolonged this conflict.

III. WHAT HAS PROLONGED THE CONFLICT

A. INTRODUCTION

The Darfur crisis is now entering its sixth year, though the killings have been reduced to almost pre-war their levels thanks to humanitarians' concerted and persistent efforts to assist the displaced. Still, violence remains at unacceptably high levels. One reason for the current lull is the DPA negotiated under AU auspices with assistance from the international community. The DPA was signed on May 5, 2006, by the GoS and only one rebel group, SLA/MM, led by Minni Minnawi. The agreement consists of three protocols: power sharing, wealth sharing, and a security arrangement. There is also an additional "chapter" laying out the framework for "Darfur-Darfur Dialogue and Consultation (DDDC). Two rebel groups, the JEM and the SLA/AW, refused to sign the agreement, with Abdel Wahid, the leader of SLA/AW faction, citing two reasons: first, the need for more direct SLA participation in the implementation of the security arrangement, and second, the agreement did not provide for adequate political representation or a victim's compensation fund (International Crisis Group, June 20, 2006, p. 1).

While many consider the DPA to be a triumph, its future remain uncertain due to a number of reasons. Among them, the government of Sudan lacks the political will to implement the objectives set out in the DPA. The proliferation of rebel groups has also led to a divided agenda, weakening their bargaining power in the negotiation process. The lack of a unified and coordinated effort by international community has similarly prevented sufficient pressure from being brought to bear on the parties to the conflict. Lastly, failure to involve all the stakeholders in the peace process has proved costly.

For instance, the AU mediators failed to give the people of Darfur and the victims of the conflict—particularly women, internally displaced persons, and non-aligned Arab groups—an adequate voice at the talks. This oversight was only realized at the very end of the negotiation process, which involved the GoS and only three rebel groups recognized by the AU. The AU tried to secure buy-in from the Darfurians through what it

called the Darfur-Darfur Dialogue and Consultation (DDDC) process. However, since the DPA was already dead on arrival, render the DDDC meaningless before it could begin. One important lesson learned, therefore should be that any peace initiative has to involve all the stakeholders affected by the conflict.

Also, the longer a peace process drags on, the more new challenges emerge, especially when a large part of the population remains displaced from their homes. For example, those who have occupied the land of the displaced will find it hard to revert back to their original landless status with the passage of time, especially in a situation where the senior members of the community will have passed on or have become too old to be effective participants in the peace and reconciliation process. In addition, the generations now growing up in IDP camps and receiving aid will lose the opportunity to learn the survival, subsistence, and coping strategies/mechanisms that have been passed on from generation to generation and which are so location-specific and necessary in Darfur's fragile and delicate environment.

Also of significance is that the channeling of the population into IDP camps, coupled with continuing violence around these camps, has led to changes in social roles. Traditionally it was men who went out into the fields to perform manual labor in order to provide for their families. But with the fear of being targeted, roles have been inverted; females have become the providers while the men have confined themselves to the IDP camps.

In addition to factors like these affecting civilian stakeholders, the DPA face ongoing challenges since only two parties, GoS and SLA/MM, signed the agreement, with the other two factions, SLA/AW and JEM, failing to sign. Consequently, around the time of the signing, the peace process was greeted with a deteriorating situation on the ground in Darfur. There was a marked increase in violence directed at civilians, IDPs, members of the humanitarian community, and even the AU peacekeepers (AU Report, 2009, June 27). Such a situation begs the question, what processes can be put in place to protect or quarantine the peace process from spoilers messing it up? It is evident that peace cannot be negotiated in an atmosphere of violence and insecurity, and thus there have been calls for a credible plan for the disarmament and demobilization of the

Janjaweed militias and other rebel groups. However, the DPA was particularly weak in articulating and delineating how, and by whom, implementation of the agreements reached was to be undertaken. First, DPA relied heavily on the Khartoum government to carry out disarmament of the Janjaweed militias, a task that the GoS had failed to complete on two previous occasions. Also, the AU force which was tasked with providing protection to civilians and monitoring compliance with the provisions of the Agreement lacked the capacity to meet these requirements.

B. PRIMARY STAKEHOLDERS

1. Lack of Commitment by the Khartoum Government

The GoS, being one of the belligerents in concert with its proxy Janjaweed militias, has been cited as responsible for many of the atrocities committed against the civilian population in Darfur. Faced with a rebellion, the GoS conducted a classic counterinsurgency operation of “draining the swamp” by indiscriminate targeting of the population further alienated the population. Thus, the government’s repressive methods increased rebel mobilization as more civilians were now willing to join the insurgents or provide passive support.

Meanwhile, the motivation for the Janjaweed in joining the conflict on the government’s side was the prospect of gaining land by systematically pushing non-Arab farmers out of their homes, a process which seems to have succeeded as currently most of the population lives as either refugees or IDPs. The various peace initiatives that have been undertaken have identified the imperative need to disarm these militia groups, but the onus of doing so has devolved to the GoS, which has proved time and again unable or unwilling to.

The Khartoum government has routinely shown that it cannot be relied upon to deliver or adhere to any agreement it makes as it makes these agreements out of expediency. For instance, though the CPA was signed in 2005 to end the North-South war, many of its provisions have been rejected by the presiding National Congress Party (NCP) in Khartoum. According to the UN Secretary General, Ban Ki-Moon, the main

obstacle to the peaceful solution to the Darfur conflict is the “lack of political will among all the parties to pursue a peaceful solution” (Sudan Tribune, 2008, April 17).

The security situation remains very unstable and violence has escalated. In Darfur, the Sudanese government has also been unwilling to cooperate and change its political position. For instance, since political marginalization was one of the root causes of the conflict, the power sharing protocol in the DPA is arguably one of the key items for helping achieve peace. During the negotiations, the rebel movements argued for the Darfur region to be represented at the national level by a Vice Presidency. However, the government delegation refused this request, as it would affect the delicate power balance in the government of national unity (GNU) established following the signing of the CPA between the NCP and SPLA (International Crisis Group, 2006, June 20, p. 7).

The Khartoum regime likewise adopted a strategy of obstructionism concerning deployment of UN peacekeepers. The Sudanese regime’s intransigence meant that the UN mission that was scheduled to start operations in 2006 was ultimately delayed, impacting the peace process. Despite having eventually accepted the deployment of a UN force in the form of UNAMID, Khartoum continues to manipulate and undermine the forces’ operational machinery, first by refusing the participation of non-African troops, but also by restricting their having a free hand in the operation area. For example, Khartoum has required prior notice for flight operations and has restricted nighttime flights. These measures have not only impaired the mission’s operational flexibility, but also denied UNAMID specialized assets from traditional UN troop-contributing countries such as Bangladesh, India, and Pakistan (Gowan, 2008, p. 461)

2. Rebel Proliferation

Since the initial conflict in 2003, the number of rebel factions has increased dramatically from the initial two groups, the JEM and the SLA, to approximately 27 separate factions (Ochieng, 2008, January 28). Proposed causes for the rebel proliferation include: divisions between SLA leaders triggered by outside support from the Sudan People’s Liberation Movement (SPLM), uneasy alliance between the ethnic Fur and Zaghawa tribes, Sudanese government manipulation of SLA geographical and ethnic

differences, generational clash between young field commanders and elder tribal intellectuals, and exiled leadership that exacerbated the power vacuum within the burgeoning SLA (International Crisis Group, 2005, and Tanner and Tubiana, 2007). This proliferation of the rebel groups continues to complicate the peace process. Similarly, the proliferation of the rebel movements has increased insecurity in the region, affecting the humanitarian delivery of aid to the affected population (OCHA, 2007, July). The safe passage negotiated by the humanitarian groups to deliver aid is affected with each entry of a new rebel movement. For a peace process to be possible, the interests of all the affected parties must be represented, a daunting task given the nature of rebel proliferation.

In addition to the challenge of rebel proliferation, there has been increased internal in-fighting over land and power, which has resulted in fragmentation within the Arab tribes. Some have gone so far as to distance themselves from the NCP (International Crisis Group, 2007, November 26). This presents both challenges and opportunities for the peace process. One challenge is that the NCP no longer seems able to control the Arab tribes who constitute the Janjaweed militias. On the other hand, this could present an opportunity if these groups can be engaged directly. The NCP has often used them for its political advantages, and thereby undermined chances for a lasting reconciliation. Negotiating with them directly could help circumvent the NCP's manipulations.

3. Internally Displaced People (IDPs), Refugees and Civilians

Since the conflict erupted in 2003, over 2.7 million Darfurians have been internally displaced. These stakeholders have a strong interest in returning to their land, and to a stable environment with access to water and food. They also have a claim to some form of compensation for the atrocities committed against them. Their return is prevented, however, by the continued insecurity coupled with the destruction of their means of livelihood following the scorch earth tactics used by the GoS and the Janjaweed militias. Compounding these problems is the challenge presented by illegal squatters who have occupied their land with the blessing of the GoS, which is keen on changing the regional demographics in favor of its perceived supporters.

Six plus years of destruction have also altered the landscape in Darfur thanks to the chopping down of trees and removal of markers, making it impossible to identify land boundaries. This will present an additional challenge for resettlement, and will call for patient employment of local traditional reconciliation and conflict management mechanisms to re-establish property rights and boundaries.

C. SECONDARY/EXTERNAL STAKEHOLDERS

Secondary and external actors also have to be considered stakeholders. These include both state and non-state actors who have an interest in the Darfur conflict and have contributed in the intervention efforts or prolongation of the crisis.

1. Lack of Unified Response by the International Community

When the atrocities in the Darfur region were first reported, the international organizations (UN, EU, and AU) were slow to react. International responses finally came in the wake pressure from aid agencies and the media. The pressure they exerted was sufficiently strong that the US brought the matter to the attention of the United Nations Security Council (UNSC). The slow response by the international community to the Darfur crisis was in part due to the ongoing North-South peace talks, which had reached a crucial phase. The participants felt that any act that would put pressure on the Khartoum government would run the risk of destabilizing the talks, which had achieved impressive progress towards ending the 21-year-old civil war. For its part, the Khartoum regime accurately predicted that the international body was too preoccupied with the north-south peace process to take any notice of the western region, and that their counterinsurgency operation would achieve a quick victory, an assessment which in retrospect was wrong.

In May 2004, the U.S. State Department, after a full investigation of the atrocities, declared the killings in Darfur to be “genocide.” Alex De Waal points out the importance of labeling the Darfur crisis a genocide, “because it broadens the usage of the term “genocide” to include ethnically targeted killings, rapes and displacement perpetuated in the course of counterinsurgency, a significant expansion of the customary usage of the term to refer to the attempt to eliminate entire population” (de Waal, 2007, p. 1041). While the U.S. was passing this verdict of genocide, the EU and the AU could not agree

on the use of the term, though there was no dispute about the fact that atrocities were being perpetrated by the Khartoum government and its proxy Janjaweed militias, and many more lives and property were being lost or destroyed as the world debated about what to call the crisis.

In an effort to bring the situation under control, the United Nations Security Council passed several resolutions. The first, Resolution 1564 (July 2004), added Darfur as an additional mandate under the UN Mission in Sudan (UNMIS), which was overseeing the north-south peace process. Resolution 1590, which established a committee to monitor the implementation of the measure on Darfur, was passed in early 2005. In July 2007, UNSCR 1769 reflected consensus among all members of the Security Council concerning the UN/AU hybrid operation in Darfur, to be called the UN African Mission in Darfur (UNAMID).

If any lesson can be learned from the success of the CPA, which has brought relative peace to South Sudan since it was signed in 2005, it is the need for a strong coordinated action by the international community. The CPA was realized in large part because the international community (especially the U.S., the United Kingdom, and Norway) demonstrated strong leadership, invested heavily in diplomacy, and applied coordinated leverage on the parties to the conflict. For the Darfur case, any peace process must receive backing from the core group of countries with the most leverage over the parties. In the case of Darfur, these should include the U.S., the United Kingdom, France, and China, backed by focused incentives and pressure from the UN Security Council through the AU mediation mechanisms already in place.

2 Competing Interests—Counterterrorism, Commercial Connections or Solidarity

Although the conflict in Darfur has received an unprecedented amount of international and media attention, the gap between rhetoric and action is quite profound. John Prendergast, senior advisor at the International Crisis Group, highlights the inadequate response and lack of a coherent strategy or policy for engaging the Khartoum government. As he puts it, “What is driving U.S. policy and that of the broader

international community is a strategy of constructive engagement with the Khartoum regime driven either by consideration of counterterrorism (United States), commercial connection (China, Russia, and some other European countries) and solidarity (Arab League)” (Prendergast, March 1, 2007). Self-interest of this sort has led to strong rhetoric and resolutions that suggest, but do not lead to increased pressure on Khartoum, and only served to encourage the regime to intensify its divide and destroy policy in Darfur in the interim. In addition, the U.S. and its allies have not been willing to intervene militarily in Sudan, as they are already over-committed in the wars in Iraq and Afghanistan.

China’s business interests drive its relations with Sudan, especially its policy of “non-interference with domestic affairs” of a country. Chinese leaders say that human rights are relative, and each country should be allowed its own definition and timetable for reaching them (Hanson, 2008). Currently, China is working closely with the NCP to develop Sudan’s oil industry, as well as to improve basic infrastructure and build dams. China has huge oil investments in Sudan, and buys two-thirds of the oil the GoS controls. China could play a very important role in ending the conflict in Darfur if it would utilize its political leverage against the GoS. Yet, Khartoum fully understand that China’s increased demand for energy and the need to secure new sources to satisfy its needs means that issues touching on human rights and good governance will always come second.

D. AFRICAN UNION

Since its inception in 2002, the African Union has made peace and security one of its chief priorities. Its key organ, the Peace and Security Council (PSC) that came into operation in March 2004, faced the immediate challenge in April 2004 of rising to the occasion and delivering on the N’djama Humanitarian Ceasefire Agreement (HCFA) between the Government of Sudan and the rebel forces, mediated by Idris Deby, the president of Chad.

Article 1 of the HFCA called for the cessation of hostilities so as to allow for fast and unrestricted humanitarian access to the needy population, and also to pave the way for a just and durable solution to the problem of Darfur (AU Report, October 2005). With

no other organization ready to monitor compliance with this ceasefire agreement, the AU hurriedly deployed its monitors in Darfur without adequate pre-deployment and logistical assessments. The initial mandate of AMIS I was to assist the parties in conflict to reach a political settlement. It was tasked to monitor and observe compliance with the HCFA; undertake confidence building; facilitate the delivery of humanitarian assistance; assist IDPs in their camps and eventually facilitate their repatriation; and promote overall security in Darfur. In accordance with this agreement, the AU deployed an initial team of 60 African Military Observers (MILOBs) and a 300-strong MILOB protection force. In addition, it was agreed that the parties to the conflict, as well as representatives from the international community, namely the EU and the US, would participate in the mission. The deployment of AMIS I presented many challenges to the AU and its partner states. Some of the key shortcomings that have plagued the AU deployment since 2004, and which have led many critics to view it as spineless and ineffective, include: too restrictive a mandate; inadequate numbers of troops to cover Darfur, which is the size of France; and serious operational, logistical, and capacity shortfalls.

Given these glaring shortcomings, an enhanced force was called for which the parties to the conflict—the GoS, SLA/M and JEM—accepted (AU Communiqué, 4 October 2004). The AU Peace and Security Council (PSC) approved on 20 October 2004 a plan for AMIS II, which described the transformation of the nature, scope and composition of the mission, and called for the enhancement of both the mandate and the troop strength of the MILOBs and the protection force. This enhanced AMIS II was comprised of 3,320 personnel, including 2,341 military personnel, among them 450 observers, and up to 815 civilian police personnel, as well as the appropriate civilian personnel. AMIS II also received a broadened mandate to include “protecting civilians whom it encounters under imminent threat and in the immediate vicinity, within resources and capability, it being understood that the protection of the civilian population is the responsibility of the government of Sudan” (AU Communiqué).

Though driven by the general recognition of the need to take primary responsibility for responding to crises on the continent, the AU’s actual ability to undertake credible and effective operations still remains limited due to a lack of finances,

capabilities, and the capacity of the African troop-contributing militaries to conduct long-term operations. Although there are a number of African states that have considerable UN peacekeeping experience (Senegal, Kenya, Botswana, Nigeria, Ghana, and Zimbabwe), these countries have only been able to carry out their responsibilities with combat support and financial aid from Western countries and the UN. It follows therefore, that the AU's suboptimal performance coupled with the Khartoum government's obstruction of participation by non-African troops in Darfur has served to prevent the deployment of forces that could effectively respond to the crisis.

E. CHADIAN DIMENSION

The Darfur crisis is intricately tied to Chad's stability, meaning it cannot be looked at in isolation. Any peace effort must take Chad into account; otherwise, there will be no meaningful resolution of the Darfur crisis. As is the case throughout Africa, the Darfur region is characterized by fluid boundaries, which make for the rapid spillover of armed conflicts from one state to another. This is demonstrated by the relatively free movement of refugees, small arms, and light weapons across the common border between Sudan and Chad. The existence of social and ethnic groups that straddle the border creates a network of interests that complicates all interactions in this region. For example, the Zaghawa communities living both in Darfur and Chad have been involved in Chad's civil wars, and supported Idris Deby (himself belonging to the Bidemat, a sub-group of the Zaghawa) in his bid to seize power in Chad.

Darfur has long hosted immigrants from West Africa who have settled in Sudan relatively peacefully. The emigration of Chadians into Darfur, however, has been problematic because of their association with armed groups who are keen on seizing power in Chad and use Darfur as a rear base from which to launch their attacks. This has had significant negative consequences in Darfur as they serve to not only alter the demographics of the region, but spread small arms, thereby increasing the rate of crime and violence in the region.

Control of the common border with Chad remains an elusive factor, worsened by the proxy war between the governments of Chad and Sudan. Numerous armed opposition groups challenging the Deby's regime have been reported to receive direct support from Khartoum and operate in Darfur, while members of Chad's ruling circles are giving logistical support and material to SLA and JEM in retaliation (International Crisis Group, 20 June 2006, p. 6). This goes on despite the February 8, 2006 Tripoli agreement reached by the two governments to stop supporting each other's rebels, and work together to end the cross border conflict.

F. LIBYA

Constantly striving to maintain Libya's regional influence and international relevance, Muammar Gaddafi has engaged in territorial disputes and meddled in regional politics since seizing power in Libyan in a coup d'état in 1969. Libyan meddling in the region has had far-reaching effects, especially during the 1970s and 1980s when Gadaffi supported Chadian rebels operating from military bases in Darfur. Libya's interest in annexing the Aouzzou region in northern Chad involved Darfur because of its proximity and strategic location. Because of the cold war strategies of both the former USSR and US, arms and military hardware were sent to Chad and Darfur in huge quantities (Mamdani, 2009, pp. 212–217). This served to inflame and increase armed robberies and tribal conflicts.

Gadaffi's bid for influence in the Sahel region led to the rise of what we might call the Arab supremacy by encouraging the Arabization among the tribes in Darfur, many of whom today provide the foot soldiers for the Janjaweed (Rolandsen, 2007, p. 155). This had a clear impact in the 1987–1989 Arab-Fur war with devastating consequences for the population, and the polarization of Darfur between those identifying themselves as Arab or African.

Similarly, the tension between Sudan and Chad, with each accusing the other of supporting the other's rebels, has seen Libya side with Chad against its regional rival, Sudan. To remain relevant and influence events in Darfur and Chad, Libya currently provides support to JEM and some factions of the SLA—for instance, SLA-Unity led by

Ousman Bushara and Abdallah Yahya (Enough, 2009, July 27). Ironically, Gaddafi also considers himself, a regional peacemaker. Libya has presided over multiple negotiations between Chad and Sudan, and was most recently the facilitator at the 2006 AU talks that led to the signing of the DPA. He subsequently hosted the Darfur peace talks in 2007 at Sirte in Libya. Worth also keeping in mind is Gaddafi's current chairmanship of the AU and his involvement in peace efforts in the region are driven by pursuit of grander international ambitions that include the establishment of a "United States of Africa" with himself at the center.

G. EGYPT

Egypt has twice had legal sovereignty over Sudan first during the Turco-Egyptian control from 1820–1885, and secondly under the Anglo-Egyptian condominium, making it one of Sudan's most important neighbor, and still consider Sudan its backyard. Egypt's concern with its neighbor's affairs is tied to the perceived potential negative effects the fragmentation of Sudan will have on Egypt's national security. Egypt's Minister for Foreign Affairs, Abu Gheit, was quoted on Al Jazeera saying that the Darfur crisis threatens Egypt's national security (ICG Report, 26 November, 2007 p. 20). Egypt is particularly concerned about preserving access to its share of the Nile. The government in Cairo thus supports the NCP in exchange for protecting Egypt's water interests. The Nile agreement, signed by Egypt and Britain in 1929 binds eight other upstream nations (Sudan, Ethiopia, Uganda, Kenya, Burundi, Rwanda, Tanzania, and D R Congo), but the terms of the agreement are quite dated (FAO, The Nile Water Agreement). Preserving the agreement among nine countries is hard enough, but especially with increased demand for water because of population growth and climatic conditions ravaging this region. In its own interests, Egypt will go to any length to ensure that Sudan remains one country. Similarly, Egypt's concern about the disintegration of its southern neighbor is to prevent the possibility of the emergence of a hostile regime in Khartoum or one with a radical Islamic agenda.

Egypt has opposed sanctions against Sudan and attributes most of the violence in Darfur to the rebel non-signatories to the DPA. Though an active participant in the Darfur

peace process—Egypt has provided troops to AMIS and continues to push the NCP and rebels to enter into negotiations—its motives remain suspect in the eyes of the rebel movements, as it is viewed as being too close to Khartoum (International Crisis Group, p. 20). While an important stakeholder, Egypt remains a potential spoiler for any agreement which it believes threatens its interests.

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IV. WHAT CAN BE DONE: A GRASSROOTS RECONCILIATION APPROACH

A. INTRODUCTION

Reconciliation is a process that enables previously warring groups to come together and find room for mutual accommodation. Ideally, reconciliation should involve not only political and military players at the national level, but society as a whole. Since conflicts have existed as long as man, societies have developed ways and mechanisms for dealing with internal conflicts at the local or grassroots level, such as interpersonal or conflicts between families, or clans.

After the end of apartheid in South Africa, the Truth and Reconciliation Commission (TRC) was established to prevent acts of revenge and bloodshed as white minority rule gave way to black majority rule. The TRC drew heavily on the Bantu traditions that resonated with people seeking justice in a way that would still maintain national cohesion. In post genocide Rwanda, Gacaca courts were established for similar reasons. Sudan likewise has such traditional conflict management mechanisms that were previously quite effective and enjoyed wide support until the 1970s when the native administration was systematically weakened. Unlike contemporary conflict resolution mechanisms, traditional mechanisms rely on the power and authority of the elders of a community who are respected by all. In this chapter, we consider how conflict resolution mechanisms might be better harnessed as an instrument for helping to settle the ongoing conflict in Darfur.

Given that the Darfur conflict has been raging for the last six years, the question we need to ask now is: Is there any solution to this crisis in sight? As we have seen, the dynamics of the conflict have local, national, and international dimensions. If the problem is to be solved, especially at the local level, then the solution has to include altering the local parameters driving the conflict. This section explores ways of facilitating a reconciliation process based on the traditional structures used by the people of Darfur.

Externally driven peace initiatives have their merits, but also come with limitations as to how much can be achieved for a long-lasting and permanent peace. Examining the history of Sudan, which has been in conflict with itself for forty out of its fifty years of independence, it seems important to take into consideration the unique character of African culture in general, and Sudanese culture more specifically. Worth examining are the traditional grassroots mechanisms, such as those applied in the 1980s to resolve communal conflicts in Darfur. Also worth considering, are state driven conflict resolution models that involved external mediators, as used in the Addis Ababa Agreement in 1972, CPA, and in the DPA (Mamdani, 2009, p. 288). Lessons too can be drawn from other reconciliation processes undertaken in South Africa, Sierra Leone, Mozambique, and Rwanda. All four of these recognized the importance of a culturally based system designed to achieve lasting reconciliation.

The need for a justice and reconciliation system is highlighted by lessons learned from the CPA which adopted a “blanket forgive and forget amnesty” for those responsible for crimes committed during the North-South civil war. Magdi Algazouli, a Sudanese lawyer, maintains that the “failure to probe into the atrocities committed in [the] GoS-SPLM war encouraged a repeat of the same crimes in Darfur and a blanket amnesty in the Darfur war is simply untenable” (Algazouli, 2009).

B. KEY ISSUES VOICED BY DARFURIANS

As noted previously, the mediation process that culminated in the failed DPA involved only the Khartoum government and the main rebel groups. Conspicuously absent were the voices of the Darfurians, especially the IDPs, refugees, and women. At the end of the negotiation only the GoS and one rebel group, SLA/MM, signed the agreement; the other rebel groups refused to sign and have been accused of being responsible for the spike in violence immediately following the DPA. Omer Ismail, John Prendergast of Enough project, and Jerry Fowler (2008) of the Save Darfur Coalition in their memorandum congratulating the Djibril Bassole on his appointment as UN/AU joint mediator for Darfur highlighted the following key themes raised by the Darfur population for the mediation process to address:

- The need to share power and wealth more equitably in order to end historic marginalization, including direct efforts to increase representation of traditionally marginalized groups in government
- The need to decentralize political and fiscal decisions
- The need for victims of violence to receive adequate and individual compensation and restitution for stolen or destroyed property
- The need for those driven from their homes to be able to return to their lands safely and in dignity, with the establishment of practical land ownership and rights policies that will encourage such return
- The need to dismantle the structures of violence—particularly the Janjaweed militias—that continue to tear Darfur apart
- The need to establish practical mechanism for promoting reconstruction that will include local representation, the government, and the international community (Ismail, Prendergast, and Fowler, 2008).

To properly and adequately address these complex issues, on which the government and the rebels hold quiet differing positions, requires a process that will bridge these disparities and involve a much broader array of stakeholders, particularly the civilian victim languishing in IDP or refugee camps

C. DEALING WITH DARFUR WAR CRIMES

The question of whether peace in Darfur is imminent or not is open to debate, but one thing that is certain is that the sustainability of peace and the guarantee of harmonious post-conflict co-existence require the careful handling of potential war crimes. The reactions so far seen or witnessed following the International Criminal Court's (ICC) indictment of President Omar al-Bashir—the expulsion of 16 humanitarian organizations; the divisions the ruling has caused between those who support versus oppose the decision, especially within Sudan itself; and the AU and Arab League countries' lack of support—proves the need for a careful re-examination of how the Darfur war crimes issue should be approached. The mixed and contentious reaction to Al-

Bashir's indictment has put more than a million of IDPs who depend on humanitarian aid at risk of starvation; it has emboldened the Darfur rebels, thereby reducing the prospects for any genuine engagement with the government; and it has simultaneously unraveled the CPA that ended the North-South civil war (ICG, 2009). The fact that China, the AU, the Arab League and the Islamic Conference have publicly rallied behind Khartoum, criticizing the ICC for endangering ongoing peace initiatives and the security of the peacekeepers has made the prospects for reconciliation even more difficult.

In Darfur, there is little consensus regarding the number of fatalities, the incidence of rape, or the extent of property destroyed (Mamdani, 2009, p. 25–38). However, there is a general agreement that the atrocities committed involve numbers that border on ethnic cleansing and exceed the capacity of the formal systems to handle. To facilitate a quick return of the 2.7 million IDPs to their homes requires a system that will guarantee them justice while fostering reconciliation.

When dealing with cases of mass atrocities committed during an ongoing or recently ended conflict, the question of justice and peace becomes a critical factor in the peace process. In the case of Rwanda after the 1994 genocide, the judicial response was to adopt a three-tier court system to address the different levels of crimes committed. At the top were those seen as bearing the greatest responsibility for the genocide and were tried under the International Criminal Tribunal for Rwanda (ICTR). Second were the middle level perpetrators, tried through the national judicial system. Finally were the local level perpetrators who went through the traditional Gacaca courts, revived and modified to suit 21st century realities (Graybill, 2004).

Critical to South Africa's TRC was, Bishop Desmond Tutu's belief that former enemies could be reintegrated into the community based on his understanding of the African philosophy of *ubuntu*. *Ubuntu* derives from the Xhosa expression "*Umuntu ngumuntu ngambanye bantu*," which translates to "people are people through other people" (Graybill, 2004, p. 3). African traditional thought emphasizes the importance of re-integrating evildoers into the community rather than punishing them; re-integration forms the basis for forgiveness. According to Tutu's conception of *ubuntu*, "I am human because you are human, if I undermine your humanity, I dehumanize myself." In

South Africa, the reason for choosing restorative justice and the granting of amnesty was to encourage the National Party to follow through on its promise of transition to democracy. Without the promise of immunity from prosecution, the white government would not have easily relinquished power. Ironically, this is the same logic the AU and the Arab League apply to oppose the issuance of an arrest warrant for Al-Bashir, claiming it would undermine the ongoing peace process.

D. RWANDA'S GACACA SYSTEM

Following the 1994 genocide in Rwanda, the international community called for accountability and an end to impunity, which led to the formation of the International Criminal Tribunal for Rwanda (ICTR). Because of perceived shortcomings of the ICTR the government of Rwanda revived the traditional system for dispute resolution, Gacaca. Gacaca represents a model of restorative justice because it focuses on the healing of victims and perpetrators through confessions, plea bargains, and reintegration (Tiemessen, 2004, p. 58). This radically differs from the ICTR whose focus is retributive and punitive in nature.

There are significant differences between the Rwandan and Darfur crises. First, Gacaca came into being through a supportive government after the cessation of conflict. But in Darfur the conflict is ongoing and the government is complacent, if not complicit. Secondly, the Gacaca system was generally accepted across Rwanda. But in the case of Darfur, the traditional legal systems differ from one region to the other, which presents clear challenges. Yet at the same time, the local systems in Sudan clearly proved effective during and before the colonial period, (as can be seen from the low number of conflicts in Table 2).

The strength of the Gacaca courts lay in their reconciliation function. In a traditional trial, there is no winner or loser as the verdict is designed to make everybody feel that he is not only gaining, but also losing something. Traditionally, decisions in the Gacaca were sealed by all involved taking part in a shared drink of traditional beer (Butera, 2005, p. 50). This symbolic gesture symbolized restoration of the communality that held society together.

The revived Gacaca system was mandated to deal with the mildest, but most numerous crimes committed during the genocide. The Rwanda Organic Law, conceived in 1996 to facilitate the prosecution of those suspected of having committed acts of genocide, categorized the crimes into four types (Tiemessen, 2004, p. 61), as summarized in Table 3. Gacaca courts were meant to handle categories 2–4, with the punishments varying from life imprisonment to community service and reintegration, but did not include the death penalty (Government of Rwanda, 1996, August 30). “Category One” suspects, having committed the most serious crimes, were to be tried by the national courts.

Table 3. Categories of Crimes.

Category One	Planning, organization, instigation, supervision of genocide
Category Two	Physical attacks resulting in death
Category Three	Physical attacks not resulting in death
Category Four	Looting, theft, property damage

Although the Gacaca has been criticized for various shortcomings, it achieved impressive results. The key criticisms were from international human rights groups regarding the Organic Law’s lack of congruence with international criminal law (Amnesty International, 2002).

As in Rwanda, Darfur had a system of traditional administration and traditional law was maintained in part through the native administration, until it was undermined by recent Khartoum governments. The question this leads to is, can the successes achieved by the Gacaca system in Rwanda be replicated in Darfur? Abdullahi Osman El-Tom (2009) suggests that the Berti tribe’s system of mediation via a traditional council offers one model that could be adopted in Darfur. Clearly minor variations exist from one tribe to another, and so these would have to be harmonized so as to provide a uniform model.

E. DARFUR'S LEGAL SYSTEM OF TRADITIONAL ADMINISTRATION

In Chapter II, we discussed how the systems that had previously managed conflicts in Darfur were systematically emasculated, with no effective alternative introduced for maintaining law and order. As a consequence, and as we see in Table 2, this gave rise to exponential growth in the number of local disputes, especially after 1970.

As elsewhere in Africa, in Darfur most of the population remains rural, depending for subsistence on farming crops and/or raising livestock. The reach of government is so limited that most of the interactions and day-to-day activities in most communities are guided and controlled by traditional structures. Nowhere is the reach of government more limited than in Darfur, which suffers from poor infrastructure, further limiting the level of contact and interaction between communities, let alone with the government.

Traditionally in Darfur, the native administration consists of three administrative tiers (Abdul-Jalil, Mohammed, and Yousuf, 2007, p. 46). Heading the uppermost tier is the paramount chief (referred to in other tribal communities as the *Nazir* or *Malik*), who is in charge of the entire tribe. Next is the *omda* who is the head of a tribal subsection. At the lowest level are the *sheikhs*, who are the village or clan heads. It is worth noting that a chain of command exists among these tiers, with the *sheikhs* being responsible to the *omdas* who are in turn responsible to the paramount chief. All of these native administrators were granted legal powers to maintain law and order and collect taxes in their respective communities. The system was very efficient for maintaining law and order as information travelled up the chain quickly.

As we have seen, the signing of the DPA deferred crucial issues such as land ownership and adjudication of property rights, inter-communal reconciliation, the safe return of IDPs and refugees, delineation of traditional grazing routes, and re-establishment of amicable relations between pastoral and farming communities. The idea was these issues would be dealt with through the Darfur-Darfur Dialogue and Consultation forum to achieve buy-in for the wider population of Darfurians. In a most paradoxical way, this underscores the trust that the people seem willing to place in the potential of the traditional structures for helping to resolve conflict.

F. JUDIYYA

In Darfur, customary mediation is known as *judiyya*. The *judiyya* is based on third-party mediation, with the mediators known as *ajaweed*. Traditionally, these were elderly people who were well versed in communal and customary laws (Bradbury et.al, 2006, p. 88). The *judiyya* is a form of open conflict resolution conference (*mutamarat al sulh*) whose decisions once made, were respected by all. This system of conflict resolution is likely to resonate with Darfurians as generations of intermarriage and coexistence among ethnic groups have led to a common regional understanding about *judiyya*. Like Gacaca, it is a traditional system that evolved for tackling day-to-day disputes involving issues like land rights and boundary disputes.

There are two types of *judiyya*, which can be distinguished based on the convening body or authority: communally sponsored *judiyya* and government-sponsored *judiyya* (Bradbury et.al, 2006, p. 88). The latter had its origins in the Anglo-Egyptian Condominium period, with the first government-sponsored *judiyya* taking place in 1932.

During the colonial period (1916–1956), the native administrators (tribal leaders) formed the body of *ajaweed* or mediators when conflicts involved multiple groups or tribes. When a conflict involved more than one tribe, the government-sponsored *judiyya* was convened with tribal leaders who were not party to the conflict constituting the mediation party (Mohamed, 2002). Since the systematic weakening, of this systems through constant interference, and manipulation of the ethnic divisions by the central government, have substantially undermined the sanctity or value of government-sponsored *judiyya*.

The customary mediation or *judiyya* still enjoys a level of acceptability, especially at the local level where society remains tradition-bound. However, this too is not disadvantage-free.

1. Advantages

- Takes into consideration local structures and understanding
- Quick to institute as it calls for the involvement of those who command respect within the community in question.
- Provides for reconciliation and forgiveness as opposed to punitive judgments as in western form of justice). As one participant is quoted as saying:

The court will postpone the problem, the [*judiyya*] will solve it.” As this individual goes on to note, “The court will declare one of the disputants victorious; the other will feel being the loser and will never forgive the victor. The [*judiyya*] on the other hand, makes both disputants satisfied with the decision, thus pre-empting future tense relations. (Mohamed, 2002)

- Ensures local ownership, which correlates with local legitimacy that would otherwise be missing from an externally driven method of justice and reconciliation.

2. Disadvantage

- Lack of a set standard, as it relies on the competencies of the appointed *ajaweed*, which is difficult to measure.

Having discussed the native or tribal administration’s role in conflict resolution, the question that remains is, how can this system be harnessed to address the problems of Darfur? As discussed earlier, the systematic evolution of the native administration has seen more emphasis placed on its administrative aspects—to include political mobilization—than its previous judicial role of maintenance of law and order (Abdul-Jalil, Mohammed, and Yousuf, 2007, p. 50). The tribal structures are capable of generating an acceptable solution but only if backed by an unbiased administration. For instance, disputes over land, communal grazing, water, and animal routes can be handled amicably through the *judiyya* system, ideally resolving them before they got out of hand

and become violent and require formal government attention. But the government has to be willing to support these local initiatives without interfering.

Looking at Darfur today, the same factors or constraints that led the British to retain and support an administrative system based on tribal affiliation (indirect rule) still remain: Darfur is a vast and remote area, and the central government lacks the resources to effectively extend its authority to the remote and/or highly mobile communities.

The moral status and customary skills of elders remain a vital component in tackling many of the problems in rural African societies. The traditional structures on their own are not a complete panacea for the problems in Darfur, but should be combined with development assistance so the people can regain their means of livelihood. Additionally, as traditional systems are restructured to deal with the local level disputes, there is a need for internal reforms in Sudan so that the marginalized regions can be made part and parcel of the country. Sudan's history has been bedeviled by struggles between the North and South, Arabs and Africans, Christians and Muslims. It is only through the implementations of genuine reforms that such dichotomies can be addressed, to arrive at a Sudan that is at peace and in harmony with itself.

V. CONCLUSIONS

This thesis has argued that conflict in Darfur is not a new phenomenon, but the scale was managed at the communal level by use of time-tested traditional mechanisms. These mechanisms were based on solid traditional institutions such as mediation through a council of elders (*ajaweed*). The current conflict, which began as a civil war in the 1980s over access to scarce resource (land and water), was exacerbated by other factors ranging from: environmental degradation, population growth, spillover of conflicts in the neighboring country of Chad, and the geopolitical maneuvering of regional actors such as Libya and Egypt. While Darfur's multiple ethnic groups existed in relative peace previously, the policies adopted by successive Khartoum regimes have served to polarize the population into "Arab" and "African" groups that further worsened the competition over scarce resources.

Beginning in the 1970s, the systematic and deliberate erosion of the native form of administration which was responsible for maintaining law and order and resolving conflicts meant that communal feuds escalated, thereby leading to the current situation. In the context of greater access to sophisticated weapons (AK47s, G3s and RPGs), conflicts intensified into the bloody and brutal war we see today. Thanks to the globalized nature of society, politicization of the native administration, and the introduction of the gun culture, the powers of elders have been reduced. The supply and availability of cheap small arms has changed power relations in the Darfur, with the emergence of new centers of power as youth gain access to arms and use them for criminal activity.

In addition, with the population trapped in IDP camps with the accompanying loss of property, elders have lost their autonomy and status in society. Traditionally, headmen in African settings drew their power from their status in society. But, disrupted by conflict, this authority has been severely eroded reducing elders effectiveness as mediators of conflict. Furthermore, with the politicization of the local administrative system by operators at the center, there is confusion about the role of elders in relation to elected or appointed local government officials whose agenda is to do the bidding of the central government, disregarding the local populace.

While the ultimate goal should be to resolve the structural issues that underlie the conflict in Darfur and develop the region so as to ensure that power and wealth are shared, in the interim there is an urgent need to strengthen traditional resources for conflict resolution because they still retain substantial resonance among many members of displaced local populations. In view of the fact that in the greater part of Darfur, the state has a relatively weak presence, if it is not totally absent, traditional mechanisms for conflict resolution are certainly better placed to provide an ideal alternative that takes into consideration community values and promotes rehabilitation of errant elements back into the community.

For *judiyya* to be effective, however, the relations between central government, local authority, and indigenous leadership need to be clearly articulated. Similarly, there is a need to have a clear definition of what *dar* (tribal land) and ownership (*hawakir*) entails. That is, do these traditional concepts refer to ethnic homelands or administrative units? What rights do minority groups within the *dar* have versus those of the majority? The DPA, failed to articulate this well, but only states in Paragraph 158 that “they shall be recognized” (Sudan Tribune), and refers the matter to a State Land Commission. Again, the implication is that traditional and customary laws have a role in addressing local disputes. This realization alone is a step in the right direction. Without advocating a total reversal to pre-1970s traditional administrative structures, it is worth building on what Sudanese themselves recognize are helpful. The challenge lies in strengthening them from the center without subverting them or using them for local or supra-local political gain.

LIST OF REFERENCES

- Abdul-Jalil, M. A., Mohammed, A. A., & Yousuf, A. A. (2007). Native Administration and Local Government in Darfur: Past and Future. In Alex, de Waal (ed.), *War in Darfur and the Search for Peace* (pp. 39–67). London: Justice Africa.
- African Union (2004, October 20). Communiqué of the Seventeenth Meeting of the Peace and Security Council. PSC/PR/Comm. (XVII). Addis Ababa, Ethiopia. Retrieved 20 September 2009, from http://www.iss.co.za/af/Regorg/unity_to_union/pdfs/centorg/17PSc/comm.pdf
- African Union (2006, June 27). Report of the Chairperson of the Commission on the Situation in Darfur. PSC/Min/2(LVIII). Retrieved 16 August 2009, from http://www.africa-union.org/root/AU/AUC/Departments/PSC/ps/PSC_2004_2007/pdfs/2006/2006_58_R1E.pdf
- Al Mangouri, A. H. (2004, December). Combating Desertification: Experience from Umm Kaddada District in Eastern Darfur. In *Environmental Degradation as a Cause of Conflict in Darfur* (pp. 46–58). University for Peace. Retrieved 28 September 2009, from www.upeace.org
- Amnesty International (2002, December 17). Gacaca Tribunals Must Conform with International Fair Trial Standards. Retrieved 28 September 2009, from <http://www.amnestyusa.org/document.php?id=80256AB9000584F680256C8C005E4CC6&lang=e>
- Bradbury, M., Ryle, J, Medly, M. and Sansculotte-Greenidge, K. (2006). Local Peace Process in Sudan: A Baseline Study. Rift Valley Institute. Retrieved 4 September 2009, from <http://www.sudanarchieve.net/cgi-bin/sudan>
- Butera, G. (2005). Rwanda Gacaca Traditional Courts: An Alternative Solution for Post-Genocide Justice and National Reconciliation. Retrieved 27 September 2009, from Dudley Knox Library Web site.
- Dagne, T. (2006, February 24). Sudan: Humanitarian Crisis, Peace Talks, Terrorism, and U.S. Policy. Congressional Research Service: Library of Congress
- De Waal, A. (2004). Counter-insurgency on the Cheap. Review of African Political Economy, 31(102), 716–725. Retrieved 14 June 2009, from <http://www.jstor.org/stable/4007044>
- De Waal, A. (2007). Darfur and the Failure of the Responsibility to Protect [Electronic version]. International Affairs 83(6), pp. 1039–1054.

- De Waal, A. (2008, Fall). The Humanitarian Carnival: A Celebrity Vogue. Retrieved 15 June 2009, from <http://www.worldaffairsjournal.org/2008 - Fall/full-DeWaal.html>
- Enough Team (2009, July 27). Chad's Domestic Crisis: The Achilles Heel for the Peacemaking in Darfur. Retrieved 26 September 2009, from <http://www.enoughproject.org?publications/chads-domestic-crisis-achilles-heel-peacemaking-darfur>
- FAO Archive Doc. Agreement 57 between the Republic of the Sudan and the United Arab Republic for the full Utilization of the Nile Waters signed at Cairo, 8 November 1959[64]. Retrieved 15 August 2009, from <http://www.fao.org/docrep/w7414B/w7414b13.htm>
- Government of the Republic of Rwanda (1996, August 30). Organic Law No. 08/96 On the Organization of Prosecutions for Offences constituting the Crime of Genocide or Crimes against Humanity Committed since Oct. 1990. Retrieved 28 September 2009, from <http://www.preventgenocide.org/law/domestic/rwanda.htm>
- Gowan, R. (2008, August). The Strategic Context: Peacekeeping in Crisis, 2006–08. *International Peacekeeping*, 15(4), pp. 453–469.
- Graybill, S. L. (2004). Ten Years After, Rwanda Tries Reconciliation [Electronic version]. *Current History*, 103(673), pp. 202–205.
- Hanson, S. (2008, June 6). China, Africa, and Oil. Council on Foreign Relation. Retrieved 3 October 2009, from <http://www.cfr.org/publication/9557>
- International Commission of Inquiry on Darfur. (2005, January 25). Report of the International Commission of Inquiry on Darfur to the United National Secretary-General. Retrieved 5 November 2009, from http://www.un.org/News/dh/sudan/com_inq_darfur.pdf
- International Crisis Group (2005, October 5). *Unifying Darfur's Rebels: A Prerequisite for Peace*. Nairobi/Brussels: Africa Briefing No.32.
- International Crisis Group, (2006, June 20). *Darfur's Fragile Peace Agreement*. Nairobi/Brussels: Africa Briefing No.39.
- International Crisis Group, (2007, November 26). *Darfur's New Security Reality*. African Report No.134.
- International Crisis Group, (2009, July 17). *Sudan: Justice, Peace and the ICC*. African Report No.152.

- Ismail, O., Prendergast, J. and Fowler, J. (2008, July 10). Sudan: Building Blocks for Peace in Darfur. Enough project. Retrieved 29 September 2009, from <http://allafrica.com/stories/200807100772.html>
- Johnson, H. D. (2006). *Causes of Sudan's Civil Wars*. Bloomington, Indiana: Indiana University Press.
- Jok, Madut. J. (2007). *Sudan: Race, Religion, and Violence*. Oxford England: Oneworld Publication.
- Flint, J. and de Waal, A. (2005). *Darfur: A Short History of a Long War*. London: Zed Books.
- Kuperman, J. A. (2005, June). Suicidal Rebellions and the Moral Hazards of Humanitarian Intervention: Evidence from Western Sudan. *Ethnopolitics Journal*, 4(2), 149–173.
- Mamdani, M. (2009). *Saviors and Survivors: Darfur, Politics, and the War on Terror*. Toronto: Pantheon Books.
- Mohamed, A. A. (2002). Intergroup Conflicts and Customary Mediation: Experiences from Sudan [Electronic version]. *African Journal in Conflict Resolution (AJCR)*, 2(2), 11–30.
- Ochieng, Z (2008, January 28). Sudan: Rebel Factions Thick On the Ground As Hybrid Force Deploys. Retrieved 21 September 2009, from <http://allafrica.com/stories/200801281522.html>
- Prendergast, J. (2007, Mar 01). How to Resolve the World's Hottest War. Retrieved 29 September 2009, from <http://www.africanfocus.org/docs07/sud0704b.php>
- Prunier, G. (2005). *Darfur: 21st Century genocide* (3rd ed.). Ithaca, NY: Cornell University Press.
- Rolandsen, Øystein H. (2007). Sudan: The Janjaweed and the Government Militias. In M. Bøas and K. Dunn (eds). *Africa Guerillas: Raging against the Marine* (pp. 151–170). Boulder, CO: Lynne Rienner Publishers.
- Rotberg, I. R. (2002). The New Nature of the Nation-State Failure [Electronic version]. *The Washington Quarterly*, 25(3): 85–96.
- Sudan News (2005, June). Darfur Conflict: Its History and Development. Retrieved 26 July 2009, from <http://www.sudanembassy.org/pdf/sudanews05.pdf>
- Sudan Tribune (2006, May 10). The Darfur Peace Agreement. Retrieved 22 October 2009, from http://www.sudantribune.com/IMG/pdf/Darfur_Peace_Agreement-2.pdf

- Straus, S. (2005). Darfur and the Genocide Debate. *Foreign Affairs*, 84(1), 123–133. Retrieved 16 June 2009, from <http://www.jstor.org/stable/20034212>
- Tanner, V., and Tubiana, J. (2007). *Divided They Fall: The Fragmentation of Darfur's Rebel Groups*. Switzerland: Small Arms Survey.
- Tiemessen, E. A. (2004, Fall). After Arusha: Gacaca Justice in Post-Genocide Rwanda. *African Studies Quarterly* 8(1). Retrieved 28 September 2009, from <http://www.africa.ufl.edu/asq/v8/v8i1a4.htm>
- Toga, D. (2007). The African Union Mediation and the Abuja Peace Talks. In Alex de Waal (ed.), *War in Darfur and the Search for Peace* (pp. 215–266). London: Justice Africa.
- Tubiana, J. (2007). Darfur: A Conflict for Land. In Alex, de Waal (ed.), *War in Darfur and the Search for Peace*, (pp. 68–91). London: Justice Africa.
- UN's Ban "extremely disappointed" over Darfur. Retrieved 5 November 2009, from <http://www.sudantribune.com/spip.php?article26786>
- United Nation, (2005). World Summit Outcome Resolution- A/RES/60/1). Retrieved on 3 August 2009 from http://74.125.155.132/search?q=cache:MmHf0V5f_ZYJ:unpan1.un.org/intradoc/groups/public/documents/UN/UNPAN021752.pdf+2005+World+Summit+Outcome,+UN+document+A/60/L.1,+20&cd=2&hl=en&ct=clnk&gl=us
- UNSCR. (2005 March 29). Security Council Report 1591. Retrieved on 14 June 2009 from, <http://www.un.org/News/Press/docs/2006/sc8627.doc.htm>
- U.S. Government Accountability Office (GAO), (2006, November). Darfur Crisis: Death Estimates Demonstrates Severity of the Crisis, But The Accuracy and Credibility Could Be Enhanced. Retrieved 14 June 2009, from <http://www.gao.gov/new.items/d0724.pdf>
- Woodward, P. (1979). *Condominium and Sudanese Nationalism*. London: Rex Collings.

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