

NUMBER 6

# SUDAN WORKING PAPER

OCTOBER 2016



UNIVERSITY OF BERGEN



## Peacemaking, Customary Laws and Institutions in Dārūr

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**Sudan Working Paper**  
Number 6, October 2016

ISSN 1890-5056  
ISBN 978-82-8062-610-3 (print)  
ISBN 978-82-8062-611-0 (PDF)

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The traditional native justice system in Dārḑūr has an advantage over the modern state judicial one; it has proved its relevance for effectively managing and resolving conflicts, particularly in the rural communities, which involve the majority of the population in Dārḑūr. It is also capable of providing a climate of peaceful coexistence and mutual consent, devoid of the feeling of injustice and resulting tendencies towards revenge. Recourse to the state courts in Dārḑūr has been limited and confined to big towns/cities and mostly to breaches of governmental laws. There is also a rooted feeling in the various local communities of Dārḑūr that the state judicial courts are foreign bodies. Based on these observations, many voice the importance of local factors in resolving the current Dārḑūr conflict; i.e., the importance of local communities and traditional leaders being consulted. This article is a contribution to a thorough understanding of the workings of “the local,” focusing on peacemaking customary laws and institutions, with an evaluation of their usefulness in solving contemporary tribal and political conflicts in Dārḑūr.

The present article goes over the usually uncodified or unwritten local customary laws (*urf*)<sup>1</sup> and the related institutions, developed to address disputes, enmities, and crimes at the grassroots levels in Dārḑūr. The article tries to meet four objectives: (1) To understand how the different norm-related institutions currently operate in the local communities in Dārḑūr; (2) to dig deeply into the factors of continuity and change within the local norms and their institutions, especially during the past few decades; (3) to search for the type and nature of legitimacy of local norms and institutions; (4) to identify the level of efficiency of these norms and institutions in the peacemaking process in Dārḑūr. The article is based on a field study, which implemented a qualitative research methodology, using primary and secondary sources of data. The primary sources of data included in-depth interviews with key informants and focus group discussions with local leaders, elders and youth organized in North, West and South Dārḑūr. The secondary data collection method was limited to reviewing relevant documents.

1 These include the *rawākib*, which are local unwritten tribal *urf* precedents or treaties usually replacing the Islamic *Shari‘a* provisions regarding the calculations of blood-money (*diyyāt*) and compensations.

## LOCAL NORM-RELATED INSTITUTIONS

The local customary laws have historically played key roles in Dārḥūr. They have been linked to the regulation of collective and individual rights and obligations in accordance with the tribal sideburns in most parts of Dārḥūr, especially in the rural communities. They have helped build stability and peaceful coexistence among the various sociopolitical entities, and consequently remained firmly respected by individuals and groups over generations. The tribal reconciliation conferences, the *dimlijiya* (or *damālij*, plural of *dimlij*), the *jodiyah* (or *ajawiid*), and the native administrations and courts have been institutional implementation mechanisms of these laws.<sup>2</sup>

In cases of large-scale tribal conflicts, the commonly used peacemaking mechanism everywhere in Dārḥūr takes the form of a reconciliation conference. The reconciliation conference is, usually, held in the capital of the locality (*Mahalliyya*) in which the particular conflict took place and in which most members of the conflicting parties reside. Habitually, it comes after a ceasefire agreement that the parties to the conflict sign under the supervision of the local authorities. It lasts one to two weeks, according to the agreed-upon agenda for its sessions.

A reconciliation conference is customarily attended by about 300–400 persons, a number that increases or decreases based on the magnitude of the conflict. Among the attendants is a higher preparatory committee, which involves representatives of the federal and local governments and the local regular police and security bodies. The main work of this committee is confined to de-escalating the conflict, estimating losses, which the conflicting parties should have already registered at police stations,<sup>3</sup> preparing for the conference, following the performance of the *ajawiid* council and the other committees, and pushing the conflicting parties towards reconciliation. An *ajawiid* council with a considerable number of members from inside and outside the region is appointed by the local authorities, the conflicting parties, or a volunteering third party. The members of an *ajawiid* council are chosen from among those who are experienced, influential, trustworthy, qualified, advanced in age, wise, well-informed, and neutral in their relations with the conflicting parties. The chairman of this council, usually an influential individual, heads the conference. The decisions and recommendations of this council are taken as final, binding and enforceable for both parties to the conflict. A committee appointed at the end of the conference enforces whatever terms are set as a result. Appointed at the beginning of the conference are one or more (according to the type and magnitude of the particular conflict), technical committee(s) composed of scholars interested in the affairs of the Dārḥūr region, ex-heads of courts, native administrators, or directors of the local police and security units. Examples of such committees are: the committee for security and administration affairs, the committee for pastures, nomadic routes and water sources, and the committees for losses, damages, blood-money (*diyyāt*) and compensations. The *ajawiid* council is supposed to benefit from the knowledge and the experience of the members of such technical committee(s) in the discussion of relevant reports and/or documents and the formulation of decisions and recommendations in separate, closed-door sessions. An equal number of native administrators and educated members of the conflicting parties are usually in attendance, in addition to some of the locally influential Islamic religious men (*fugara*) and some notables of the communities in Dārḥūr. The religious men present have a specific role to play; namely, to act as religious references for the conferees regarding the provisions of the Islamic *Shari'ah*, to give moral and religious advice, to recite from the Qur'an during the opening and closing sessions, to lead the rituals during the conference, and to pray to Allah for the success of the conference in attaining reconciliation and

# 300–400

persons attending  
a reconciliation conference

<sup>2</sup> All these terms shall be defined later on.

<sup>3</sup> The reconciliation conference only takes into account the losses that are registered at police stations.

peace. In more recent times, the district attorney has always attended, in his capacity as specialist, to clarify the application of legal codes or to provide legal opinions that the conferees could follow in their discussions.

Any tribal reconciliation conference is held in steps. First, is an opening organizational session in which both the *ajawiid* council and the technical committee(s) declare, by taking an oath before the chief of the judiciary in any of the States in Dārūr and the negotiators, that they will carry out what they have been charged with honestly and neutrally and will keep secret the conference proceedings before they are publicized. A few representatives of each delegation—again, equal in number—are identified at this organizational session as negotiators on behalf of their party; however, they have the right to return during the conference to the other delegates for consultation. These representatives are chosen among those who are considered wise, and patient and who are advanced in age. Some members of the *ajawiid* council and the representatives of each delegation of the conflicting parties are distributed in this session to the technical committees. After all these measures are taken, the delegates of the conflicting parties have to carefully consider an authorization document for the *ajawiid* council and then sign it. Second, is a public session in which the parties to the conflict have to show their interest in negotiation and reconciliation. During this session, negotiators of each conflicting party argue their respective positions, which would have already been submitted in writing to the chairman of the *ajawiid* council. Each party presents a detailed record of events from its own viewpoint, a summary of its human losses and material damages resulting from the violence, and its recommendations for resolving the conflict. All attendants are then given the chance for interjections. The leaders of the delegates close the session by shaking hands. Third, the *ajawiid* council draws up a work plan. Fourth, the *ajawiid* council holds a closed-door session with the representatives of each party. In this session the *ajawiid* council aims at specifying the customary laws based on which decisions shall be made. The attending religious men contrast and compare the customary laws with the Islamic *Shari'ah*. They accept these customary laws only if they seem beneficial to the reconciliation process and in accordance with the Islamic *Shari'ah* law. Fifth, some successive sessions in the form of separate caucuses with the representatives of the conflicting parties or face-to-face meetings are devoted to investigation, discussion and weighing of petitions and evidence that the conflicting parties provide in support of their claims, losses and damages. Between these sessions the *ajawiid* council holds meetings, which are attended only by its members, to evaluate observations, and in which police inspectors and prosecutors present their investigations. Sixth, the *ajawiid* council holds a closed session to evaluate the evidence, causes, impacts, losses, and damages and come out with decisions and recommendations, including the *diyyāt* and the compensations. Finally, the head of the *ajawiid* council reads the decisions and the recommendations in a closing session attended by all participants in the reconciliation conference.

If the conflict is considered minor, other peacemaking mechanisms are used. The *Umdah* (plural, *Umad*)<sup>4</sup> of a tribal sub-group usually deals with the conflict cases by either popular or legal methods of peacemaking. The popular method means that the *Umdah* authorizes the concerned tribal *Sheikh* to resolve the particular case via the tribal customary laws. The *Sheikh* returns to his local community where he calls the parties to a meeting, which is also attended by an *ajawiid* council that is usually

## Steps in a tribal reconciliation conference:

1. Opening session
2. Public session
3. Work plan
4. Closed-door session
5. Successive sessions
6. Closed session
7. Closing session, decisions and recommendations

4 Each of the five states of Dārūr is divided into localities or *Mahalliyyāt* (sing., *Mahalliyya*), each further divided into town and rural administrative units. There are a number of assemblies of elected or appointed members at each level of this government administrative structure. Parallel to this structure is the native administration, which rests on a series of ordinances that transfer powers to tribal communities. It consists of tiers, with the uppermost being the *Sultan* or *Nāzir*. Under the *Sultan* or *Nāzir* come the *Umdah* and then the *Sheikh* at the bottom of the hierarchical structure. The native administrators are granted administrative, security, legal and appellate powers to maintain law and order, collect taxes and do other jobs in their respective communities.

In brief, the Rural and Intermediate Courts are native administration apparatuses, which receive cases that could be treated by customary laws.

appointed by the *Umdah* from among those who are influential, with respectable social status, aware of the local customary laws, and neutral in their relations with the conflicting parties. The mission of the *Sheikh* and the *ajawiid* council is to trace the particulars of the conflict, keep track of the proceedings, and then provide the *Umdah* with a proposal on how to resolve the conflict. Basically, the *Umdah* ask for help from the *ajawiid* councils in minor conflicts. The membership of such councils is temporary since it changes conformably with the place and event and comes to an end with the resolution of the specific conflict case. If the case is too difficult to resolve via the popular method, it is returned to the *Umdah* to handle it legally. Worth mentioning, the tribal *Umdah* in Dār fūr head small courts (known as “the Rural Courts”), which have members who are appointed in agreement with its foundation statute—from among those *Sheikhs* and notables who are aware of, or acquainted with, the local customary laws. These *Umdah* have legal authority to pronounce sentences against perpetrators in the form of fines or compensations, imprisonment and flogging. If the *Umdah* does not manage to resolve the case, he will turn it over to the *Sultan* or *Nāzir* of his tribal group. In turn, the *Sultan* or *Nāzir* will turn the case over to the police if they find it too difficult to resolve. As it stands, the conflict can be taken away from the hands of the native administrators and placed into those of the administration of justice by the criminal laws of Sudan. The *Sultan* or the *Nāzir* head a court known as “the Intermediate Court,” which is superior to the Rural Court. The Intermediate Court is equal to the Supreme Court, but within the frame of efforts that the native administration spends in resolving conflicts. In brief, the Rural and Intermediate Courts are native administration apparatuses, which receive cases that could be treated by customary laws. Some Muslim religious men, whose main role is to act as religious references in making sure customary laws are aligned with the Islamic *Sharii'a*, are usually members of these two types of courts, besides the native administrators. The third type of court is the Court of First Instance that a judge from the administration of justice heads. The judgments that the Intermediate Courts cannot decide on, or that the parties rejected, are submitted to this third type of court.

Notably, the system of *diyyāt* and compensations, according to which money is paid to those whose relatives have been killed or injured or to those who lost property, has been adopted in tribal reconciliation conferences and native courts for a long time in the region. According to cultural traditions, *diyyāt* and compensations could be paid either in cash or in kind, mainly in the form of cattle, according to the decision of the reconciliation conference and in instalments (mostly three instalments). The collection of the *diyyāt* and the compensations are among the functions of the tribe's *dimlij*.

## ZONAL PECULIARITIES OF CUSTOMARY LAWS

Greater Dārḥūr is divided into three zones according to climate. The first is the low-rainfall Northern Zone, which is located north of latitude 14° N. It is semi-desert, composed of large numbers of hills and rocks. The second is the poor savannah Central Zone, which is located between latitudes 12°–14° N. Jebel Marra, with its fertile land, is found in this zone. The rich savannah marks the third Southern Zone, which is rainy, located south of latitude 12° N. The tribal groups in Dārḥūr have been associated with different economic activities and integrated in wider systems of exchange. In the Northern Zone one finds a mixture of Arab and non-Arab tribes that practice shifting cultivation and herd camels and sheep. In the Central Zone live those groups that herd goats and sheep or those that herd cattle while engaged in crop production. The tribal groups of the Southern Zone can be traced to two main groups: (1) the Baggara Arab tribes that engage in herding cattle; and (2) the non-Arab tribes that practice agricultural production (Craig 1991, 232).

Importantly, the Arab tribal groups are composed of either nomadic pastoralists who move around the region in search of pasture and water and have their own native administrations or semi-nomadic pastoralists who have settled down and have administrative units and *Hawākiir*.<sup>5</sup> These groups start a winter journey (*Āṭṭalga*) during the dry season (November–February) from their “autumn resorts” in the Northern Zone southwards to their “summer resorts” in the Central and Southern Zones through traditionally defined routes, which have been delineated since the days of the British colonial rule (1932) or even before that. The movement is reversed with a summer journey (*Ānīshūq*) during the rainy season (June–September).

Although the customary laws in agricultural and pastoral communities look alike in their main features and institutions, they differ from one area or group to another based on natural conditions, prevailing economic activity, population structure, external cultural influence and local history. Even now, many areas and groups in Dārḥūr retain local particularities regarding customary laws. This is to say; there is some kind of diversity in these laws, as there are many common features too. This in itself demonstrates an amount of flexibility in these laws. According to the particularities of customary laws, Dārḥūr could be divided into seven zones: Jebel Marra in the middle, Dār Masāliit in the West, nomadic Baggāra in the South and Southwest, sedentary tribes of the Fur Magdomate in the South, surroundings of El-Fāsher town in the North, Dār Takanjāwi in the North, and Dār Dāli in the East. This division somewhat follows the climatic zones mentioned above and the associated economic activities and population structures.

The peculiarity of customary laws in Jebel Marra comes from their link to the management and use of the traditional Fur lands that formed the legitimacy of the first central authority and became a disputed resource. The location of Dār Masāliit to the West of the Jebel Marra chain, which formed a geographical barrier between the Masāliit and the eastern plains of the Dārḥūr region, contributed to the peculiarity of



Deriba Crater is at the highest point of the Marrah Mountains. Photo by Hammy07 at the English language Wikipedia, CC-license.

Even now, many areas and groups in Dārḥūr retain local particularities regarding customary laws

<sup>5</sup> *Hawākiir* are pieces of land that original landlords transmit to newcomers under an agreement of usufruct.

norms in the area (particularly the land laws) and to their influence by existing norms around Lake Chad. The difference in the norms in the nomadic Baggāra belt resulted from the population structure, which consists of tribal groups practicing nomadic herding; so it was necessary to have some communal ownership and uses of land and the prevailing concepts of “*diyyāt*” and “compensations” in resolving conflicts between individuals or groups. The areas of the sedentary tribes of the Fur Magdomate in the South could be considered transitional between the areas of sedentary peasant tribes and nomadic tribes as to their customs, and as extensions of the areas of the Fur tribe in the eastern slopes of Jebel Marra, which also are inhabited by groups from the Dajo, Zaghawa and Birgid tribes. This mixed population structure has prevented the existence of one prevailing body of customary laws. After its establishment as the capital of the Fur Sultanate in 1830, El-Fāsher town and its surroundings became a center for the royal palace bureaucracy,<sup>6</sup> and the lands and *hawākiir* became a vital source for wealth and fame, for meeting the needs of life and governance, and thus the field over which the influential elites compete. Therefore, the local norms, which govern the acquisition, documentation, and use of lands, gained a peculiar character, as they centered on individual and not communal or tribal styles of holdings that prevailed in the other areas of Dārfūr. The semi-desert and resource-scarce zone of Dār Takanjāwi witnessed an intensive agricultural activity along the rainwater courses, beside the main pastoral activity. Throughout the Fur Sultanate and the Turko-Egyptian rule, it governed the route of the Saharan trade (*Darb al-Arba’in*: Forty Day Road) from Dārfūr to Egypt, Hijaz, and Arab Maghreb. Subsequently, the central rule, which focuses on trade security and friction-free coexistence between pastoralists and farmers, became the dominant feature of the Dār Takanjāwi zone. This made the customary laws differ in some respects from what existed in the other zones. The Dār Dāli zone is an extension of the sandy plains that go eastward to the White Nile in terms of geography, economic activities and population structure. For that reason, this area has been largely affected by the cultures of that plain and the customary laws in it have become different.



Photo by Albert Gonzalez Farran – UNAMID. CC-license.

6 The royal palace bureaucracy: The Sultan’s political clique, the military commanders, the religious scholars, the experts of different urban professions, and the merchants with financial and political clout.

## FACTORS OF CONTINUITY AND CHANGE:

Customary laws are unanimous precedents saved in a group's collective memory; they are based on innovation and forgetfulness. They are therefore exposed to continuous change through time and space. For this reason, the old sultanates of Dājo, Tunjur and Fūr made varying efforts to compile and consolidate many of the customary laws in Dārfūr as judicial references. These sultanates repeatedly included institutions and individual memorizers of the local customary laws in existing job hierarchies. For instance, a number of researchers are of the opinion that the so called "Dāli Law," which was a compilation of existing customary laws, was released during the reign of Shao Dorshiit, the latest Sultan of the Tunjur sultanate. Since the time of the old sultanates, customary laws have been growing, developing and keeping pace with the successive societal changes in Dārfūr.

Among the entrenched customary treaties, which were signed by the local tribal communities to address the problems that occur between individuals and groups, was the treaty resulting from a reconciliation conference held in 1922 in the Joghayn Margobah village in South Dārfūr. An agreement was signed in that conference between Jābir and jubāra branches of the Bani Halba tribe and their neighboring Gimir tribe. Some other branches of the Bani Halba tribe partnered with the Jābir branch: Alāwnah, Dār Musa, hadālyl, Zanātiit, and Hazāzrah. Those who participated with the jubāra branch were the Awlād Jum'ān, Awlād Ali, Ghiyāth, Beni Labiid, and Beni Mansour. Both Salāmāt and Khuzām supported the Jābir branch, while Bani Hussein supported the jubāra branch. The agreement revolved around paying the blood-money (*diyyāt*) and forging a "*waliyyah*" (community that shares a common destiny, as well as weal and woe). Participating in the conference beside the Bani Halba and the Gimir were the Salāmāt, the Khuzām and the Bani Hussein, who constituted the tribes that were under the administration of the Bani Halba tribe and living within their homeland (*dār*). The conferees agreed to pay the *diyyāt* as follows: thirty cows for killing a man (locally called "the human"); half a *diyya* for "the human" (the man) killing a woman, scooping out a man's eye, or amputating a man's leg; six cows for manslaughter; a 2–3-year-old heifer for breaking a man's tooth; and a 2–3-year-old heifer for taking a woman's virginity. To be noted is that the conferees dealt with the man, and not the woman, as the "human being," and they also estimated the *diyya* for killing a woman as half that for killing a man. Most importantly, the peace treaty of Joghayn Margobah played a key role in unifying the *diyyāt* customs among the tribes of South Darfur.

The treaty of Joghayn Margobah between the Bani Halba and the Gimir was a product of the Abu Sal'aa Conference<sup>7</sup> in 1941. The effort included all of the major tribes in South Dārfūr: The Rizeigāt, the Habbāniya, the Taaysha, the Fallāta, the Nihās Muslāt, the Dingir Muslāt, the Birgid, the Dājo, the Fūr, the Biigo, the Bani Halba and the Gimir. The Abu Sal'aa conferees in 1941 adopted the treaty of Joghayn Margobah with a few additions and expansion of the scope of application among many more tribal groups in South Dārfūr. The modified treaty is still used in applying measures of *diyyāt* between conflicting groups. The following table (1) shows the accepted *diyyāt*:

7 Abu Sal'aa is a small lake in a place north of Burām; the headquarters of the *dār* of Habbāniya tribal group.

Tribe	A man inside the tribe	A man outside the tribe	A woman	One eye	One leg	One hand	One Tooth	One finger
Bani Halba	30	70	15	15	15	15	1	1
Bargo	30	71	15	15	15	15	1	1
Itriyya	30	100	15	6	6	6	3	1
Dinka	31	85	41	15	15	15	1	3
Nihās Muslāt	13	14	6	6	3	3	3	3
Biigo	<i>karāma</i>	6	6	3	3	3	3	3
Habbāniya	30	70	35	15	15	5	1	1
Dingir Muslāt	13	33	12	1	1	2	1	1
Maaliya	41	61	20	20	20	2	1	1
Rizeigāt	61	71	30	15	15	15	1	1
Taaysha	42	72	42	21	21	21	1	1
Fallāta	40	70	20	20	20	20	1	1
Tarjam	12	30	15	15	7	7	3	1
Salāmāt	30	70	15	15	15	15	1	1
Saada	12	-	12	6	6	6	2	-

**Table 1:** The Accepted *Diyyāt* for Some Tribes in South Dārfūr (in cows or heifers)

Source: Alnour Daoud Khairallah, retired school teacher from the Bani Halba tribal group, Nyalla, 1997

The data in the table above, linked to specific characteristics of the local communities in Dārfūr, shows that (1) the *diyya* for a man killed by someone from outside the tribe is twice or more than twice the *diyya* for a man who is killed by someone from his own tribe; (2) the *diyya* for a man differs from that for a woman, as also there are different values of *diyya* for the individual human body parts from one tribe to another; (3) the eye, the leg, the hand, the tooth and the fingers are the only parts of the entire human body that deserve *diyya*; (4) women are equal to a hand, a leg, or an eye in terms of value of *diyya*; (5) the killing of a woman by someone from inside or outside the tribe is not given any consideration in terms of value of *diyya*; (6) killed or wounded individuals from the tribes of Biigo, Dingir Muslāt, Nihās Muslāt, Tarjam, and Saada carry the least value in terms of *diyya*; (7) the Itriyya and the Dinka triple the value of *diyya* for those of them who are killed by outsiders; (8) the value of *diyya* is measured in cows and heifers, not in camels or agricultural crops, which are more easily available to most of the tribes living in the region. The disparities in the value of *diyya* relate to the overall financial status of the members of the tribe (rich or poor) and to their lifestyles and livelihoods (nomads or sedentary farmers, cow or camel herders).

As a matter of fact, there have been many changes in the customary laws in the different areas of Dārfūr over time due to overlapping influences. First and most importantly, the latest armed conflicts in Dārfūr produced mass population mobility from one part to another within Greater Dārfūr (and even from Chad), leading to new social contacts and, indirectly, to acculturation; i.e., leading to varying models of customary laws and institutions from one place to another. Second, in the different urban centers of Dārfūr there are peacemaking customary laws and institutions borrowed from the surrounding countryside and modified to suit the conditions of the local urban populations. For example, a popular committee was established in Geneina in 1980, with a mandate to resolve the minor tribal conflicts within the urban setting using the local customary laws and the Islamic *Shariʿa* as substitutes for the criminal laws of Sudan. The membership of this committee is made of religious

men (to act as reference for the Islamic *Shari'ca*), one native administrator from each main tribe in the area, and the notables of the town community. This implies that urbanization in Dārḥūr influenced the local customary laws and institutions to a lesser extent, making the change in these cultural elements very slow and providing an opportunity for continuity in their old forms. This might be a result of most of the residents of the urban centers actually being migrants from the surrounding countryside. Third, there is the application of the Islamic *Shari'ca* or the laws that the central authorities parachuted during the different political regimes in Sudan.

The first intervention of the central government in the customary laws and institutions in Dārḥūr was during the British colonial rule. That intervention was an outcome of two reports submitted to the British Government in Khartoum. The first report was compiled and handed over in 1920 by Lord Alfred Milner. That report was intended to help guide the British colonial policy and administration in navigating the country. It advised the colonial government to shift to indirect rule, leaving the administration of the country's different parts, as far as possible, in the hands of native authorities, wherever they existed, under British supervision. This was meant to ensure economy and efficiency. The second report was filed by Reginald Arthur Bambrook, Governor of the Dārḥūr Province in 1924–1927. It called for reviving and supporting the tribal systems and customs. The two reports guided the British Administration to design and implement the policy of tribal native administration and to introduce a new mechanism for the management and implementation of customary laws in the local communities of Dārḥūr. The native courts' ordinance of 1932, by which native courts were established in the large tribal administrations, came as a result. The work of those courts was based on the local customary laws. They were attached to the local government (AbouShouk and Bjørkelo 2004, 83, 279). These were a sort of codification of customs and momentum gained by the native administration, which granted more continuity to the customary laws and institutions in Dārḥūr.

In the first era of military rule (1958–1964) there was restructuring of the government institutions, which included the attachment of administration and budget of the native courts to the presidency of the judiciary in Khartoum, instead of the local government. This plucked the property of localism out of the customary laws and institutions and brought them closer to the modern formal justice. The second military coup of May 1969 adopted the slogans of the October 1964 uprising that had overthrown the first military government. These slogans mostly projected Sudanese society towards new political horizons of modernity, away from the traditional lifestyles. Thus, the slogans liquidated tribal native administrations as being one of the hotbeds of underdevelopment and feudalism in the countryside. The decision to dissolve the native administration throughout Sudan was actualized in 1972, the time in which the regional governance was at its beginning, the governmental administration was feeble, and the formal justice was confined to the main towns only. This resulted in the disappearance of native courts and the erosion of customary laws throughout Dārḥūr, leading to the spread of many manifestations of insecurity. A decade later, after the second uprising against the second military rule in 1985, the native administration in Dārḥūr was restored; but it had been undoubtedly weakened. Then came the rule of the National Islamic Front (NIF), with the third military coup in 1989 and with new policies that served its ideological project regarding the native administration. The current National Salvation Government has exposed the native administration in Dārḥūr to politicization. As a result, the native administration has thrown itself in the arms of state official agencies, spinning in the maze of politics, and becoming a tool in the hands of the government to serve a certain agenda and implement policies that are irrelevant to its mandate and main duties. This has weakened the native administration's credibility, stripping it of its neutrality.

In brief, the variability and the sameness in customary laws and institutions in Dārḥūr are linked to the differences in lifestyles and livelihoods, the out- and in-migrations, demographic changes, urbanization, state policies, and other alternate judicial references.

In the first era of military rule (1958–1964) there was restructuring of the government institutions

## LEGITIMACY AND EFFICIENCY OF LOCAL NORMS AND INSTITUTIONS:

The customary laws and institutions in the different areas of Dārḥūr are favored because of their “social legitimacy,” which could be defined as “the property projected to an action, rule, actor, or system by an actor’s belief that that action, rule, actor, or system is morally or legally legitimate (Thomas 2013). This implies both legal and moral obligations to submit to or support these laws and institutions. The customary laws usually become legally and morally legitimate via the link to the Islamic *Shari‘a* and/or the criminal laws of Sudan. Any custom that is just or does not conflict with the teachings of religion or the state laws is accepted as law and as created in accordance with the correct legal process. Besides, people in the various communities in Dārḥūr feel much more reassured about these laws and institutions because they form part of their own culture and meet their need for justice, reconciliation and peaceful coexistence between the conflicting groups.

The peacemaking mechanisms that deal with minor cases and advance gradually from the lower courts to the Courts of First Instance could be considered as relatively less effective in most areas of Dārḥūr. There are three main signs of this lack of effectiveness. First, the turbulent coexistence among the various tribal groups in these areas. Second, the observed need for most of the local grassroots conflicts to be handed over to the state-run judicial systems, as mostly not within the authority of the native administration courts. Third, the individual character of the conflicts which turn into a tribal responsibility. This last aspect, a common practice everywhere in Dārḥūr, implies hiding a perpetrator and adopting his criminal behavior as a group, collectively paying the *diyyah* as a result.

The reconciliation conferences, which constitute a phenomenon that is lacking in other parts of the Sudan, have been the prime method through which large-scale tribal conflicts are resolved in Dārḥūr. However, for a long time such conferences have not been able to address the root causes of conflicts. In some cases, fighting resumed soon after a conference had ended. Many conferences also failed to resolve conflicts. Thus, the tribal reconciliation conferences could be considered as short-lived mechanisms for peacemaking.

Why then has the efficiency of the technically sophisticated grassroots approaches to peacemaking in Dārḥūr diminished considerably? Does this have something to do with the nature and type of the latest armed conflicts, the current socioeconomic and political situations in the region, or both? The latest armed conflicts in Dārḥūr in less than a decade produced a drastic change in the nature of the communal relationships, which negatively affected the acceptance of the customary laws and institutions. The recurrent change in the local and central political systems and their policies and positions on, and sponsorships of, the customary institutions could also be factors in the loss of efficiency historically. Besides, the Dārḥūrian educated class and migrants to urban centres outside Dārḥūr commonly develop weak loyalty to the customary laws and institutions in their areas of origin and start to challenge and reduce their respect for the servants of these laws and institutions (e.g., the native administrators, religious men, etc.). It seems that the impact of this factor will grow stronger in the future because of the continued increase in the number of the educated and migrant people who could be classified as believers in the modern state laws and legal institutions.

Importantly, the local approaches to peacemaking in Dārḥūr have not disappeared. They are reproduced through mythological stories and their efficiency may revive with the changes in societal circumstances.

The latest armed conflicts in Dārḥūr in less than a decade produced a drastic change in the nature of the communal relationships

## CONCLUDING REMARKS

From the discussion above we can conclude that the customary laws related to peacemaking in Dārḥūr have the following features: (1) they emphasize maintaining the harmony of the society more than penalizing the offenders; (2) they are responsive to the changing socioeconomic and political situations; (3) they are comprised not only of rules derived from local culture, but also legislation and precedents of important previous cases; (4) they are commonly interconnected with religious guidelines; (5) they are gender insensitive, as they see women generally as inferior to men, are used to control and limit women's rights as persons and to limit their access to property, and have predominantly been shaped by the attitudes and interests of male elders; (6) their being preserved predominantly in an oral form makes them highly vulnerable; (7) they are tools through which the native administrators control the local communities in Dārḥūr.

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Ali Sulaiman Mohammad Muhajir, Secretary General of the herders’ trade union in the National Congress, West Dārūr State, Geneina.

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Mohammad Ahmed Mohammad Abdellah, *Amir*/Secretary General of the Muslim Brotherhood in West Dārūr State, Geneina.

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## Group Discussions

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Group discussion (Geneina, West Dārūr): Ahmed Yahya Sulaiman Yousif, *Sheikh* of *Sheikhs*, Geneina IDPs’ Camp; Mohammad Musa Abakar Barrah, *Imam* of a mosque, Geneina IDPs’ Camp.

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Group discussion with academicians (El-Fāsher, North Darfūr State): Adil Mohammed Ahmed Ibrahim, Director of Invocation, Counseling and Reconciliation Centre at the University of El-Fāsher and member of the Muslim Brotherhood; Jamal Mohamed Abdullah Ibrahim, preacher at the Invocation, Counseling and Reconciliation Centre, University of El-Fāsher, and *Imam* of the mosque of *Jamiyat Al-Kitab Wa Al-Sunna Al-Khairiyya*, El-Fāsher; Al-Sadiq Ahmed Abdullah Yousif, lecturer at the Invocation, Counseling and Reconciliation Centre, University of El-Fāsher, *Imam* of *khatim al-anbiaa* mosque and member of the Muslim Brotherhood, El-Fāsher; and Musa Ali Abdullah (Ph.D.), Assistant Professor at the Department of Islamic studies, Faculty of Arts, University of El-Fāsher.

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ISSN 1890-5056  
ISBN 978-82-8062-610-3 (print)  
ISBN 978-82-8062-611-0 (PDF)

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