

SHARE THE LAND OR PART THE NATION: THE PASTORAL LAND TENURE SYSTEM IN SUDAN



**Share The Land Or Part The Nation:
The Pastoral Land Tenure System in Sudan**
(STUDY 3)

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Printed by SCPP
Editor: Ms: Angela Stephens

Available through:
United Nations Development Programme in Sudan
House 7, Block 5, Avenue P.O. Box: 913 Khartoum, Sudan.
www.sd.undp.org

The analysis and policy recommendations expressed in this publication do not necessarily reflect the views of the United Nations, including UNDP, its Executive Board or Member States. This study is the work of an independent team of authors sponsored by the Reduction of Resource Based Conflict Project, which is supported by the United Nations Development Programme and funding partners.

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Preface

Competition over natural resources, especially land, has become an issue of major concern and cause of conflict among the pastoral and farming populations of the Sahel and the Horn of Africa. Sudan, where pastoralists still constitute more than 20 percent of the population, is no exception.

Raids and skirmishes among pastoral communities in rural Sudan have escalated over the recent years. They have degenerated into a full-blown war in Darfur that might have been contained if the root-causes of the conflict rather than its symptoms were understood and addressed in a timely manner. Understanding the changes pastoralism in Sudan has been undergoing over the past two decades and the traditional modus operandi of conflict resolution and reconciliation among the pastoral communities is the starting point of any conflict resolution effort.

In fact, pastoralism in Sudan is a traditional way of life. It is a product of climatic and environmental factors that has become a form of natural resource use and management. Pastoralism comprises a variety of movements ranging from pure nomadism characterized by year-around camel breeding and long-distance migration, to seasonal movements over shorter distances in combination with some form of agricultural activities.

Historically, there has long been tension along pastoral corridors over land and grazing rights between nomads and farmers. But recently, some parts of the country have been caught in a complex tangle of severe droughts and dwindling resources. Disputes flare up between farmers and pastoralists as a result of migrating camel and livestock herders in search of water and pasture for their animals during the dry season who would sometimes graze on farmers' lands and use their water points. Tribal leaders sometimes settled disputes over lost crops, land, and access to water and pastoralists' routes. Combined with weakened local governance and the lack of institutionalized mechanisms for land and water rights and usage, all these factors have been leading to widespread seasonal tensions between pastoralists and farmers on one hand and between traditional farmers and owners of big mechanized farms on the other.

To help address the root-causes of these tensions the Embassy of the Kingdom of the Netherlands, the Canadian International Development Agency (CIDA) and the United Nations Development Programme launched in 2004 ***the Reduction of Resource Based Conflicts Project*** with the support of the Government of Norway in the preparatory phase (2002-2003). Targeting the drought-prone areas the four-year initiative used to be carried out in North Darfur. But the conflict between farmers and nomads that had started over natural resources escalated into a full-scale war forcing the Project to suspend its activities in Darfur. It has since focused on three states: North and South Kordofan, Upper Nile and Sobat Basin.

The Project operates at the national, local and community level. In addition to supporting the local authorities in establishing institutionalized systems for improved natural resource management, and empowering pastoralists, the project has been promoting legal and policy reforms for land access and usage with the participation of all stakeholders.

Under this project, UNDP and development partners commissioned experts to research case studies covering the identified areas of conflict in rural Sudan. In this context, access to land, water and other productive resources have been identified as major factors in

aggravating conflicts and in marginalizing many rural populations. The research undertaken under the project's guidance led to the following series of publications:

- 1. *Nomads' Settlement In Sudan: Experiences, Lessons and Future Action.***
- 2. *Pastoral Production Systems in South Kordofan.***
- 3. *Share the Land or Part the Nation: The Pastoral Land Tenure System in Sudan.***

We hope that these publications will shed some new light on the sources of conflicts in rural Sudan, and help policy makers and development partners to identify priority areas for policy interventions and development planning.

As the UN's global development network, UNDP will continue to connect partners to knowledge, experience and resources to help communities prevent more conflicts and build a more peaceful coexistence.

Mr. Jerzy Skuratowicz

Country Director
UNDP Sudan

Acknowledgments

Through the Reduction of Resource Based Conflict Project, UNDP Sudan and partners commissioned this publication to enhance and deepen knowledge on pastoral issues and challenges, and build a literature base for developing strategies that address pastoralists' policy issues in the Sudan. It was undertaken with the support and encouragement of UNDP Country Director Mr. Jerzy Skuratowicz and UNDP Deputy Country Director Mr. Auke Lootsma.

All discussions held with Sudanese partners in government institutions and other stakeholders in the process of formulating this publication were led by UNDP's Team including; Ms. Heba El -Kholly, Former UNDP Country Director; Ms. Sara Pantuliano, Former team Leader, Peace Building Unit, Mr. Omer Egemi, Former Team leader, Conflict, Environment and Resource Management Unit, Mr. Mohyel Deen El Tohami Project Manager of the Reduction of Resource Based Conflict project, Ms. Dalia M. Ibrahim Project Associate.

We are grateful to the Canadian International Development Agency (CIDA), the Netherlands Embassy and the Norwegian Embassy for funding and supporting this publication.

We also extend our gratitude to the Ministry of International Cooperation, Ministry of Agriculture and Forests and Ministry of Animal Resources and Fisheries, as well as international and National Non-Governmental Organizations including OGFAM GB, SOS Sahel- UK, ACORD South Sudan, the Sudanese Environmental Conservation Society, Pastoralism Society and Civic Unions (Pastoralists and Farmers Unions) and various civil society structures.

This report is a product of collective efforts led by Dr. Salahel Din El Shazli (Land Tenure Expert) who was the Team Leader and Principal Investigator, Professor Farah Hassan Adam, Faculty of Agriculture, University of Khartoum, and Mr. Imad El Din Bashier Adam (Legal Council, expert on Environmental Law).

TABLE OF CONTENTS

Preface	
Acknowledgements	
Executive Summary	1
Chapter One: Current Pastoral Conditions	
1.1 Context	3
1.2 Consequences Of Commercialization	4
1.3 Political Marginalisation	5
1.4 Challenging The Misconception Of Pastoralism	5
Chapter Two: Farmers And Pastoralists In Sudan	
2.1 Introduction	6
2.2 The Superimposed Administrative Boundary	6
2.3 Sudan's Tribal Composition	7
2.4 Muslim Kingdoms	8
2.5 Pastoralism And The Environment.....	9
2.6 The Imperative Of Pastoral Movement.....	10
2.7 The Dynamics Of Environmental Deterioration	11
2.8 The Nature Of Pastoral Vulnerability	13
Chapter Three: Colonial Resource Tenure Systems	
3.1 Introduction	15
3.2 British Colonial Resource Tenure Legislation	15
3.3 The Colonial Regulations	17
3.4 Legislation And Policies Under National Rule.....	19
3.5 Pastoral Deregulation And Administrative Chaos.....	20
3.6 Legislation And Policy Under The National Salvation Government.....	23
Chapter Four: Land Tenure System: Regional Cases	
4.1 North Kordofan	25
4.2 North Darfur	29
4.3 Sobat Basin	32
Chapter Five: Towards Legislative And Policy Reform	
5.1 Introduction	36
5.2 The Foundations Of A Strategy For Reform	36
References	42
Annex (1): List Of Main Informants.....	46

EXECUTIVE SUMMARY

This study addresses federal legislation and policies and the local customary systems of natural resource management and tenure in Sudan, and seeks to highlight the implications of that interface for pastoral production systems. The exposition of local-level processes is pursued with particular reference to the rights of pastoralists in three major areas in Sudan—North Kordofan, North Darfur and the Sobat Basin in Southern Sudan. The results of the analysis recommend a framework for a medium- to long-term strategy for legislative and policy reform towards a more equitable and sustainable decentralized natural resource management system in Sudan.

This study incorporates the findings and recommendations of three sub-studies conducted parallel to the study by the team leader. It does not reiterate the detailed empirical accounts presented in these three sub-studies, but instead uses the cases to substantiate processes general to pastoralism in Sudan as a whole, and seeks to expose and underline some of the major points of relevance for framing a requisite strategy for legislative and policy reform.

The first of the three parallel sub-studies is a desk review of federal legislation on land tenure and natural resource access in Sudan (Imad Bashir, 2003). The second (Farah Hassan Adam, 2003) is based on field research into customary resource tenure in the three project areas under government control (North Kordofan, North Darfur and Upper Nile states). The study commenced with a review of natural resource legislation since British colonial times. A desk study was also undertaken to provide an overview of pastoral conditions, with particular emphasis on the implications of state legislation and policies for pastoral resource tenure. Both reviews were supplemented by interviews and discussions with various stakeholders (government officials, representatives of pastoralists and farmers and non-governmental organizations).

Primary data were collected through field visits to the three UNDP project areas, where a one-week field research was carried out. Two of the field visits, to Upper Nile and North Darfur, were carried out simultaneously with five UNDP consultants comprising the respective teams of the three major UNDP studies: land tenure (Salah Shazali and Farah H. Adam); roots of conflict (Leif Manger and Mustafa Babiker) and nomadic routes (Ali Adam Tahir). Intensive consultations and discussions among the consultants have promoted deeper insights into the conditions of pastoralism that were being observed and analyzed. The consultants worked as a team, dividing among themselves tasks pertaining to meetings, interviews and focus group discussions with various stakeholders: state ministers, state legislators, government officials, pastoralist unions, farmer unions and numerous representatives of the local communities of sedentary farmers and pastoralists. In both Upper Nile and North Darfur, the UNDP partner is Oxfam GB. The meetings and intra-state field trips were efficiently coordinated by Oxfam staff, with whom intensive discussions were also held concerning their plans for future interventions under the UNDP Reduction of Resource-Based Conflict Project.

In North Darfur, the research team conducted field visits to the northern and western regions. The visits covered Mellit, Maddu, Malha, Kutum and Um Sayalla, where interviews and discussions were conducted with stakeholders: the Mellit Province executive commissioner, locality administrative officer and veterinary officers, representatives of farmers and pastoralists, as well as women's organizations and members of the local

communities. Security conditions impeded a visit to Kebkabiya, the area in which conflict between farmers and pastoralists is most accentuated.

The trip to North Kordofan was conducted three weeks after the visit by the other consultants. It was synchronized with a field visit by a team comprising the UNDP project manager, SOS-Sahel Sudan country coordinator and the UNDP project assistant. Rather than repeat the interviews and meetings of the other consultants, the strategy was to undertake daily visits to sites with emerging conflicts over natural resources and tenure rights.

Arrangements for the trip to Southern Sudan were frustrated by the reluctance of the Southern Sudan Independence Movement to grant the required travel permit. Consequently, interviews were limited to some of the Nuer refugees living in Nairobi.

CHAPTER ONE

CURRENT PASTORAL CONDITIONS

1.1 Context

Pastoralism in Sudan is a centuries-old form of natural resource use and management that is commonly combined with other productive pursuits (small-scale agriculture, gum tapping, woodcutting, etc.). It entails varied types of movement, ranging from 'pure nomadism', typically characterized by camel breeding and long-distance movement, to facets of transhumance involving cattle, sheep and goats, with movement over relatively shorter distances. Even 'sedentary cultivators' often find it necessary to move during the dry season with their small village-based herds. It is now established that pastoral movement is an efficient adaptation to the inherently volatile ecologies that the agro-pastoralists inhabit, particularly to transcend seasonal fluctuations in the supply of pastures and water.

Pastoral production systems in Sudan are undergoing rapid processes of intensified commercialization. In recent years, the livestock sector emerged as a leading foreign exchange earner in the Sudanese economy, second only to the recently established oil sector. There are grounds, however, to believe that the increased offtake is not a reflection of high growth rates in the Sudanese national herd. It is rather a manifestation and consequence of varied complex marginalization and impoverishment processes, underlaid primarily by detrimental state policies, steadily deteriorating environmental conditions and intensified insecurity generated by civil war, inter-group conflict and widespread banditry.

Vulnerability to drought has induced widespread famine conditions among Sudanese agro-pastoralists in Eastern, Western and Southern Sudan. Famine relief operations were launched in 1984-1985, and have since continued, albeit in sometimes concealed forms. The renewal of civil war aggravated further the conditions of pastoralists in Southern Sudan and the transitional zone. The combined effect of vulnerability and insecurity has been the destabilization of large and increasing numbers of agro-pastoralists, who have become either displaced, particularly to Greater Khartoum and other big cities, or refugees in neighbouring countries.

Notwithstanding the detrimental consequences of the environmental and security conditions, the most serious threat to pastoral production in Sudan rests with the growing inability of pastoralists to maintain their rights to grazing land. This threat is particularly accentuated for the large population of small agro-pastoralists, for whom the future prospects appear bleak. Small village-based herds in Northern Sudan and herds in Southern Sudan are not as acutely threatened. They are nevertheless subject to intensified commercialization, and the resulting trend is also towards impoverishment. Exacerbated tenure insecurity is especially acute in the rain lands of Eastern, Central and Western Sudan. In these regions, herd owners endure severe constraints on the imperative pastoral movements, the strategy by which agro-pastoralists have managed for centuries to maintain the viability of their productive pursuits.

In recent decades, the long-established patterns of pastoral movement were severely disrupted. Both drought and insecurity have contributed to that disruption. On the clay plains of Eastern, Central and Western Sudan, however, the major factor remains the steady expansion in farming. Closely associated with this, we often find unauthorized commercial woodcutting on a large scale.

Unfettered agricultural expansion on the clay plains has reduced grazing areas, disrupted pastoral routes and blocked access to watering points. The situation was further aggravated by drought in the northern rangeland and insecurity towards the south. The traditional northern rangelands have deteriorated to the extent that herds could not be kept there for any length of time, let alone until after harvest. Insecure conditions in South Kordofan blocked access to traditional grazing areas frequented by Hawazma pastoralists, who tended to move and stay longer in North Kordofan. Both insecurity and drought in the Sobat Basin led Nuer groups to depend more on lowland grazing along riverbanks and islands.

The combination of agricultural expansion, drought and insecurity has led to the deterioration in pastoral conditions. These factors forced concentration of pastoral herds in substantially reduced grazing areas of the clay plains, and also intensified conflicts involving pastoralists, both against farmers and among themselves. The armed clashes in Darfur between settled farmers and the nomadic Northern Rizeigat is one alarming manifestation of the first category of conflict. The virtual war in the Sobat Basin between two Nuer groups, Lou and Jikany, is a tragic instance of the second. The proliferation of small arms rendered inter-group conflict bloodier and out of all proportions to what historically constituted tribal confrontations.

At the roots of all these conflicts lies pastoral resource tenure insecurity. Many observers believe that the micro-political strategies of the local elite, to an extent similar to interventions from the larger polity, have tended to aggravate these inter-group conflicts.

1.2 Consequences of Commercialization

The ongoing commercialization processes threaten impoverishment of large numbers of small agro-pastoralists. The Lahaween in Eastern Sudan have already undergone thorough impoverishment with the decline of their pastoral pursuits (Morton, 1986; Salah Shazali, 1993). This prospect arouses considerable concern, since the impoverished do not have alternatives to maintain their livelihoods within the present structures and processes of the Sudanese economy. Social discontent, widespread banditry and outright rebellion are only a few of the probable consequences. Otherwise, perpetual extension of relief may serve to delay the eventual breakdown.

Not all involved with pastoralism, however, face that tragic prospect. For a minority of better-off pastoralists, as for the urban-based groups that started to penetrate the sector (merchants, mechanized rain-fed farmers, veterinarians, etc.), intensified commercialization has offered lucrative opportunities. The Rashaida of Eastern Sudan seem to be faring well, as do some of the Zaghawa in Western Sudan. In the hands of the better off, pastoral activity is being steadily transformed into a full-fledged capitalist form of production pursued on the basis of wage herding and increasingly commercialized inputs (animals, fodder and water). **But even members of this relatively well-off group are faced with the insecurity of pastoral land tenure.** The sustainability of their endeavours seems to rest mainly with their ability to buy, at relatively cheap prices, livestock from the small livestock owners. Their main strategy is to advocate for 'nomadic settlement' or development projects, to invest in wells to secure water for their herds, and to fall back on agricultural residues in rain-fed mechanized schemes (often their own) for fodder. It is recommended that the potentialities and constraints of the alliance between this group and the atomized mass of Sudanese agro-pastoralists be more thoroughly

investigated and analysed. Needless to emphasize in this regard is the observed role of this group in the creation of pastoral structures.

1.3 Political Marginalisation

The negligence of pastoral interests in policy-making and administration seems to have been facilitated by the ongoing marginalization of pastoralists in the larger Sudanese polity. The current political status of pastoralists contrasts sharply with their power in pre-colonial times.

Historically, pastoralists constituted the wealthier groups in the country, and it was usually pastoralists who ruled over both the pastoral and sedentary populations.

Incorporation into the modern Sudanese state denied pastoralists access to power and authority over sedentary populations, and the leaders were gradually transformed into native administrators of pastoral tribes. After independence, the political marginalization was taken to extremes under ostensibly democratic forms of government.

With the abolition of native administration in 1971, agro-pastoralists were denied influential and experienced representatives who formerly articulated demands and expressed grievances. Simultaneously, changes in the parliamentary electoral system adversely affected the weight of pastoralists in Sudanese parliamentary politics. Prior to 1969, parliamentary representation was almost exclusively drawn from geographical constituencies, with a few seats reserved for 'Graduate Constituencies'. Members of parliament used to pressure the Government to provide services to their respective constituencies—if only for electioneering purposes. The weight of geographical representation in parliament, however, was progressively reduced as more and more seats started to be reserved for the urban-based 'modern forces'. At present, the entire geographical representation (both rural and urban) does not account for more than 40 percent of the seats. Pastoralists are granted token representation in one of the seven new electoral colleges, with less than three seats in each of the national and regional legislative bodies.

1.4 Challenging the Misconception of Pastoralism

In the course of data collection, it became clear that a majority of policy makers and government officials hold a number of misconceptions regarding pastoralists and their production system. These misconceptions seem to underlie, to a considerable extent, the prejudice and bias that apparently characterize both legislation and state policies oriented to pastoralism in Sudan. This is particularly manifest in questions about pastoralists' entitlement to natural resources, particularly land. Many of the misconceptions apparently have their origin in misinformation regarding pastoral production systems. Some misconceptions have been reinforced by explicit contempt towards the pastoral way of life from urban-based, biased and supposedly culturally superior policy makers and planners. This section is intended to rectify, at least in part, some of these misconceptions as a prerequisite for an informed perspective on land tenure issues in Sudan. It places emphasis on three major misconceptions:

- i. The distinction between farmers and pastoralists;
- ii. The tribal composition of the Sudanese peoples; and,
- iii. Pastoralism and the environment.

CHAPTER TWO

FARMERS AND PASTORALISTS IN SUDAN

2.1 Introduction

The distinction between 'farmers' and 'herders' in Sudan is at times overemphasized to the extent of viewing the two as comprising different populations bearing distinct cultures, forms of political organization, etc. But while it is generally true that some administrative distinctions exist, the separation between the two groups is a relatively recent development that started under Turco-Egyptian colonial rule (1821-1884). At that time, a new system of administration was set up, whereby the colonial rulers took direct charge of the sedentary populations, especially those in the relatively densely populated settlements, and relegated administration of the pastoral populations to those believed to be the 'pastoralist tribal leaders'.

In effect, the colonial administration ignored, or sought to undermine, the fact that the pastoral and farming communities throughout Sudan are normally members of one and the same 'group' or 'tribe', which prior to the Turco-Egyptian occupation had a unified leadership.

There was, however, at least one important difference between the nomadic and sedentary populations prior to the first colonial occupation. Pastoralism in pre-colonial rainland Sudan constituted the most important sphere for investment and accumulation. Compared to small-scale cultivation, pastoralism was, and continues to be, a more secure form of investment in a region characterized by a relatively uneven distribution of rainfall (spatially and temporally), conducive to frequent crop failures. The mobility of animals mitigated the climatic constraints in any one district. Given the level of technology in agriculture, pastoralism was more attractive as it was less labour intensive, offering a higher return per unit of labour. Agricultural surpluses were thus consistently converted to investment in animals, and the distinction between pastoralists and sedentary cultivators was therefore underpinned by disparities in resources. Pastoralists not only had more wealth, but it was also the more affluent among them who had political power to become rulers of both the pastoral and farming populations (see Spaulding, 1979). With the emergence in modern Sudan of investment opportunities in new spheres, such as commerce and large-scale agriculture and industry, the livestock sector no longer meant affluence to the resourceful strata who came to inhabit the urban areas. Nevertheless, the significance of livestock to rural farmers around Sudan has continued to the present.

2.2 The Superimposed Administrative Boundary

The assumption of direct control of sedentary farmers by Turco-Egyptian colonial administrators thus meant an administrative separation between the pastoralists and farmers on rainland Sudan. But that separation did not affect long-established processes of conversion of values and circulation of people between sedentary farming and nomadic pastoralism. Thus, well after Sudan attained its independence, relatively resourceful small farmers tended to invest their surpluses in animals, and as the herd size grew, at least a few members of the household would shift from sedentary to nomadic life. Impoverished pastoralists, on the other hand, tended to sedentarize and engage in agricultural production with the hope of rebuilding their herd to readopt pastoralism as a major occupation (see Haland, 1969, 1972). As the difference between the prices of crops and animals was not substantial, the conversion of agricultural surpluses into animals was tenable even to ordinary small farmers. In recent decades, however, the process of

converting agricultural surpluses into animals in average years has become more difficult, owing to the exorbitant increase in livestock prices compared to crop prices. In lean years when small farmers suffer bad harvests, crop prices increase to such levels that pastoralists are effectively impoverished due to the exorbitant crop prices fixed by merchants.

The point to be emphasized, then, is that pastoralism in Sudan never existed as a self-contained economy. It was, and continues to be, a specific economic adaptation that formed an integral part of wider socio-economic structures and processes encompassing sedentary cultivation in the area.

The majority of rural Sudanese may thus be characterized as agro-pastoralists, with varying degrees of involvement in both farming and pastoral pursuits. The poorer sections are the so-called 'traditional farmers', who keep only a few animals and devote most of their time and labour to cultivation. The richer groups build large herds, and though they tend to cultivate food crop, the main focus of their production strategy is to increase herd size. The specificity of pastoralism thus stems from its status as a form of production that requires mobility and flexibility in order to adequately utilize relatively marginal ecological resources. Together, small-scale cultivation and nomadic pastoralism have constituted two interdependent and complementary forms of economic activity that, with the available level of technology, represented balanced and efficient patterns of resource allocation. Incorporation of the different peoples of Sudan into modern central forms of government introduced new patterns of interaction between pastoral and sedentary (particularly urban) communities. The emergence of new forms of land use (large-scale irrigated and rain-fed farming in particular) tended to marginalize the pre-existing patterns of resource allocation.

2.3 Sudan's Tribal Composition

The second misconception about pastoralists concerns the nature of their social organization, said to be formed of a relatively rigid tribal structure. Yet the 'tribes' observed today are relatively recent developments. They had their origins in processes set into motion during the local Muslim kingdoms. They were relatively stabilized during the Turco-Egyptian colonial era, but took their modern form under British colonial rule. In view of the complexity and variety of the processes in the different regions, an exhaustive comprehensive treatment of all the processes would be untenable in the present context. It is nonetheless relevant to the understanding of so-called 'customary resource tenure' to briefly address some of the salient features of these historical processes.

In pre-Funj Northern, Eastern and Western Sudan, 'tribal structures' were apparently fluid and constantly changing in name as well as internal composition (Abdel Ghaffar, 1979; Spaulding, 1979; Al-Haj Hamad, 1987). They were formed as agglomerations of small kin groups from diverse origins affiliated to other such small groups that managed to establish themselves as 'power centres' through control of some strategic resource (water sources, pastureland, etc.). They were seemingly also in a state of constant mobility within and across regions, and used to affiliate or dissociate themselves from the different power centres, which were themselves changing. With the processes of Arabization and Islamization in Northern, Eastern and Western Sudan, Muslim power centres managed to establish their kingdoms in the north as well as in the centre (Funj) and west (Tunjur, Musaba'at and Keira), including the fringes of the Nuba Mountains (Taggali).

2.4 Muslim Kingdoms

With the rise of the Muslim kingdoms, the position of local power centres started to be consolidated. The power centres came to constitute the nucleus of tribes, which formed administrative units, particularly in the Funj Kingdom (in Northern, Eastern and Central Sudan) and the Keira Sultanate in Darfur. According to Spaulding (1979), a 'tribe' in the Funj period constituted a "group of people to whom the Sultan, directly or through subordinates, according to customary law, delegates the right to exploit the agricultural resources of a specific area of land." Identification with the different power centres was thus a precondition to validating and legitimizing access to natural resources, particularly land. As the power centres to which the sultan delegated rights were not only Muslim but also Arabic-speaking, many of the indigenous, non-Arabic-speaking core kin groups underwent processes of Islamization and Arabization.

Land use grants by both Funj and Darfur monarchs were usually made to local administrators. In exceptional instances, however, the grants were made to individuals, normally reputable religious sheikhs. Many of the latter grants were authenticated by documents (*wathiga*, or 'charter' of Funj monarchs, and *hakura*, or 'concession/monopoly' of Darfur sultans). Grants made to local administrators were considered 'tribal', in which cases they only pertained to usufruct rights. The grants to religious men and other notables, however, were in recognition of individual private landownership. Under both Funj and Darfur kingdoms, the latter grants resulted in the creation of a class of landlords owning vast tracts and extracting dues and/or agricultural surpluses from their tenants and/or slaves. Although the first transaction concerning land in the northern riverain regions took place as early as A.D. 830 (Yusuf Fadl Hassan, 1973:38), it was only during the 18th century that land started to become a commodity that could be exchanged through "sale, mortgage, marriage and inheritance" (Spaulding, 1979). In Darfur, even today, land is rarely if at all considered a commodity.

The land grants enhanced the status of regional power centres as tribal leaders were endowed with authority over both pastoralists and sedentary cultivators who lived within their respective *dar* (homeland). Part of the tribute and various dues collected by the tribal leaders were transferred to the central authority, but a significant portion was retained in the regions for two purposes. The first was a redistributive mechanism, whereby the poorer sections of the population were given a share of *zakat* (Islamic alms). The second was part of a 'food security' strategy whereby the leaders store grain for years of crop failure.

The populations of Southern Sudan apparently had different experiences. In the state-like societies (notably the Shilluk, Azande and Anuak), the 'divine kings' seem to have had absolute title over both the natural resources and the population until their incorporation into the modern Sudanese polity. The position of local monarchs seems to bear similarities to conditions in the Meroitic and Christian kingdoms of northern riverain Sudan. Until impacted by British colonial policy, moreover, the 'stateless' societies (notably Dinka and Nuer) had indigenous tenure systems in which membership in the group validated usufruct rights to the common resources.

The so-called 'tribal homelands' and 'customary resource tenure systems' were thus initially constituted during the successive indigenous kingdoms of pre-colonial Sudan. However, neither the land grants made to the tribal power centres by Funj and Keira monarchs nor the tribal structures founded on their bases were permanent. It was common for Funj monarchs to play off regional notables against each other, particularly

through withdrawing titles from one local leader and granting it to the other. The change of titleholder often induced a corresponding change in 'tribal identity', a process that explains the apparently peaceful emergence and disappearance of the names of seemingly large 'tribal agglomerations' throughout the history of Sudan. In Darfur, the *hakura* document sometimes specified the period of concession during which the *hakura*-holders could appropriate for themselves all the taxes and dues of the area granted. This restriction was not, however, applied to all *hakura*-holders, particularly those from the royal family or 'caste'.

The processes of stabilization set into motion during the era of the local kingdoms were further consolidated under Turco-Egyptian colonial government. Consolidation was achieved, first and foremost, by means of the superimposed administrative separation between 'urban sedentary' and pastoral populations.

Tribal stabilization in rainland Sudan was interrupted by the Mahdist revolt, which began in 1881. Tribal leadership was abolished, a form of religious-cum-national solidarity was fostered, and a new administration based on army leaders in the various regions was instituted. The Mahdist period was also characterized by considerable population movement within and across regions. By the time of the British re-conquest of Sudan in 1898, tribal intermingling and administrative chaos apparently prevailed throughout the country. Particularly affected were the central rainlands, which in addition witnessed successive spells of drought, famine and war conditions. The British colonial administration set about to reconstitute anew a 'tribal society' in rural Sudan, and within three decades reconstitution was largely completed. By the early 1930s, the entire Sudan came to acquire a tribal structure with relatively well-defined tribal agglomerations headed by native administrators and inhabiting carefully delineated tribal homelands. The British colonial measures are discussed in more detail in the review of the colonial regulations of pastoral production.

2.5 Pastoralism and the Environment

Of the varied forms of land use in Sudan, pastoralism is usually pointed out by policy makers as the one that is most responsible for environmental degradation. They misconceive pastoral movement, with its characteristic extensive use of land, as a wasteful socio-economic adaptation. Overgrazing is pointed out as the primary cause underlying the disruption of the ecological balance. But such interpretations of the nature and origins of environmental deterioration are poorly founded and tend to blame the victim. The point here is not to deny the localized incidence of overgrazing in many regions. It is rather to draw attention to the point that the observed processes of overgrazing are consequences of the drastic reduction in grazing areas under laid by rapid agricultural expansion, more than of growth in animal population. Other factors, such as water scarcity, conflict and banditry, seem to have limited further the effective grazing area accessible to pastoral herds.

Analysis of the question of pastoralism and the environment has to depart from recognition that all over Sudan, the realities of pastoral ecologies pose a number of serious constraints on the permanent settlement of herds. Basic among these constraints are the seasonal fluctuations in the supply of the essential inputs of pastoral production: water and forage. There are also other region-specific adverse environmental features, which render a region inhospitable to livestock during parts of the year (mud for camels in the clay plains, biting flies in the south, etc.). The seasonal fluctuations, combined with varied

adverse environmental features, necessitate forms of pastoral movement, varying in distance and duration according to the region and/or type of bred animal.

2.6 The Imperative of Pastoral Movement

In Southern Sudan, pastoral movement involves relatively short distances in which cattle herds shift from rainy season grazing in the high grounds to dry season lowland grazing in islands and river banks. The high grounds turn into thirst areas during the dry season, and pastoralists have to move into the low grounds that have more permanent water sources, rivers and watercourses. As in other parts of Sudan, transhumance in Southern Sudan is socially sanctioned by long-established traditions involving recognition of the customary rights of the original 'land-owners', albeit in recent decades such traditions were increasingly neglected and abandoned.

In the clay plains of Eastern, Central and Western Sudan, pastoral movement takes several complex forms underlaid by similar dynamics. The plains have three main seasons in a year: *kharif*, the cool rainy season (July-October), *shita*, the cold dry season (November-February); and *saif*, the hot dry season (March-June). The transition from *kharif* to *shita* (October-November) coincides with early harvest and is commonly known as *darat*.

Prior to the aggravation, since the 1980s, of adverse environmental and insecurity conditions in the clay plains, *kharif* and *darat* were the most convenient seasons for pastoral production. Water was generally ample in supply as the rain formed water pools, and grazing was plentiful and extensive. *Shita* was the second-best season, as herds can do without water for relatively longer periods, and this enabled pastoralists to utilize a relatively extensive grazing area. But *saif* was, and continues to be, the season of general hardship, first and foremost because herds require watering the most frequently. During *saif*, water is confined to rivers, seasonal watercourses and wells (varying by region, ranging from shallow hand-dug wells to deep tube and traditional open wells). The rivers and the wells depend on annual rainfall for replenishment, and their water would soon be exhausted if pastoralists depended on them year-round. Even where permanent water sources could provide sufficient water throughout the year, a problem of forage scarcity would ensue due to overgrazing around the water sources.

The basic problem for the pastoralists was then to maintain the maximum number of animals under dry season conditions in order to make use of the plentiful supplies of both water and forage the rest of the year. To relieve pressure on both water and grazing around the watering centres, pastoralists tended to disperse widely in their respective regions during *kharif* to make use of both the water pools formed by the rain and the extensive grazing area rendered accessible by water availability. Various types of pastoral movement emerged in the central rainlands as adaptations to the ecological constraints. These movements ranged from 'pure nomadism', typically involving camel breeding and long-distance movement, to forms of transhumance, involving cattle, sheep and goats, and entailing relatively shorter distances. Even sedentary cultivators often find it necessary to move during the dry season with their village-based small herds.

The ecological constraints requiring pastoral movement were recognized by the colonial administrators, as explicitly stated by C.P. Fisher (Report of the Soil Conservation Committee, 1944, quoted in Galal El-Din El-Tayeb, 1985):

Nomads are not nomads from choice. They are so because they must and for this reason must be accepted as they are. Communal land tenure is the only workable

system for them, and with this system nobody can introduce improvement in advance of the slow sense of the mass of his fellows.

In recent decades, the centuries-old patterns of pastoral movement were severely disrupted. Both drought and insecurity have contributed to that disruption, but the major factor remains the steady expansion in farming over the last four decades. Agricultural expansion was mainly promoted by development plans that either replicated the model of the Gezira Scheme (Managil Extension, New Halfa and Rahad Schemes) or encouraged large-scale, rain-fed mechanized farming in a search for enhanced national food security. Rain-fed mechanized farming has expanded considerably since 1968. It initially started in the plains of Eastern Sudan (Greater Gedarf), but subsequently extended to the southeast (Dali-Mazmum and Agadi-Grabeen districts), Western Sudan (Habla in the Nuba Mountains) and Southern Sudan (Kosti-Renk). It currently covers an estimated area of over 25 million acres, most of which was not actually allocated by the Government. Closely associated with expansion in rain-fed mechanized farming has been commercialized woodcutting on a large scale, often also unauthorized.

2.7 The Dynamics of Environmental Deterioration

Successive spells of drought are hardly a new phenomenon in the wider region of which Sudan is part. Both the Bible and Koran testify to this with reference to Joseph. Throughout history, the populations of the region oscillated between feast and famine situations. Sedentary cultivators coped with their unstable environments by storage of surpluses in bumper harvests for consumption in lean years. Pastoralists survived by moving, thereby escaping the disastrous impact upon their herds of rain failure in any one region.

Unprejudiced observations corroborate that pastoralists are very concerned about the long-term environmental conditions in their area. They are fully aware that conducive environmental conditions are essential not only for the pursuit of their present productive activities, but also for the future pastoral careers of their children. In this respect they differ markedly from the owners of mechanized rain-fed schemes in their respective regions. The scheme owners consist largely of people drawn from urban areas, and usually reside outside the farming regions. Their investments in mechanized farming adopt a short-term logic of profit maximization rather than a long-term strategy of soil conservation. Hence their non-compliance with the rotation prescribed by the Mechanized Farming Corporation: as productivity levels decline in a scheme, they would shift to another site or withdraw from agriculture altogether. Unlike the scheme owners, pastoralists consider the regions as their homeland and view pastoral nomadism both as a way of life and career for themselves as well as for their descendants. They have neither another equally rewarding career to pursue, nor roots in urban areas to return to in the manner scheme owners do.

Though pastoral nomadism constitutes a form of production characterized by extensive utilization of resources, it cannot be justifiably characterized as wasteful or destructive. In the context of the environmental constraints exposed earlier, the herds cannot be sustained without movement or use of resources in a relatively extensive area covering different ecological zones. But use of an extensive area does not necessarily imply destruction of natural resources. Inherent to the operation of pastoralism is a mechanism for environmental conservation and regeneration of natural resources. Pastoral movement is both flexible and selective. Until recently, movement was usually undertaken by relatively small pastoral camps, with each comprising a limited number of herding units. Of late, however, camp size started to expand in response to insecurity in various regions. Each camp has a number of scouts who move ahead of herds to explore and collect

information on the grazing potentials of the area towards which the herds are moving. Invariably, decisions concerning direction of movement are based on reports by the scouts. In other words, herds do not graze at random, but on selected sites known to be the best available; ipso facto, poorer sites are avoided and left to regenerate.

The flexibility and selectivity of pastoral movement should not, however, be exaggerated and taken out of context. They do not imply that pastoralists would go out of their way for the sake of resource preservation or regeneration. They rather simply mean that herds do not graze at random. Selectivity is intended, first and foremost, to ensure the best forage, in terms of both quantity and quality. It also has positive impact on resource regeneration. Under normal grazing conditions, therefore, one may conceive of a unity between pastoral and environmental interests. Such normal conditions, however, no longer prevail. Pastoralists are being dislocated, and their herds are being steadily pushed to more marginal areas. Evidence of 'overgrazing' in such marginal areas becomes readily observable. What should not be glossed over, however, is that 'over-grazing' is neither deliberate nor a consequence of an increase in animal population. It is rather the result of marginalization of pastoral activity by forms of land use, namely mechanized rain-fed farming and commercial charcoal making, that do not seem concerned about the sustainability of the environment.

As mechanized rain-fed farming is considered 'modern' and assumed conducive to growth of the production capacity of the Sudanese economy, its role in environmental deterioration is more often than not ignored. In effect, the clearance of vast tracts of forest land for mechanized farming is taken for granted, while localized overgrazing around watering points is emphasized out of all proportion to its actual magnitude. Likewise, pastoralists tend, under certain stress conditions, to lop tree branches and/or trees, and this is considered a cause for alarm by officials administering reforestation programmes. In the process, the role of commercial woodcutting and charcoal making (often unauthorized) in destroying vast forests is overlooked. It is not an overestimate that what a reforestation project can rehabilitate in a decade could be destroyed by extensive commercial woodcutting in less than a fortnight. Like mechanized farming, however, commercial woodcutting is under laid by, on the one hand, forcefully defended interests of the 'big merchant' and, on the other, the anxiety of politicians to secure stable and relatively cheap supplies of both food crops and wood fuel for a politically powerful urban population.

Despite its progressive marginalization, mobile pastoralism continues to be the most viable adaptation to maintain herds. It utilizes pasture in marginal areas that are generally not readily amenable to agricultural investment, except for short-term strip mining, after which the deserted schemes may not replenish fertility, even after decades. In recent years, the economic contribution of pastoralism seems to have captured the attention of planners and policy makers. It is now generally agreed that the livestock sector contributes more to Sudan's gross domestic product than the crop sector. Over the last decade, the livestock sector has contributed over 11 percent and its share is increasing. The crop sector, on average, contributed 10 percent of the 38 percent share of the agricultural sector in gross domestic product. The mechanized rain-fed schemes, which have caused so much havoc for both pastoralism and the environment, do not contribute more than 1.5 percent of gross domestic product (Abdel Ghaffar, 1998). It should now also be acknowledged that pastoralism, far from being destructive, is in fact more environment-friendly than modern forms of land use, particularly mechanized rain-fed farming. Clearly, it is not the realities of pastoralism that have generated and reinforced the prejudice.

2.8 The Nature of Pastoral Vulnerability

There are two dominant erroneous conceptions of the nature of famine that continue to hit agro-pastoralists in Sudan. The first, adopted mainly by the Government and donors, tends to attribute famine to successive seasons of poor rainfall and crop failure. The implication of this view is that famine is a sudden and unexpected 'event' consequent to a huge reduction in food supply. Famine relief is accordingly launched to bail out the victims until the following crop is harvested. According to this view, famine is an act of God.

The second conception ascribes famine to a long-term process of environmental degradation. It is thereby contended that the main factor behind famine is the unsustainable pattern of resource utilization adopted by agro-pastoralists in the affected regions. That pattern not only adversely affected productivity levels of food crops, but also eroded the resource base itself. According to this second view, famine was an act of its victims.

The two conceptions of famine are seemingly conflicting. Yet they converge in one significant way. They both gloss over the social nature of famine, and the extent to which its causes rest with the socio-economic processes of the Sudanese economy. They also distract attention from the extent to which pastoral vulnerability to famine was enhanced by state policy.

The extra-social explanation leaves no room for human intervention to ameliorate the situation. The view of environmental degradation as consequent of actions by victims is obviously not as constraining. However it does not only lack corroboration, but also seems to propose interventions aimed at changing the behavioural patterns of the agro-pastoralists as the main prescription. Maintaining this, however, does not mean denying the accelerated processes of environmental degradation. There is indeed much evidence corroborating the prevalence of environmental degradation: reduction in forests, localized extinction of certain formerly dominant plant species and loss of vegetative cover in many parts of the country. But that degradation is prompted by the new forms of land use the Government supports, mainly rapid agricultural expansion. Pastoralism is neither the sole nor the main agent in these degradation processes.

The correlation presumed between famine, drought and environmental degradation is also problematic. There is no conclusive evidence to corroborate the assertion that the failure of rains in successive years in the early 1980s was the direct outcome of a long-term environmental/climatic change. The rains of the late 1980s, especially the heavy rains of 1988 that devastated vast areas, should not have occurred if we are to believe in that correlation. Spells of drought years occurred several times during this century, and were often succeeded by years of good and sometimes very heavy rains.

The correlation between drought and famine is likewise nebulous. In the early 1970s, successive seasons of no rainfall occurred, but no famine requiring external relief ensued. Drought of course meant crop failure in the affected regions, and the subsistence farmers were not obtaining the levels of harvest they had worked for. But in a vast country like Sudan, the spells of drought, no matter how extensive, did not affect all regions. Localized crop failures were often offset by a bumper harvest in other parts of the country.

To better understand the nature of pastoral vulnerability to famine, two points have to be taken into account. The first is that famine is not a matter of reduction in aggregate supply

of food in the country. There is indeed much evidence to corroborate availability of ample supplies: Sudan actually exported grains during what was supposed to be the peak of the famine in both the 1980s and the 1990s. The second point is that famine did not affect all social categories of Sudanese, even in the worst-affected regions, in the same way or to the same extent. While the lives of millions seemed to be at stake, a minority actually profited from the prevalence of famine conditions.

The dynamics of the differential impact of drought and famine rested with differences in the degree of vulnerability to natural disaster. Vulnerability was particularly conspicuous among pastoralists, who are far more resourceful than small sedentary farmers. Pastoral vulnerability is largely a consequence and manifestation of consistent processes of impoverishment set into motion, first and foremost, by state policy. But this is not merely to stress the negligence of pastoral interests in the formulation of 'development plans' by successive national governments. Many scholars tended to draw attention to that negligence (e.g. Abdel Ghaffar M. Ahmed, 1997; Salah El-Din El-Shazali & Sharif Harrir, 1975; Morton, 1987; Mohamed Salih, 1992). That negligence, however, is the passive aspect of government policy, but there is also an active policy pursued to the detriment of pastoral interests to which little attention is accorded. The natural resource legislation and policies discussed in the next two sections corroborate aspects of this categorical contention.

CHAPTER THREE COLONIAL RESOURCE TENURE SYSTEMS

3.1 Introduction

Analysis of the current pastoral tenure insecurity is commonly pursued on the basis of a distinction between 'federal resource tenure legislation and policies', 'legality', local-level 'customary resource tenure' and 'legitimacy' (e.g. De Wit, 2001). It is accordingly claimed that customary resource tenure systems have been undermined by interventions from the larger Sudanese polity. Insofar as customary tenure is believed to have sustained pastoral pursuits over the centuries, recommendations commonly revolve around the need to 'legalize' customary tenure through its recognition by the state and the curbing of unfettered agricultural expansion.

As alluded to in Chapter Two, the dichotomy between 'legality' and 'legitimacy' in pastoral resource tenure is more seeming than actual. This is particularly true for the clay plains where, since the ancient Meroitic kingdoms, the ultimate tenure title rested with the central authority (the divine king, monarch, sultan or modern state). The populations enjoyed only usufruct rights that the central authority granted. In pre-colonial Sudan, Funj and Darfur monarchs used to authenticate their land grants by royal documents (*wathiga* and *hakura* respectively). However it was only under the British colonial period that codified legislation for natural resource tenure, notably of titles to land, was initiated. The purpose of this section is to review aspects of the interface between colonial legislation and policies on natural resource tenure and the local level 'customary' pastoral resource tenure systems.

3.2 British Colonial Resource Tenure Legislation

As soon as the reconquest of Northern and Central Sudan was completed, the British colonial administration paid particular attention to the system of land tenure. It issued its first Titles to Land Ordinance in 1899, by which it recognized as private property the continuously cultivated lands in northern and central riverain Sudan. The rights of *wathiga*-holders were also recognized, but their share in the crops produced by tenants was restricted to one-fifth. This recognition, however, was withdrawn in 1906, and systematic attempts to dispossess landlords (without recourse to violent expropriation) were made as the colonial government started to settle and register titles to land (Salah Shazali, 1985:91). According to Bolton (1948:188):

The general policy adopted in the course of land settlement of riverain land and the Gezira was to recognize claims based on continuous cultivation but not to recognize claims based only on ancient grants or on the cultivation by a claimant's ancestors of land subsequently abandoned.

In accordance with the registration policy, the class of *wathiga*-holders was deprived of vast tracts that were not under crop. In those areas where tenants were settled, moreover, the colonial government sought to make arrangements whereby tenants could buy land from their overlords. This colonial ability to liquidate partially the class of big landlords was applauded as a restoration of the 'original system' that prevailed in the country prior to Funj, Turco-Egyptian and Mahdist 'interference' (Mohamed Hashim Awad, 1971; Fatima Babiker, 1978:42). In accord with its contempt for the 'capitulations' Europeans enjoyed in Egypt, the British administration issued its Native Disposition of Lands Restrictions Ordinance, 1918, by which it sought the 'protection' of the native private landowners from dispossession by expatriates.

The 1899 Titles to Land Ordinance was not applied throughout the Anglo-Egyptian Sudan. It in fact excluded from land settlement and registration the rainlands of Central, Eastern and Western Sudan as well as all lands in Southern Sudan. No individual private landownership of any land in these regions was recognized. As was the case with the uncultivated riverain land in Northern and Central Sudan, the 'unsettled' areas were categorically classified as Government-owned and divided into two classes:

- i. Government land subject to no right, and
- ii. Government land subject to rights vested in a community such as tribe, section, village, or, in the case of the Nuba Mountains of Western Sudan, in individuals. This classification has remained virtually intact until today.

In general terms, the class of government land subject to no right is confined mainly to the northern and central riverain regions and includes the deltas of Tokar and Gash in Eastern Sudan. It is out of this class that successive governments during both the colonial and post-colonial periods allotted land to native and expatriate entrepreneurs for agricultural investment. It is to the creation of this class that the chronic food insecurity of pastoralists in the Red Sea area may be traced. The Hadendawa lost their most fertile agricultural lands in the deltas of Tokar and Gash in Eastern Sudan and ever since they have been confined to the low-potential Red Sea Hills where food sufficiency is most difficult, if not impossible, to achieve. Some Hadendawa were granted tenancies in the schemes to grow their staple *dura*, but were simultaneously required to cultivate half their allotments with a cash crop in which they were not interested (cf. Salah Shazali and Abdel Ghaffar, 1999; Salah Shazali, 2000).

The class of government land subject to customary usufruct rights, on the other hand, is mainly the abundant rain land where usufruct rights of pastoralists and sedentary cultivators were recognized. It also includes the whole of Southern Sudan. However, the customary usufruct rights were not legally registered and as such were implicitly understood as subject to withdrawal whenever the colonial government decided to do so. Subsequent colonial land legislation only served to consolidate and further the right of Government to withdraw the so-called customary usufruct rights.

The first instance of withdrawing usufruct rights on a large scale came with the establishment of the Gezira Scheme. The latter undermined further the position of *wathiga*-holders as the Government absorbed a large number of estates in the scheme. Estate owners were offered, in addition to preference in tenancy allotments, an annual rent of 10 piaster P.T. per feddan. **The 1927 Gezira Land Ordinance** provided for the purchase of all land required for permanent works or for seed and research farms on payment of compensation not exceeding one Egyptian pound per feddan.

Withdrawing usufruct rights continued over the entire colonial period. **The 1930 Land Acquisition Ordinance** further paved the way for the Government to acquire any "land subject to village or tribal rights" when it "appears that it is likely to be required permanently or temporarily for any public purpose." **The 1932 Central Forest Act** gave impetus to acquisition for a specific class of "public purpose"—the reserved forests within which grazing is either completely excluded or substantially constrained. The forest reserves during the colonial period did not cover large areas, but since independence the reserve policy has increasingly proved detrimental to pastoral interests.

With the exception of the relinquishable 'tribal usufruct rights' to government land, British colonial countrywide legislation was largely silent on the entitlement of pastoralists to natural resources. Nevertheless, pastoral entitlements were catered to by other means, notably through local-level legislation and administrative measures, including the creation of an efficient and capable system of native administration. Legislation by district administrators took the form of local orders, which apparently were relevant to realities on the ground more than countrywide laws. Colonial legislation on native administration, moreover, instituted mechanisms for the enforcement of pastoral resource tenure. These arrangements proved versatile in guaranteeing, at least during the colonial period, the rights of pastoralists to natural resources, particularly land.

3.3 The Colonial Regulations

It is common knowledge that the decades preceding the British re-conquest was a period of general instability and intensified tribal intermingling. Such was the context in which the British colonial administration started to devise and implement its policy of native administration. Except in the case of the Shukriya in Eastern Sudan, who were known to have opposed the Mahdists, the British colonial administration was reluctant in its first years to recognize large groupings for security reasons. It rather opted to build a form of administration from the levels of the village and the nomadic camps (Abdel Ghaffar M. Ahmed, 1982). But soon it became apparent that government intervention was required to settle disputes between larger groupings concerning rights over water sources and grazing lands. From 1904 onward, the Government started to regulate grazing activities by delineating areas for the larger tribal federations, and to stipulate general regulations for the allocation of resources to the different sections of a confederation and to outsiders.

The institutionalization of native administration was a process that took three decades to complete. In areas like south Kassala where tribal intermingling prevailed, and a number of ethnic groupings were relatively too small to form a separate native administrative unit, a reorganization of 'tribes' had to be undertaken to create sufficiently large groupings to constitute a *nazirate*, the largest unit of native administration (Salah Shazali, 1988). In Dar Hamar in the west, colonial policy aimed at reconstituting "pre-colonial forms of territorial and political organization" and "dispersed settlements needed to be consolidated into villages that 'owned' land communally. For the purpose of landholding, colonial officials in Kordofan agreed that the 'village' had to be the unit of administration (Mustafa Babiker, 1998:202-3). Reconstitution of the seemingly egalitarian 'stateless' societies in Southern Sudan (Nuer, Dinka, etc.) necessitated the creation of 'tribal chiefs' virtually from scratch.

A *dar* or *nazirate* was divided into a number of *khuts* (literally lines, but denoting native administrative districts), each headed by a *khut sheikh*. A *khut* was normally comprised of homogeneous groups, often claiming the same ethnic identity. It was divided into a number of *omdias*, and under each *omda* were village and nomadic camp sheikhs. The mandate of native administrators included judiciary powers, sanctioned by the 1932 Native Courts Ordinance in Northern Sudan, and the 1931 Chiefs Ordinance in the south.

Native administration was thus primarily based on the principle of *dar*, or tribal homeland, which for pastoralists generally denoted the *dammer* centres, where they customarily spend the hot dry season. Each *dar* was headed by a *nazir*, or paramount chief. Within each *dar*, resources were allocated to the constituent units down the hierarchy of administrative organization as *khuts*, *omdias*, villages and nomadic camps.

In *dars* that receive outsiders during the rainy season, such as Butana in Eastern Sudan, a careful classification into 'common' (or seasonal) grazing areas and 'special' grazing areas was introduced to contain inter-group conflicts. The common area was open for all pastoralists frequenting the *dar* during the rainy season. But outsiders were required to leave the *dar* by the end of the rainy season and fall back on their respective dry season sites. Patrols formed of native administrators used to tour the common grazing areas and settle disputes between members of different camps and/or tribes. Difficult disputes, typically involving homicide, were referred to the *nazir* or the district courts. Up to the 1970s, moreover, annual conferences attended by government officials and *nazirs* of a region were held to regulate the use of the common grazing areas and to settle major intertribal disputes.

The special grazing areas were reserved to the groups of the specific *dar*, and, in principle, no herds from outside were to be allowed to graze them. They also contained the permanent water sources, from which outsiders were likewise nominally barred and their animals were expected to depend on the water pools formed by the rain. In practice, however, pastoralists from different *dars* were involved in varied and complex reciprocal relations sanctioning access by the herds of one group to the reserved pastoral resources of another. Reciprocity is rendered imperative by the unstable ecologies of the different *dars*, where localized spells of drought are common. Close symbiotic relations, amounting to 'alliances' between neighbouring *dars*, were thus very common. Alliances were forged through negotiations between *nazirs*, and their main objective was to provide access to the natural resources of the *dar(s)* not affected by environmental stress by the herds of the adversely affected *dar*.

The colonial regulation of pastoralism was enhanced by the strict enforcement of 'grazing lines' in Northern Sudan to separate the respective domains of cultivation and grazing. These lines constituted the limit for sedentary cultivators, and no farmer was allowed to cultivate north of it, otherwise pastoralists would not be held responsible for crop damage. Pastoralists were in a similar fashion instructed not to enter the cropping areas with their animals during the agricultural season, otherwise they would be liable to both fine and imprisonment in case of agricultural damage. The movement of the southern pastoral groups to and from the northern part of their region, through the cultivated area, was also regulated to avert conflicts between farmers and herders. Sufficiently wide nomadic routes and corridors were recognized as part of the grazing domain, and no farming was allowed along them. In addition, local orders were annually issued stipulating the timing and direction of pastoral movements as well as the latest date for harvest, after which pastoralists were free to enter the cultivated area and graze the agricultural residues. The colonial government strictly enforced these regulations, mainly through the native administrators who jealously guarded the domain of pastoral activity.

A further set of controls over nomadic movement devised by the British colonial government concerned the manipulation of water policy. The colonial government accordingly used to open and close watering points so as to influence the timing and direction of pastoral movement, normally away from sites considered poor and in need of rehabilitation. Range management was linked to water policy in a region and this promoted a high degree of direct control by government over pastoral movement.

During the British colonial period, pastoral activity throughout Sudan generally flourished. On the one hand, the activity was pursued in the context of restored security conditions following decades of destabilization. On the other, the colonial administration adopted an

integrated approach in pursuing its policies to develop and expand the 'livestock sector'. By 1947 it created the Livestock and Veterinary Policy Committee, which synchronized activities by the different departments. With the establishment of new water points and the extension of veterinary services, livestock mortality rates decreased considerably. The animal population seemed to have grown to the extent that by the 1950s some evidence of localized overgrazing around watering points was reported (Harrison, 1954).

Nevertheless, it was the British colonial administration that instituted the detrimental principle that gave birth to the bases—or bias—in the settlement of disputes between farmers and pastoralists. In 1944, the Soil Conservation Committee recommended that "where nomadic pastoralists were in direct competition for land with settled cultivators, it should be the policy that the rights of the cultivator be considered as paramount, because his crops yield a bigger return per unit area" (Galal El-Din El-Tayeb, 1985:35). The pastoralists, however, were partially compensated for the reduction in dry season pastures by the free access they had to agricultural residues in the farmed areas. As will soon be explained, that detrimental principle was taken to extremes under national rule.

3.4 Legislation and Policies under National Rule

Resource tenure legislation since independence differed only in superficial respects from the colonial legacy. The only significant difference for agro-pastoralists between colonial and national rule is perhaps that the latter took the colonial legislation and policies to their logical conclusion. By ostensible pursuance of 'developmental objectives' or the 'public good', the national governments tended to withdraw usufruct rights from increasing numbers of agro-pastoralists. 'Development' was primarily sought through agricultural expansion. Expansion either replicated the model of the Gezira Scheme (Managil Extension, New Halfa and Rahad), or promoted large-scale rain-fed farming in a search for enhanced national food security. In the clay plains of Eastern, Central and Western Sudan, however, the major rain-fed mechanized farming in particular has expanded considerably since 1968. It currently covers an estimated area of over 25 million acres, most of which was not actually allocated by the Government. Invariably, this expansion was at the expense of pastureland. Pastoralists thus contend that their fortunes in colonial times were far better than their lot under national rule.

Up to 1970, the national governments kept virtually intact all the colonial legislation on natural resource tenure, with only minor amendments to wording dictated by the changed politico-administrative context. This left the anomaly of recognizing private landownership in a small part of the country, while the majority of Sudanese who live in other regions are denied such an entitlement. Even when that denial is accepted for pastoral areas, where forms of 'communal landownership' seem appropriate, there is apparently no justification not to settle and register land that belongs to sedentary villages. To date, moreover, there is general lack of explicit land use policy supported by legislation, a situation that continues to generate intensified conflicts among the different land users. The implications of the policy and legislative gaps proved particularly adverse to pastoralism.

Far from rectifying the colonial anomalies, the first substantive national legislation on natural resources, **the Unregistered Lands Act of 1970**, proved even more repressive and detrimental. Article 4 (1) states that:

"all land of any kind whether waste, forest, occupied or unoccupied, which is not registered before the commencement of this Act shall, on such commencement, be the property of the

Government and shall be deemed to have been registered as such, as if the provisions of the Land Settlement and Registration Act, 1925, have been duly complied with."

The 1970 Act even entitled the Government to use force in safeguarding its 'land'. Its promulgation was virtually concurrent with the abolition of the system of native administration, a measure that resulted in virtual chaos around rural Sudan. With the overthrow of President Nimeri in 1985, many called for a reinstatement of native administrators to redress the chaos.

The 1980s was a decade of considerable stress for pastoralists in different parts of Sudan. Throughout the rainlands, but particularly in western and eastern regions, pastoralists were adversely affected by drought and widespread famine conditions. The renewal of the civil war in Southern Sudan, and its gradual extension to other parts, compounded the stress of drought by generating insecurity. To rectify aspects of the situation, the multi-party elected Government passed the **1987 Native Administration Bill**. The bill stipulated the selective reinstatement of varieties of native administration, ostensibly to cater to regional and/or tribal variations. Among pastoral groups, native administration was to have administrative, judicial and security powers, whereas among sedentary populations its judicial powers were limited. The bill could not repair the damage, and conflicts between farmers and herders, inter-group friction and widespread banditry loomed large over the country. In the meantime, the civil war escalated to unprecedented levels. Such was the context under which the multiparty political system was overthrown in 1989 by the National Salvation Revolution.

3.5 Pastoral Deregulation and Administrative Chaos

No credible alternative to native administration has to date been established. The abolition of the system was most untimely for pastoralism, as it coincided with a period of rapid expansion in irrigated and rain-fed farming. Among the salient consequences of the demise of native administration was the absence of an institution eager to enforce grazing lines. Rigid compliance with the colonial principle that accorded priority to farming over pastoralism induced unfettered expansion in unauthorized mechanized schemes. Unauthorized schemes crossed the colonial grazing lines, blocked access to watering points, and disrupted numerous important pastoral routes. As pastoral routes and corridors in the farming areas were narrowed, incidents of crop damage proliferated with a consequent intensification of disputes between farmers and pastoralists. Cases of crop damage are now settled in courts controlled by predominantly sedentary people biased against pastoralists. Assessment of crop damage and fines levied are so high that they bear no relation to the actual damage caused.

A main complaint by pastoralists is that many innocent pastoralists are often unjustifiably accused by scheme owners of causing agricultural damage. This happens as the owners of damaged schemes tend to accuse pastoralists nearest to their schemes, whereas those who actually caused the damage would have left the area altogether. As police patrols are provided (for payments in both cash and kind by scheme owners) to protect crops, the accused pastoralists have to pay for the damage, otherwise they would be taken to court. To avoid such incidents, pastoralists find themselves forced to buy, even at relatively high prices, the residues in the schemes along their routes to avoid having to pay damages.

The abolition of native administration also implied the absence of a credible institution capable of articulating and pursuing pastoral interests vis-à-vis government institutions. This is particularly reflected in the general deterioration of the conditions of water points—

bore wells and *hafirs* (reservoirs) alike—which either lacked maintenance and spare parts or were incorporated within mechanized rain-fed schemes.

By 1980, the principle of tribal homeland (and the special grazing areas associated with them) was definitively undermined as a presidential decree declared the right of all Sudanese citizens to the “unregistered lands” within the country. In the context of both expanding agriculture and deteriorating environmental conditions, tribal intermingling and pastoral competition and conflict were intensified in the relatively high potential areas. The Government also ceased to issue the local orders influencing pastoral movement, and the influx of ‘strangers’ in the different regions contributed to the appearance of widespread banditry. Deterioration was most notable in the eastern region, which constituted the granary of Sudan. To contain conflict between farmers and herders there, a regional law was proposed in 1983 at the Assembly of the Eastern Region. Among the salient features of the proposed law was the demarcation and enforcement of a grazing line. The proposal was blocked by the powerful lobby of farming interests, and no further regional laws were contemplated until the 1990s, when conditions in Western Sudan became even more alarming (see 3.3 below). What is conspicuous in federal natural resource legislation in post-independence Sudan is the absence of laws specifically focused on grazing areas—which receive mention only in passing, usually as a residual category, and more often than not to impose restrictions upon grazing. For instance, **the Civil Transactions Act, 1984**, treats as “pasture” all fallow land in the country. Nevertheless it stipulates the right of the Government to impose temporal or spatial restrictions on grazing in these areas or to allocate land for grazing for the benefit of an entire community or for the protection of wildlife.

Parallel to the abolition of native administration, the Government engaged in repeated ministry and departmental restructuring that tended to compromise pastoral interests. Particularly adverse was the restructuring of Animal Wealth and Range and Pasture. The status of Animal Wealth has been oscillating from full ministry to an agency within a larger Ministry of Agriculture and Animal Wealth. On several occasions when Animal Wealth was separated from Agriculture, a dispute over the affiliation of Range and Pasture Administration (manned mainly by agriculturalists) ensued.

The institutional status and affiliations of Range and Pasture witnessed even more dramatic and frequent changes. These changes started with the separation of Range Administration from the Ministry of Animal Resources where range management and research were closely coordinated with Animal Health and Production. The initial change resulted in the creation of a credible comprehensive alternative: the Soil Conservation, Land Use and Water Programming Administration (SCLUWPA). But after Nimeri’s May Regime seized power in 1969, thorough dismemberment of the latter was promoted. Two basic units were elevated to a status higher than the mother institution—the Range Management Administration and Rural Water Development Corporation. For a short period, Range and Pasture Administration became part of the Rural Water Development Corporation, but the unified administration was later split into two separate bodies and coordination between the two has since become virtually non-existent.

Currently, Range and Pasture has the status of administration, under a larger General Administration for Natural Resources within the Ministry of Agriculture. The regional Range and Pasture Offices in the 16 northern states are under regional Directorates of Agriculture (in a unified State Ministries for Agriculture, Animal Wealth and Natural Resources), but in the south they are under the Directorate of Animal Wealth. At both federal and state levels,

Range and Pasture generally lacks capacity to develop or even positively maintain pastures, save for the seasonal activity of opening fire lines. The marginality of the Range and Pasture Administration is thus often conceived to replicate, within government structures, the marginalization of agro-pastoralists in the polity and economy. On the one hand, it is the statutory mandate of the Ministry of Animal Wealth and Fisheries to develop pasture. On the other, the development and management of the acacia belt of Central Sudan gradually shifted from the Range and Pasture Administration to the Forestry Department. Concern over environmental rehabilitation apparently underpinned this shift, and the mandate of the Forestry Department started to expand, initially with the promotion of the Department to a Central Administration and, eventually, to a National Corporation. **The Forests Act of 1989** has not only changed the classification of formerly defined 'pastures' into 'forests' under the mandate of the National Forest Administration, but also rendered the continuity of pastoral usufruct rights in waste forest and unregistered land subject to the restrictions contained in the Forest Act.

The administrative changes of relevance to agro-pastoralists also touched on water. The Rural Water Corporation experienced several changes in its institutional status. In 1969, it became part of the Ministry of Rural Development and Community Service. Its status was subsequently elevated to a National Corporation under the Minister of Energy. Currently it is part of a larger national corporation that is also responsible for urban water under the Minister of Irrigation and Water Resources.

In colonial times, water and range policies were closely synchronized. From the 1970s, however, water policy has come to be progressively formulated in virtual disregard of basic pastoral needs and requirements. The shift of policy formulation processes from local and regional to central levels compounded further the problems of water policy. Not only was the bias against pastoralists exacerbated, but also the technical opinion of local officials has been ignored. In Eastern Sudan, for example, permanent wells have been dug in places technically feasible only for *hafirs*; and both *hafirs* and wells have been established in areas occupied by mechanized schemes, which are uninhabited except during the agricultural season. With the current privatization drive, agro-pastoralists have to bear the full establishment costs of watering points and in addition pay fees to use the water.

The negligence of pastoral interests is particularly manifest in the development plans launched by the successive national governments. The emphasis in these plans to increase crop production has had the adverse impact of cutting out vast tracts of the best grazing areas. The little attention accorded to pastoralism in 'livestock development projects' focused on the herd rather than the herder. The projects mainly targeted private investors from outside the pastoral sector—modern ranches for fattening and dairy production. The urban-based and biased planners generally conceived development for the herders in terms of 'nomadic settlement schemes'. The exception in the development plans was the Anti-Thirst Campaign of the 1970s that sought to avail water for both herders and herds simultaneously. However, many believe that the impact of this seemingly favourable initiative was environmentally detrimental. It encouraged sedentary cultivation in some previously uninhabitable pastoral areas, and promoted overgrazing in others. Whatever else the state undertook, ostensibly in pursuance of pastoral interests, has in effect amounted to little more than a mockery.

3.6 Legislation and Policy under the National Salvation Government

On first sight, the National Salvation Revolution seems to have accorded attention, unprecedented since independence, to issues of pastoral development. The National Comprehensive Strategy (1992-2002) had promising targets: tripling the national herd and increasing livestock exports twentyfold. Several laws pertaining to natural resources, the environment, and native administration were also promulgated since 1989. In 1994, moreover, the president of the Republic attended, with considerable fanfare, the inaugural meeting of the Sudanese Pastoralist Union that was established by presidential decree. At the meeting, he announced another decree stipulating the reopening of all pastoral routes blocked by agricultural schemes throughout Sudan. In 1995, and seemingly in follow-up to the presidential initiative, the Minister of Agricultural and Animal Wealth sponsored a convention at Kosti in White Nile state on 'pastoral development'—terminology that amounted to a revolutionary break with the former 'livestock development' forums.

On closer scrutiny, the conditions of pastoralism over the last decade seem to have worsened even further. The reopening of pastoral routes stipulated by the presidential decree has yet to be implemented. Besides progressive marginalization and drought, conflict in pastoral areas intensified and became manifest in varied complex forms: civil war, rebellion, inter-group conflict and banditry. Settlement of conflict has become as important to pastoralists as their need to rectify the existing prejudice and bias in land use policy and legislation.

One of the first laws passed under the Salvation Revolution was the 1990 Native Administration Act. It was followed by the 1998 Local Government Act, which empowers the different states to enact their respective Native Administration State Acts. Through these two acts, the Government sought to recreate a form of native administration ('emirates') that is primarily intended to establish security in rural areas and to mobilize the population to fight on its side in the civil war. Appointment of *amirs*, however, seems to depend more on political loyalty to the Government than the wish of the local people. In many instances, the appointments generated divisions and conflicts within former chiefly families. The recreated native administration is partially relevant to natural resource tenure, as sheikhs of sedentary villages were defined as custodians of the customary usufruct rights of their respective communities. No similar arrangements were introduced regarding pastoral resources, and pastures have remained with their former nebulous definition of being unregistered wasteland owned by the Government.

Following the convening of the Conference on Pastoral Development, the Range and Pasture Administration sought to consolidate its institutional status and mandate by enacting a federal Range Protection and Pasture Resources Development Bill in 1996. The National Council, however, did not ratify the bill, ostensibly for the need to revise it in view of the creation of a separate Ministry of Animal Wealth, the mandate of which includes pasture development. The significance of the bill stems primarily from its status as an umbrella for legislation in the different states, as it aims mainly at instituting a general framework that maps out the areas comprising pastureland and defines the types of pasture and their management. A prominent feature of the bill is its endorsement of the principle of popular participation by introducing the idea of community pastoral reserves, subject to direct management by local community representatives under the supervision of the Range and Pasture authorities.

The Forests and Renewable Natural Resources Bill of 2002 is a recent federal initiative to draft legislation pertinent to natural resources. Its promoters claim that it would synchronize access to pastoral resources with forest management.

In reality, however, the bill is an attempt to overcome the problems of forest management, notably the introduction of police power to protect forests and stipulation of penalties under the law.

The bias against pastoralism is implicit in the conception of the problems of forest management, which the 2002 bill is expected to resolve. The role of the National Forests Corporation (NFC) in the generation of these problems is generally overlooked. In many instances the NFC tends to select for forest reserves sites that incorporate depressions on which pastoralists depend for water as well as pasture, and at times also blocking pastoral routes. Donor support up to the late 1980s enabled the NFC to adopt a heavy top-down approach that alienated pastoralists and converted them into a serious threat posing an unwarranted increase in the costs of projects (fencing, policing, etc.). In recent years, however, donors scaled down their support, and NFC seemingly modified its approach to ensure 'community participation', even if only in the 'costs' of a project.

To date, thus, there is no federal legislation to sanction the entitlement of pastoralists to natural resources, particularly land. It was indeed left to the different states to promulgate their own legislation to deal with pastoralist entitlements. Thus far, two such state laws were issued, in the (then Greater) Darfur state and North Kordofan state. Both laws have, however, proved to be seriously flawed. In Greater Darfur, the law was issued in the aftermath of bloody tribal confrontations, particularly between herders and farmers. The security perspective that guided its formulation has imposed serious constraints on pastoral movement by its rigid demarcation of routes. It indeed promises a bloodier conflict between farmers and herders as the current events in Greater Darfur bear witness. In North Kordofan, on the other hand, the regional law does not relate to the whole state, as it focuses on the area surrounding El Obeid. The law thus only pays lip service to pastoralists, and sceptics construe it as an attempt to appease the dominant local group (Bedairiya) at a time when two new emirates were created for minority groups that have no traditional rights to land in the area.

CHAPTER FOUR

LAND TENURE SYSTEM: REGIONAL CASES

4.1 NORTH KORDOFAN

4.1.1 Pastoral Resource Tenure

In general terms, North Kordofan is mostly semi-desert and poor savannah, with its southern boundaries comprising *gardud* –the transitional zone of soft clay between the sand soils of the north and the clay plains of South Kordofan. It is also a thirst area in many parts. The few sites with relatively ample water supplies have attracted populations, thus giving rise to the few cities and towns and providing conditions for the development of horticulture (commercial but small in scale). These features have until recent decades confined the main forms of land use to small-scale agriculture and pastoralism.

In accordance with British colonial legislation and policies, virtually the entire area of North Kordofan is government-owned subject to usufruct rights. The most important *dars* or *nazirates* are those of Bedairiya (around El Obeid), Jawaama'a (Rahad-Um Ruwaba), Dar Hamid (Bara), Kababish (Sodarie) and Kawahla (Um Badir). The Kawahla were initially under Kababish, but were later separated with their own *nazir*, a fact still resented by Kababish, who believe the land is theirs. The other ethnic groups of North Kordofan state have the status of 'affiliated tribes', which means the administrative subordination of their respective leaders to the authority of the *nazir* presiding over the *dar*. The main minorities are Shuwaihat, Daju, Manasir, Musaba'at, Bergo, Fellata (the latter two supposedly of West African extraction) and Shanabla. The present *amir* of Shanabla contended that at the inception of British colonialism they were granted a *nazirate* with its *dar*, but soon after it was abolished and they were given *dammer* centers in the Baja towards the White Nile.

As in other parts of rural Sudan, the colonial regulations are perceived by the sedentary cultivators to comprise 'tradition', and the so-called 'customary natural resource tenure' is actually based on those regulations. 'Outsiders' thus cannot settle in the area without the consent of the leadership of the dominant group, to which varied payments may be paid. Once settled, they can have their village sheikh, but not an *omda*, with powers over a number of villages. The same is virtually true for pastoralists, who receive outsiders during the rainy season, mainly Baggara from South Kordofan and beyond.

The local herds of North Kordofan consist of sheep (the most numerous), camels (the most valued) and goats. Though cattle are kept, large cattle herds are not commonly owned by the local pastoralists. Cattle herds are more important in South Kordofan, and enter North Kordofan during the rainy season, where they have traditional *makharif* (rainy season grazing settlements). As the rains stop, the herds are driven back to South Kordofan and beyond in the search for dry season pastures and permanent water points. Until recently, it was rare in the southern parts of North Kordofan to have conflicts of any significance pertaining to competition over natural resources.

Pastoral competition and conflict is more common and frequent in the north and northwestern parts of the state. The pastoralists (notably the Kababish, Kawahla and Shanabla) keep both camels and sheep, and undertake long-range nomadic movements. During the rainy season they spread wide to make use of distant pastures and *wadis* (riverbeds), reaching as far north as the environs of Dongola in Northern Sudan. A grazing area of particular significance is the *gizzu*, a common grazing territory divided by inconsequential international boundaries between Sudan, Libya and Chad. It is an area of

considerable tribal intermingling, frequented by pastoral nomads from several countries. The Sudan part of *gizzu* is in North Darfur state, and the pastoralists of North Kordofan come into contact with those from North Darfur, notably Meidob, Zaghawa and Northern Rizeigat Arab pastoralists. M.N. Harrison (1955: Part II, p. 4) has highlighted the importance of *gizzu*:

“Only about one year in two is there sufficient rainfall to give a “gizzu” [which] is best only where showers have been heaviest. Yet there is a time lag of about three months between the end of the rains, in August, and the springing up of the “gizzu” in November...The “gizzu” grazing then lasts and grows green from November to February.

The “gizzu” grazing is the best grazing enjoyed by camels and sheep, better than any other grazing anywhere at any time, better than rains grazing in higher rainfall areas. In a year with good “gizzu” the female camels are said to all give calves, while in a year without “gizzu” only half of them do so. Some Kababish travel 500 miles to the “gizzu,” the longest seasonal migration of any Sudan tribe.”

In the context of both drought and administrative chaos in the 1970s, conflict among pastoralists in the northwest started to emerge. A ‘nomadic settlement scheme’ in Jiraih el Sarha gave impetus to conflict between Kababish and Kawahla, the former claiming that the land is theirs while the Kawahla (the chiefly family in particular) benefited from the scheme. The scheme helped Kawahla to keep their cattle through the spells of drought during the period, while cattle in the rest of Dar Kababish were wiped out. The period also witnessed a bloodier conflict over a rich grazing area between one section of Kababish (A’ttawiya) and the Meidob of North Darfur. Conflict reached unprecedented proportions, with each group invading and ‘colonizing’ the government-owned and run watering point of the other (Khytaimaya and Malha wells).

The UNDP project partner in North Kordofan, SOS-Sahel, has geographically prioritized two of the five provinces in the state for its interventions: Sheikan and Um Ruwaba. It has already signed a Project Agreement with the State Ministry of Agriculture, which is represented by Soil Conservation, not Range and Pasture, as its counterpart. Soil Conservation was historically a very important government department that included both Rural Water and Range and Pasture. It was dismembered during the 1970s, and has since virtually unilaterally adopted a focus on small-scale cultivation, with no apparent concern over pastoral issues. It is thus recommended that SOS-Sahel seek ways to involve Range and Pasture as well as Animal Health in project planning and implementation.

Furthermore, the present geographical prioritization excludes, at least at project inception, the northwestern Dar Kababish and Dar Hamid, both of which are areas of intense pastoral competition and/or conflict. In the longer term, widening the location of project activity may be necessary to consolidate the national objectives of the project. Nevertheless, the conditions in the selected provinces are without doubt sufficient to corroborate the insecurity of customary usufruct rights, particularly of pastoralists.

4.1.2 Conditions in the Project Area

The project area in North Kordofan is generally a region of low agricultural potential, a fact that until recently deterred investment in mechanized rain-fed farming. Up to the 1980s, competition over the natural resources in the project area rarely flared to the level of conflict. It commonly involved sedentary farmers and pastoralists, and almost invariably pertained to incidents of trespassing by herds into farms. Recently, however, sedentary farmers, particularly the *dar* owners, seem to have wilfully instigated proliferation of trespassing incidents through the manipulation of colonial ‘customary tenure’ norms. This

usually takes place as a small group of villagers, typically a family, moves out of its original village to establish a thinly populated 'new village'. In doing so, they appoint one from among themselves as village sheikh, and claim the surrounding area as their 'village land'. This practice cannot be characterized as land grabbing, precisely because natural population growth is bound, and expected, to necessitate establishment of new villages within easy reach of farms. In effect, however, the practice has in instances filled the wasteland between the older villages, which was a pastoral resource. Conflict between farmers and herders is still in its formative stages and administrative measures to regulate the establishment of new villages may serve to avert its escalation.

The Legislative Assembly of North Kordofan state has issued an act to sanction pastoral routes and *makharif*, but the act is believed to be generally ineffective. A major problem in the act is its limited geographical coverage, as it pertains mainly to El Obeid and its environs, excluding the 'hot' pastoral areas to the north and northwest. Another deficiency in the act is the failure to demarcate a grazing line beyond which large-scale agricultural investment is to be banned. This seems conspicuous, as over the last decade, the *gardud*—soft clay soil comprising the project area—started to be ploughed by tractors, a process that is known to be environmentally unsustainable and destructive. The Government has been partly responsible for this development, as it tended to grant urban-based groups licences to establish schemes. The grants started to be larger and larger in area, a situation that already started to alarm both sedentary cultivators and pastoralists. Currently there is much debate and controversy in the project area revolving around two such allocations: the Jandeel Plantation and the Shanabla 'nomadic settlement scheme'.

Jandeel is a plantation with 38,000 feddans granted to the Malaysian-African Agricultural Company under the 1990 Encouragement of Investment Act. There is ambiguity regarding the authority that granted the area and whether it is federal or state. There are also rumours concerning complacency on the part of the local sheikhs. The company seemingly has ambitious plans to plant acacia in the soft clay, *gardud*, ultimately increasing Sudanese exports of gum Arabic. The plantation area is largely a forest that encompasses several village farms, important pastoral routes and *makharif*. Sedentary cultivators and pastoralists alike look upon Jandeel as an infringement of their customary usufruct rights. They contend that the allocation has failed to take into consideration the detrimental consequences of such a concession. Some even point to a 'conspiracy' and 'hidden agenda' behind the grant, as acacia is not normally planted on or even suited for clay soil. The natural site for such trees is said to be sandy soil. They thus doubt the stated 'developmental objectives' of the plantation, and tend to think that it might be a form of land speculation or attempt to lay claim over an area known but not yet disclosed to be rich in minerals. The company is trying to placate the local population by making token donations for social and community services, notably the building of village mosques. During data collection visits in August 2002, Baggara influx to North Kordofan was just beginning. Nevertheless many locals were anxious that the incoming pastoralists would go to the extent of fighting whoever blocks their routes or *makharif*. It is common knowledge that Baggara are well-armed, often with support from the Government in the context of the civil war in South Kordofan.

The second allocation was to the *amir* of Shanabla nomadic pastoralists, the group that traditionally had no rights to natural resources in the area, except with the consent of leaders of the local land-owning groups. The politically motivated allocation was ostensibly aimed at the resettlement of the nomads, whose traditional grazing areas to the north suffered environmental deterioration. The settlement is said to facilitate the spread

of basic education. There is evidence, however, that the *amir* wanted the settlement primarily for cultivation. The area became a court case, as it falls in two different *omdiyas* and former *nazirates*. Again, there is speculation about the role of Jawama'a leadership in approving the grant of an area of which part is not under his mandate.

The two cases of the Jandeel and Shanabla land allotment may well be incorporated into project activities. On the one hand, they represent good examples of the insecurity of the usufruct rights of both sedentary cultivators and pastoralists. They can thus be a focus for forums uniting the two traditional competitors over issues of natural resource tenure. On the other, they constitute a case for advocacy for an amendment of existing ineffective state legislation to incorporate an article stipulating and enforcing grazing lines.

A further emerging issue in the project area is that the Government has recently announced the creation of two new emirates within the Bedairiya traditional homeland: Shewaihat and Bergo. The two are 'landless minority groups' formerly affiliated to the Bedairiya tribal agglomeration. Their access to natural resources continues to be subject to the consent of Bedairiya sheikhs. Bedairiya fear that the creation of these emirates may be a prelude to demarcation of 'homelands'. The Shuwaihat now have their *amir*, but no appointment has yet been effected for the Bergo, who seemingly lost leverage when the Bergo state *wali* was sacked in the aftermath of the split between factions of the ruling National Congress Party.

The concern of the *dar* owners over the continuity of their usufruct rights is reinforced by the observed increasing settlement of 'outsiders' in the area. Conditions in war-ravaged South Kordofan have enticed numbers of Hawazma pastoralists to settle permanently in the area. Most of the Hawazma settlements, however, seem to have been established in accordance with local traditions, including the consent of village sheikhs to whom dues are paid. Some other settlers, however, do not seem to abide by local traditions. They rather validate their settlement by access to state authorities and, in apparent defiance of local customs, tend to have their own *omdas*.

There is currently a latent conflict over a settlement established by a group of Zaghawa from Darfur. The Jawama'a *omda* sought the protection of the rights of the *dar* owners and ordered the Zaghawa to demolish their settlement. The latter, however, filed a court case against the native administrator, who was accused of violating their rights as Sudanese citizens to live in any part of the country. The court, apparently aware of the abolition of the colonial principle of *dar*, adjudicated that the Zaghawa as Sudanese did have a right to establish their settlement.

This case seems to be particularly important in two respects. First, it was handled in a strictly legal style that apparently failed to see the 'ethnic' ramifications for the future of inter-group relations in the area. Second and perhaps even more significant, the case constitutes a precedent entrenching the abolition of the principle of *dar*, thereby exacerbating the sense of insecurity among the local populations concerning the continuity of their customary land tenure systems.

A formidable challenge in the project area is thus to institute a legal system of land tenure that is not readily amenable to manipulation by state political appointees. Basic to this challenge is to clearly stipulate and guarantee the rights of both the local sedentary cultivators and pastoralists.

4.2 NORTH DARFUR

4.2.1 Pastoral Resource Tenure

North Darfur state is mostly desert and semi-desert towards the north, with the southern areas comprising a chain of mountains and the bulk of the interior mountainous with relatively small areas of open space and two distinct soil types: clay plains and *qoz* sandy soils. North Darfur is almost completely dependent on summer rains for agriculture and pastoralism as well as water supply to last the year. A good rainy season not only promises good harvest and pastures, but also floods *wadis* that replenish the water table for the shallow hand-dug wells on which the population depends during the rainy season. The local population is involved in both cultivation and pastoralism, though with varying degrees of involvement and commitment. The Meidob, for instance, are characterized as pastoralists, while their neighbours, the Berti, are categorized as sedentary farmers. This common characterization, however, conceals the fact that the two groups, like all the others in the area, are involved in both production systems.

North Darfur is a border state that has international boundaries with Libya and Chad. The colonial boundaries cut across the human frontiers of ethnic and linguistic groups, with members of one tribe—at times one extended family—divided by the artificial boundary. The Zaghawa is one major border group, with sections in both Sudan and Chad, and members of the group are known to claim both nationalities. Members of border groups from Chad usually frequent the common grazing area to the north of Wadi Howar, part of the cross-country *gizzu*. But local groups do not recognize those coming across the border as Sudanese.

4.2.2 The *Hakura*

With the exception of the northern common grazing areas, North Darfur is said to comprise a number of *hakuras* (land concessions) granted during the Fur Sultanate. *Hakuras* are of two main types: individual and tribal. Individual concessions were granted by the monarch as special rewards to certain individuals, and have since become inheritable by the descendants of awardees. The head of a *hakura* group (now called 'land sheikh', who may or may not be the village sheikh of native administration) is said to have a traditional title to the land and may allocate uncultivated (almost exclusively *qoz*) land to 'outsiders' in return for customary dues (usually 10 percent of production). Such allocations, however, are temporary and terminable when *hashab* trees (*acacia senegal*) become amenable to gum tapping and the sheikh may allocate a new plot to the outsider. The 'outsiders', however, tend to use the allocated land extensively, thereby cutting the trees and ruling out opportunities for *hashab* regeneration. As the *qoz* loses fertility within a period of around five years, the farmers resort to shifting from one plot to another, thereby aggravating environmental degradation. In this regard it is worth noting that the 'outsiders' are almost invariably newcomers who in certain parts such as the environs of El Fashir have become a substantial section of the population.

The tribal *hakuras* were part of a complex administrative arrangement in the Fur Sultanate. The entire sultanate was divided into four large administrative districts, with each being divided into a number of 'tribal homelands' held in common by members of the respective tribes. Custody of these tribal *hakuras* was vested in the tribal leaders.

Darfur was incorporated into Anglo-Egyptian Sudan in 1916 and was thus subject to the colonial legislation that preceded its incorporation. No land settlement or registration was carried out, as officially all the land was considered government-owned subject to tribal

usufruct rights. As in other regions, the colonial administration assimilated the pre-colonial tribal chiefs of Darfur into its system of native administration. Unlike in Gezira, however, no measures were taken by the colonial administration with respect to the individual *hakuras*, which to date continue to be conceived as 'customary'. Tribal *hakuras* were generally considered synonymous to *dars* or tribal homelands.

Not all the tribal groups in Darfur had *hakuras* under either the Funj Sultanate or British colonial rule. This is particularly true of the predominantly pastoral Northern Rizeigat Arabs (Mahameed, Mahriya, etc.). Due to their constant mobility, these pastoralists were not then interested in having a certain area demarcated as their own. They were rather content with recognition of their rights to pastoral routes and corridors through the different tribal and individual *hakuras* (cf. Yousif Takkana, 1997; El Tijani Mustafa, 1999). They were content with the northern common grazing areas, which had adequate resources to keep herds during the farming season and well into harvest.

4.2.3 Pastoral Conditions in North Darfur

Before vulnerability to drought was aggravated beginning in the 1970s, relations between farmers and herders in Darfur rarely involved conflict. To the contrary, the establishment of pastoral routes and corridors was intricately linked to socially complex symbiotic relations between pastoralists and farmers. A major factor in that situation was that the two groups used to exploit different niches: farmers in the sandy soils, pastoralists in the clay.

To cope with drought, the two groups started to converge on the clay soils. The sedentary farmers, seeking to consolidate the viability of their agricultural production, adopted two responses. The first response concerned an increasing tendency to shift from *qoz* to clay cultivation. As the clay plains are traditionally the dry season resort for pastoralists, a conflict arose over resources in the clay plains (water in particular and to a lesser extent pastureland). The second response adopted by the farmers is a more extensive utilization of *qoz* land, where acacia trees traditionally constituted rich forage for herds.

In the aftermath of drought, the conditions of pastoralism in North Darfur have become far more complex and conflict-ridden than in any other part of Sudan. The situation is particularly grave for camel pastoralists: the Zaghawa, Meidob and Northern Rizeigat Arabs. The traditional northern rainy season grazing areas of these groups have suffered most from environmental degradation. They thus find it imperative at present to stay for longer periods within the settled areas, including during harvest time. In view of the shift by farmers from the sand to the clay, particularly in the high-potential Kebkabiya region, competition and conflict between farmers and herders was bound to flare up. Land grabbing by sedentary farmers, often with the consent of village sheikhs, has intensified the conflict even further.

The situation in North Darfur was further aggravated by the virtual breakdown of government authority in the border region, particularly in the late 1980s and the early 1990s. Wars among the different Chadian armies were frequently fought in Sudan, with each side finding allies in 'related' Sudanese groups. Proliferation of small arms enticed some of the impoverished pastoralists to adopt banditry as a strategy to recoup herds. Friction among the local groups was further exacerbated by the micro-political strategies of the local elite, who started to ferment and ignite tribal hostilities. It is also reported that the central Government has had its own interventions, which adversely affected inter-group relations. The so-called 'Bolad wars' are pointed out as a major instance in the rupture of relations between 'black' and 'Arab' Sudanese. Daoud Bolad, a former president

of the Khartoum University Student Union, was a prominent member of the National Islamic Front (NIF). He broke with the NIF and joined forces with the Sudan People's Liberation Movement (SPLM). In an attempt to open a new Sudan People's Liberation Army (SPLA) front in his native Darfur, Bolad moved towards Jebel Marra. The then-Wali of Greater Darfur waged war against his former party cohort and, supported by a predominantly 'Arab' militia, managed to suppress Bolad and his army.

In the context of heightened ethnic friction, competition over land gradually assumed the character of conflict. All the major groups of Darfur seem to have fought one another, with complex and complicated alliances being forged and broken. The most prominent divide, however, seems to be twofold: between pastoralists and farmers, and between 'blacks' (*zurga*) and 'Arabs'. To contain the armed confrontations in the early 1990s, the then-regional government of Greater Darfur issued a law that rigidly defined pastoral routes. Sedentary farmers took to the letter of the law, and started to insist that pastoralists had no rights except to their demarcated routes.

Though the conflict is essentially between herders and farmers, and concerns competition over clay land in particular, it has progressively come to incorporate concepts such as 'ethnic cleansing' and 'colonization'. The new system of local administration introduced by the Government that demarcated localities along ethnic lines aggravates further inter-group friction, both between pastoralists and farmers and within both farming and pastoral communities. The existence of a separate 'nomadic locality' that is 'landless' (with no spatial boundaries) seems to undermine rather than advance pastoral interests, particularly with respect to their relations with the sedentary populations among whom they live. Services rendered exclusively to the pastoralists, for example, are usually opposed, and at times deliberately destroyed, by the populations of adjacent villages.

A major challenge for the UNDP project in North Darfur is thus to launch integrative interventions that benefit pastoralists and farmers simultaneously. It is commendable that Oxfam's Darfur Programme plans to streamline its contribution to the UNDP project with its other interventions, to ensure the integration of both farmers and herders. The interventions aimed at rectifying the rigidity in the current law as well as the rehabilitation of pastoral routes would thus be carefully synchronized with developmental activities among sedentary farmers along the routes.

Beyond the demarcation and rehabilitation of sufficiently wide pastoral routes and corridors, very little seems possible within the farming areas in terms of intervention to ameliorate aspects of the dilemmas of pastoralists. The ultimate solution actually rests with interventions farther away from the areas of current contention, competition and conflict. Rehabilitating the northern common grazing areas is a vital requisite in that regard. Advocacy to adopt pastoralism-focused developmental projects is envisaged as a major activity within the UNDP project both in North Darfur and the country at large. A conspicuous anomaly in North Darfur is the lack of an agricultural land registry despite the increase in the number of large-scale agricultural schemes. State authorities allocate schemes, but the scheme owners have to secure the consent of the 'land sheikhs'. Political expediency may be behind this apparently legal-cum-administrative aberration.

De jure, all the land in Greater Darfur is government-owned subject to customary usufruct rights. Seemingly unaware of the fate of *wathiga* titles in Central Sudan, however, the local people tend to conceive of their pre-colonial *hakura* titles as a form of undisputable legal ownership. Even the educated elite of Darfur seems keen on defending the *hakura* system, and emphatically warns against any interventions into it by the central Government. However, it seems that the negligence of Greater Darfur in developmental plans during both the colonial and post-colonial periods only served to reinforce that apparently faulty conception of the nature of natural resource tenure in the country. Not a single large-scale development project, which usually requires withdrawal of usufruct rights, was launched throughout the modern history of Darfur.

In the meantime, Darfurians tend to overlook the fact that many of their folk not only live outside their respective *hakuras*, but they have also spread throughout Sudan. It is a double standard on their part to insist on continuity of 'customary land tenure systems' in their 'homelands', while enjoying the breakdown of the same in the homelands of others.

Clear policy on the status of *hakura* is recommended, and the individual concessions obviously are far easier to deal with than the tribal ones. But this is not a recommendation for the Government to undermine customary land tenure systems in Darfur. Such systems all over Sudan actually need consolidation, particularly with respect to availing a greater tenure security to the rural populations. The real need is rather for the sensitization of those who try to deny 'outsiders' (particularly the pastoralists) access to what is rigidly conceived as their *hakuras* to which they have exclusive rights. Essential to this sensitization effort is dissemination of a culture of peace.

4.3 SOBAT BASIN

4.3.1 Pastoral Resource Tenure

The Sobat Basin is a predominantly expansive lowland plain in the eastern part of Southern Sudan, lying roughly between latitude 7 and 10 degrees north of the equator. It encompasses the region traversed by the Sobat River and its main tributaries, the Baro and Jekaw that flow from Ethiopia. It also includes the areas covered by the Pibor and Akobo, which originate farther south along the Ethiopian frontiers and the highlands of the border region between Kenya and Uganda. Other tributaries join the Sobat River before its confluence with the White Nile at Bahr El Ghazal south of Malakal. The tributaries from the highlands supply most of the water in the system, but rainfall within the basin also supplies a complex and shifting pattern of marshes, seasonal channels and pools on the poorly drained plains. The flat nature of the plains, coupled with frequent variability in the seasonal rainfall, characterized the region with an annual cycle of flood and drought. It is this vicious annual cycle that underlies competition over natural resources among the diverse multitude of tribes inhabiting the basin.

The population of the Sobat Basin consists of pastoralists and sedentary cultivators of diverse origins: mainly the Nuer, Dinka, Anuak, Burun, Murle and Shilluk. The Nuer represent the single largest tribal agglomeration, divided into 11 major territorial groupings. The Upper Nile Nuer are mainly East Jikany, who are divided into the Gaaguang, Gaajak and Gaajok. The Jonglei Nuer are predominantly Lou, who are further divided into the Gun and Mor. Further subdivisions exist among these larger Nuer groups and the word *cieng* is applied to these subdivisions at various levels. The Nuer are bordered on the north by the Shilluk, Dinka and Burun and on the south by the Dinka, Murle and Anuak.

The sedentary farming Shilluk, Anuak and Burun are organized into state-like societies. In pre-colonial times, they had their respective kingdoms. The Nuer and Dinka were traditionally 'acephalous' or stateless, until under British colonial rule, when a system of native administration was instituted to replace the diffused forms of spiritual leadership that formerly mobilized the populations.

In British colonial times, the respective homelands of each group were carefully demarcated in order to contain inter-group friction and conflict. In the state-like communities, ultimate rights to the natural resources were vested in the monarch, and the people utilizing the resources paid dues in recognition of his divine rights. Among the stateless Nuer and Dinka, natural resources within their respective homelands were held in common, and group membership validated the usufruct rights. In all communities, the concept of a private natural resource, particularly land, was alien. Members of the different groups, particularly the pastoralists, used to move outside their demarcated areas into the homelands of others. Such movements were sanctioned by customs and traditions, involving both negotiations among the chiefs of the respective groups (at times in the presence of colonial administrators) and payments of various types to the hosts.

Pastoral movement in the Sobat Basin involves relatively short distances. Cattle herds shift from rainy season grazing in the high grounds to dry season lowland grazing on islands and riverbanks. The high grounds that comprise Nuer land turn into thirst areas during the dry season, and pastoralists move into the low grounds that have more permanent water sources.

The various administrative arrangements introduced since independence have to a large extent followed the colonial ethnic divisions. Nevertheless, even during colonial times competition and conflict over natural resources was not uncommon, and tribes often transgressed into each other's homelands. The sedentary Anuak, whose 'kingdom' traditionally extended over the region from Akobo to Fashalla, were particularly affected by incursions by Nuer into Akobo and by Murle into Fashalla. The dynamic of Nuer expansionism was, and continues to be, primarily a search to transcend thirst in their highlands. The Murle invasion was believed to be in response to the general infertility of the Nuer homeland.

The Sobat Basin is now thoroughly engulfed by catastrophic civil war as well as by tragic inter-group conflicts. Administrative chaos and absence of the rule of law dominate the way of life. Administration at the local level is weak and lacks both capacity and infrastructure. The traditional authority of the tribal chiefs was gradually challenged and undermined by the various structures imposed by the Sudanese Government and the SPLM as well as by indifference on the part of the young men armed by local warlords.

The Sobat Basin comprises two states: Upper Nile and Jonglei. However, many parts of the two states are outside the control of the Sudanese Government. SPDF controls vast tracts along the Ethiopian border, and different 'formally unaffiliated' tribal militias dominate certain tribal localities. According to the SPLA administration, the basin also comprises the two states of Latjor and Bieh, which are virtually coterminous to the division between Upper Nile and Jonglei. The boundary between these two states seems to follow closely the colonial demarcation of the line separating the Lou and Jikany Nuer. Nevertheless, the Sobat Basin was ravaged over the last decade by a virtual war between these two Nuer territorial groupings.

Natural resource competition and conflict in the Sobat Basin concerns a complex ensemble of cultivation, grazing and fishing rights. They are generally ascribed to the 'expansionist' tendencies among the different Nuer territorial groupings, particularly the eastward movement of Lou Nuer during the dry season to the Sobat River and to the country bordering the Pibor River. The conflict between Lou and Jikany currently dominates the scene. The attention accorded to it, however, seems to gloss over another conflict between the Nuer as a whole and the predominantly farming Anuak, who are supposedly the 'original owners' of the land contested by the two Nuer groups. The Anuak were recently forced either into displacement camps near Malakal (Obel), or across the border into Ethiopia. In the context of administrative chaos and the proliferation of small arms, many groups abandoned the traditions and customs that formerly sanctioned intertribal interaction and ensured relatively peaceful pastoral movement and settlement.

Environmental deterioration, particularly lack of water, in the higher grounds traditionally grazed by Nuer is the major factor prompting movement and settlement in the lowlands. It is contended that the watercourses that flow through Lou country are currently clogged with silt and vegetation, with the result that waterpoints dry out earlier in the year, forcing them to stay longer in the lowlands. In recent years, Nuer seem to have abandoned the high grazing grounds altogether, in effect 'colonizing' the Anuak territory.

Insecurity is adversely affecting pastoralism in Upper Nile state. Herds are now confined to settlements, with evidence of overgrazing and intense pastoral competition in their immediate peripheries. This situation is even true of Malakal, the state capital, in which large numbers of cattle are kept within residential neighbourhoods of the town proper. Herders are weary of the widespread cattle rustling in the distant pastures.

Notwithstanding the civil war and inter-group confrontations, the Sobat Basin seems to witness natural resource-based conflict that is far less tense than in the other two UNDP project areas. The war itself is an important factor in that regard. On the one hand, it resulted in the relative depopulation of vast tracts, with both human and animal populations moving to more secure areas within and outside Sudan. On the other hand, it impeded expansion of rain-fed mechanized farming, which parts of the Sobat Basin (e.g. Bipbor) witnessed as early as the 1970s. It is only in the northern areas, comprising Shilluk land, that the State authorities started in recent years to encourage establishment of mechanized farms. The authorities have seemingly demarcated vast tracts in the forest land abutting Malakal and in the western bank for allotment as mechanized schemes, but the local population openly resents these plans. The area already allocated is still small, and appropriate measures to avert the prospects of future conflict between herders and farmers can easily be introduced at this stage. Otherwise the situation may approximate that of the Renk area, which has over the last three decades become an important area for mechanized farming. The Renk Province of Upper Nile state is a scene of intense competition and conflict between farmers and herders.

The issue of natural resource tenure in the Sobat Basin, unlike the case in North Kordofan and North Darfur, does not revolve around the undermining of customary usufruct rights by federal and state natural resource legislation and policies. It rather relates to regulating access by the different users, current and prospective, without alienating the local populations. Establishment of the rule of law is an obvious requisite. But rectification of environmental deterioration, particularly the thirst in the higher grounds, is ultimately the key to the prevention and transformation of natural resource-based conflict in the Sobat Basin.

UNDP project interventions at the local level cannot be expected to respond to all the unfulfilled developmental needs that promote conflict over natural resources. In addition to advocacy, project activities may include canvassing different governmental departments by means of limited institution- and competence-building. Many departments have qualified personnel, but they either lack the necessary equipment or their equipment is in bad need of repair and spare parts. This is particularly true of the Rural Water Corporation (which in Upper Nile state has not yet merged with Urban Water) and the Range and Pasture Administration.

CHAPTER FIVE

TOWARDS LEGISLATIVE AND POLICY REFORM

5.1 Introduction

Over the last three decades, numerous forums were convened, primarily by academics, to formulate scenarios for strategies aimed at redressing the deteriorating conditions of pastoralism in Sudan. The deliberations considered the findings of empirical research and underlined both the considerable human suffering and the adverse implications for the national economy consequent upon that deterioration. The recommendations revolved around two visions of the future. The first seems to idealize the past, and calls for restoration of the generally favourable conditions that prevailed prior to agricultural expansion—including the reinstatement of colonial regulations. In the second vision, which seems to inform state policy, the traditional pastoral production systems are considered ‘backward’ and outdated, and there is no need or justification for their preservation. It thus calls for the adoption of modern and more efficient methods of livestock-raising in the development of the livestock sector, and advocates ‘nomadic settlement’ as a development strategy to promote extension of social services to the pastoralists. This second vision is apparently loaded with an air of socio-cultural superiority characteristic of urban-based planners, as its basic assumption seems to be that pastoralism is ‘uncivilized’.

Though the two visions seemingly conflict, they nevertheless converge in one significant aspect. Both are conceived with virtual disregard of the present and its realities. On the one hand, the anachronistic view seeks to restore past structures and processes that have in the interim been irreversibly transformed. It does not adequately take into account changing state policies, new technology, new land use patterns and changing political and class structures. Its goal of reversing change in all these aspects is unrealistic wishful thinking.

The modernist vision, on the other hand, seeks to transcend the existing realities through its dismissal of current conditions and the imposition of completely new and alien structures and processes. The modernists point to the fate of traditional pastoralism in advanced countries (notably the United States and Australia) as the imperative historical road that the Sudanese pastoralists must tread. In the process, however, this view glosses over the tragic historical processes (including genocide, slavery and colonization) that paved the way for modern ranching in these countries. In a peculiar way, the seemingly future-looking modernist approach is anachronistic as well, particularly in its perception of development as the re-enactment of processes that historically operated in developed countries. This approach is in effect opposed to all the modern ideals and concerns, including social justice, equity and human rights.

It may seem pedantic to underline the necessity of founding strategies upon realities on the ground. Nevertheless, the two visions dominating discourse on pastoral development in Sudan have thus far overlooked that necessity. Redressing the limitations of the two visions is thus a task of prime urgency.

5.2 The Foundations of a Strategy for Reform

Legal reform towards an equitable decentralized natural resource tenure that incorporates pastoral interests would be futile if not synchronized with policy reforms aimed at the development of pastoralism: the pastoral communities, their herds and the natural

resources on which they depend. Otherwise, there may not be pastoralists, herds or pastures in the country to legislate for. The recommended framework for a viable strategy for legislative and policy reform adopts human security as the overriding objective.

Human security has two main components: freedom from fear and freedom from want. For pastoralists, freedom from fear has many facets, including security of their right to life and good health (resolution of civil war and transformation of group conflict) as well as freedom from tenure insecurity, which threatens their livelihoods.

Freedom from want is tenable through a strategy for human development, which accords priority to elimination or reduction of human deprivation. Such a strategy brings into a single framework both the herders and their herds. Promotion of welfare of the herders is the overriding objective, particularly through enabling them to lead a long and healthy life, enjoy education, achieve a decent standard of living and be able to participate effectively in the affairs of their communities. The herds are basic inputs to the production systems on which the herders depend for their livelihoods. In a human security perspective, the development of herds is not merely to achieve increased offtake and augment export earnings. It is rather to enable pastoralists to achieve the means by which they enjoy a decent standard of living.

The framework for the recommended human security strategy towards legislative and policy reform in Sudan is founded upon recognition of pastoral realities as well as of the formidable challenges that are likely to meet the reform initiatives. The foundations of the strategy are highlighted in the following eight points:

POINT 1
THE NEED FOR RESOLUTION OF CONFLICT

The achievement of pastoral development is most difficult, if not outright impossible, in the context of the civil war and armed conflicts that ravage the main pastoral areas in the country. Security is a precondition for pastoral movements, which underlies the viability of pastoralism. The peaceful settlement of the civil war is envisaged to bring about improvements in many respects, particularly concerning responsive governance, social justice and equity as well as the allocation of resources for human development. In other words, the crisis of pastoralism is not 'sectoral', but is rather one particular configuration of the overall politico-economic crisis of Sudan; and the transcendence of the former is thus intricately linked to the resolution of the latter. In stressing the relevance of the general crisis, the point is not to overlook the fact that the unfolding of the deterioration in pastoral conditions has to a large extent been the outcome of misguided sectoral policies, particularly the promotion of unfettered agricultural expansion.

POINT 2
INTEGRATED COMPREHENSIVE NATURAL RESOURCE MANAGEMENT

Rectifying pastoral conditions does not necessarily entail replacing one narrow sectoral approach with another. Notwithstanding the adverse role of agricultural expansion, it is neither feasible nor necessary to base pastoral development strategies on measures to reduce existing or ban new agricultural schemes. Sudan has considerable potential for crop production, and both politics and economics would resist any such measures. The high-potential agricultural areas may well continue to be brought under crop, but simultaneously appropriate measures have to be launched to contain the adverse implications of that expansion for pastoral production systems. Nevertheless, economic sense and environmental logic require enforcement of a strict ban on mechanized farming

in the fragile zones, particularly the soft clay gardud soils. The drive towards land grabbing by small farmers in areas of natural resource-based conflicts also has to be curbed.

Only small tracts within the present agricultural areas may be affected in the attempt to rehabilitate pastoralism. It may not be realistic even to expect that all the traditional pastoral routes and corridors could indeed be reopened. Only the most important routes within the farming areas may have to be reopened, such that only a few agricultural schemes are affected. Owners of the affected schemes may well be compensated for their losses by allocations away from the pastoral routes.

POINT 3

RECOGNITION OF PASTORAL REALITIES AND IMPERATIVES

Reopening pastoral routes without availing temporary grazing areas within reasonable reach seems pointless, as it would only imply a journey without destination. Pastoral routes are not merely roads that herds tread to or from the rainy season rangelands, and it is unrealistic to expect pastoralists to be on the move all the time. The entire social life of pastoral communities is in fact carried out along these routes. On the routes they cook and eat, sleep and rest, pray and recreate and get involved with major social events, including feasts, weddings, childbirth and funerals. The reopening of routes should thus be accompanied by measures to avail sufficiently wide corridors on which the herds fall back while pastoralists carry on with their social life.

POINT 4

ADOPTION OF PASTORALIST-RELEVANT PLANNING CONCEPTS AND APPROACHES

The viability of routes and corridors is in their provision of both passage and temporary grazing for herds. Longer-term grazing, however, requires vast tracts of pastureland to keep herds away from farming areas, at least until after harvest. Availing the latter may be achieved by rehabilitating the range in distant areas, particularly through water development projects. New and innovative planning approaches to pastoral development thus have to be adopted, not least to dispense with the bias in the former planning models based on the ideal of sedentary farming communities. The water potentials of the Nubian Sand-Stone Basement in Northwestern Sudan have long been recognized, but no efforts have thus far been exerted to utilize that potential to render accessible the vast rangelands to the pastoralists of Darfur and Kordofan. Parallel plans for pastoralism-focused development may be launched in the Baja (North Kordofan and White Nile), Northern Butana (Eastern Sudan), Southern Funj (South eastern Sudan) and the higher grounds of Southern Sudan.

POINT 5

INSTITUTIONAL REFORM AND CAPACITY-BUILDING

Focused pastoral development may not be tenable without an enhancing institutional set-up. In this respect, consolidating the status, mandate and capacity of the Range and Pasture Administration requires particular emphasis. The status of the administration should be elevated with corresponding empowerment to its leadership. A feasible option is to have Range and Pasture as a full-fledged National Corporation. Short of that, it may be either an agency with its own undersecretary, or a general directorate, within the Ministry of Animal Wealth and Fisheries. Separation from the Ministry of Agriculture is strongly recommended to avoid the dominance of planning frameworks that are either spatially fixed and crop-focused or forest-centred.

POINT 6

EFFECTIVE LOCAL ADMINISTRATION

Effective systems of local administration, particularly to regulate pastoral activities, have to be devised. Notwithstanding the limitations of the colonial system of native administration, the 'tribal chiefs' continue to be influential and are respected by their respective groups despite all the designs of successive governments to undermine these chiefs. Promoting democratic popular elections of chiefs may transcend the limitations of the colonial system, which also avail opportunities for educated youth to compete for leadership of their respective groups. The elected chiefs may, ex officio, become representatives in the different legislative bodies, from village council and locality levels through state legislative assemblies to the federal National Council. Such representation would facilitate the articulation of pastoral demands and grievances, and it remains the ultimate responsibility of the pastoralists themselves to engage in democratic processes to elect representatives capable of defending their interests. The contention in this scenario is that decentralization without substantive democratization amounts to a mockery of the concept. But as alluded to earlier, the present electoral system in Sudan is generally biased, giving more representation to the urban-based groups than to rural populations.

POINT 7

FORGING PRO-PASTORALISM ALLIANCES

In defending their interests, pastoralists have possibilities of forging a number of significant and potentially potent alliances. The alliance with the incipient group of 'pastoral capitalists' has already been effected, not least by the drive of the latter to create (and in the process control) modern pastoral structures. Certain groups of government officials also seem to be natural allies, particularly administrative officers, Range and Pasture staff and the personnel of the High Council for Environment and Natural Resources. There are also prospective allies in Sudanese civil society structures with interests in environmental sustainability (notably the Sudanese Environmental Conservation Society). The environmental rehabilitation implied by pastoral development, particularly the reclamation of vast rangelands in marginal areas, may win to the side of pastoralists considerable support from international donors. The prejudice that pastoralism is to blame for environmental degradation has, however, to be addressed and rectified by underlining the intrinsically environment-friendly nature of pastoral movement. Particularly appealing to donors is the prospect of restoring the vegetative and tree cover in an area virtually equivalent to a third of the European Union. Such restoration would not only solve the problems of Sudanese pastoralism, but also add in a significant way to international efforts aimed at curbing global warming.

The issue of demarcation raises parallel questions concerning the entitlement of pastoralists to natural resources and the form of tenure that pastoralists may enjoy. The mere posing of these questions is often posited by observers in corroboration of the prejudice pastoralists endure within the larger Sudanese polity and economy. This seems to be particularly so when the insecure entitlement of pastoralists is compared to that of farmers, particularly owners of mechanized schemes. The latter legitimize their access to land allocated by government through the payment of nominal fees. Investors in unplanned schemes (agricultural squatting) do not pay such fees, though the authorities seek ways to make them pay to validate their use of the land. The harvested crops are charged dues (zakat and sales tax). The legitimacy of the entitlement of mechanized scheme farmers to land is rarely, if at all, questioned. The same is not true of pastoralists whose entitlement is always challenged and further

undermined, despite the varied fees and dues they pay (herd tax, zakat, sales tax, fees on passage across localities and states, etc.). In 1998 a pastoralist from Darfur enumerated a total of 38 different payments, inclusive of herd tax and zakat, that he incurred before his herd reached Port Sudan. In at least the case of the Rawashda Reserved Forest in Eastern Sudan, NFC has contemplated levying fees on grazing, watering and 'camping' within forest boundaries. To protect 'its forests', NFC more than once drew the whole Government apparatus, inclusive of the police and armed forces, onto its side vis-à-vis the nomads

The entitlement of pastoralists to natural resources is apparently prejudiced by the way pastoralists are conceived by the State. On the one hand, pastoralism is generally construed as wasteful, apparently due to its utilization of extensive tracts of land. Its highly mobile forms are defined as both archaic production modes and an uncivilized way of life. From this prejudice stems planning concepts and frameworks that consistently sought the undermining of the traditional production system and the settlement of the communities involved in it. On the other hand, pastoralists are commonly viewed as users or consumers of natural resources (on a par with charcoal makers) as opposed to producers (such as farmers or gum tappers). The view of farmers as producers seems to confer upon them a right to clear vast tracts of forest land and to cut out grazing areas. In contrast, the 'consuming' pastoralists enjoy no such rights to land (forest or otherwise), as their grazing is believed to be destructive of natural resources. A conceptual challenge is thus not only the Government's justification for the varied taxes and fees levied on herds, but also the very constitutional status and rights of pastoralists among the Sudanese citizens. The urgent question that has to be clearly asked and definitively answered by policy makers is whether or not pastoralists, as citizens, have secured rights to land use and/or ownership. Existing legislation that confers transient usufruct rights, only as long as the land is not needed for any 'public good', requires dramatic reform. The rights of pastoralists to natural resources, particularly land, have to be explicitly expressed and guaranteed by legislation, preferably by incorporation into the Constitution. Pasture may well have special legislation stipulating its exclusive allocation for grazing, as the Gezira Scheme Act guarantees the continuity of title over the scheme area.

The dammer areas, where pastoralists spend the dry season, may be registered as the common property of their respective groups in a manner approaching if not reinstating the colonial principle of tribal homeland. The rainy season general grazing areas, however, only require legislation to guarantee their exclusive allocation for pastoralism. These common grazing areas may be registered either as the property of the entire pastoral communities or as government-owned subject to undisputable pastoral usufruct rights.

POINT 8

OFFICIAL RECOGNITION OF PASTORAL ENTITLEMENTS

A basic task in pastoral development strategies is to address and rectify the vexing question of pastoral resource tenure, particularly with respect to land. Grazing areas have to be clearly demarcated, and grazing lines, beyond which large-scale agriculture is prohibited, have to be stipulated and strictly enforced. Current legislation treats grazing land in passive terms, mainly as a residual category. The proposed but thus far not ratified bill submitted by the Range and Pasture Administration is a positive step towards defining and demarcating the rangelands. The proposed law not only separates the respective domains of farming and pastoralism (inclusive of pastoral routes and corridors within farming areas), but also impedes the tendency of the National Forests Corporation to annex vast tracts of the best grazing areas to declare them 'reserved forests'. One limitation of the proposed act is that it lacks maps demarcating the rangelands. Constraints relating to both resources and competence seem to underlie that limitation, and there is urgent need to extend assistance to the Range and Pasture Administration to draw up these maps. Clearly, the demarcated pastoral domain is likely to comprise mainly the marginal lands in the poor savannah belt and the sudd (swamp) areas in Southern Sudan. Unless effective efforts towards pasture rehabilitation and water development are exerted, the demarcation would be pointless and futile, as pastoralists would turn away their herds to more favourable grazing in the farming domain.

POINT 9

THE ROUTE TO LEGAL AND POLICY REFORM

The route to legal and policy reform of pastoral resource tenure is as conflict-ridden as the pastoral routes themselves. Considerable efforts are needed to expose both the reasons for and the socio-economic and political benefits of these reforms. Sensitization and canvassing of legislators, policy makers and the general public is vital. It may effectively be achieved by exposing the realities of pastoralism, particularly by refuting the unfounded claims that pastoralism is wasteful and harmful to the environment. The foreign exchange earnings of pastoralists, as well as their contribution to gross domestic product, would convince many of the benefits to the national economy of pastoral rehabilitation and development. The enhancement of national security and social peace would be particularly appealing to legislators and policy makers.

The requisite for effective sensitization is a diligent awareness-raising campaign in the national mass media, and through conferences, workshops, seminars and public lectures at the federal and state levels. A credible focal point is needed to coordinate and synchronize activities in collaboration with the Pastoralist Union, the Range and Pasture Administration and the Extension Administration of the Ministry of Animal Wealth. This focal point may be a consultant attached to the Pastoralist Project within UNDP. Otherwise one of the Sudanese civil society structures (Sudan Development Association, Sudanese Environment Conservation Society, EDGE, etc.) may be commissioned by UNDP to carry out the campaign.

Institution-building and capacity-building for the Pastoralist Union and the Range and Pasture Administration may also be necessary. Rootedness within pastoral communities is a major challenge facing the Union. Current legislation sanctioning unions and associations seems to impede the formation of branches on the basis of herding units (i.e. along ethnic lines), and the envisaged legal and policy reform may have to resolve this constraint.

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Annex (1): List of Main Informants

- A'mir Adam Tob elHareer, Deputy Commissioner, Mellit Province
- Abdallah Abdel Rasoul, Chairman, Farmers Union, Mellit Province
- Abdallah Adam Salih, Kutum Locality
- Abdallah Ahmed, agro-pastoralist, North Kordofan
- Abdallah Ali Safi Elnour, pastoralist
- Abdallah Idris Mohamed, Rural Extension and Development Society, Kutum
- Abdallah Mursal Marzoug, Farmers Union, Malha
- Abdel Gadir Hammad Mohamed, Chairman, Malha Area Development Society
- Abdel Latif, Range and Pasture, North Kordofan state
- Abdel Moneim Mohamed Ahmed, Deputy Commissioner, Kutum Province
- Adam Hamid, Oxfam North Darfur Programme
- Ahmed El Jack, Farmers Union, Upper Nile State
- Ahmed Mahmoud Fadiet, Speaker, Upper Nile State Legislative Assembly
- Ahmed Mohamed Adam, Farmers Union, Malha
- Ahmed Mohamed Idris, the Charitable Society for Pastoral Development Services
- Ali Abdel Rahman Hammadah, President, Malha Locality
- Amir of Shanabla Pastoralists, El Obeid
- Bilal Abu ElGasim, Kutum
- Cammon Daw, Chairman, Economic Committee, Upper Nile State Legislative Assembly
- Dr. Abdel Rasoul, Pastoralist Union, Mellit Province
- Dr. Adam, Oxfam North Darfur Programme
- Dr. Hassan, Director, Veterinary Services, Kutum
- Dr. Hawa, Director, Animal Wealth, North Darfur state
- Dr. John, Director, Animal Wealth, Upper Nile state
- ElDaw Issa, agro-pastoralist, North Kordofan
- ElFatih Abdel Aziz Abdel Nabi, Director, Office of North Darfur State Wali
- ElHadi, Director, Range and Pasture, North Kordofan State
- Elhaj Suliman Khamis, Kutum
- ElTijani Abdallah, Farmer, El Obeid
- ElTijani Maggdoum, Tribal Affairs Officer, Kutum Province
- Faiza Abdel Wahab, Range and Pasture, North Kordofan State
- Fami Ezekiel Kujo, Malakal
- Farouk, Executive Officer, Mellit Province
- Fatima Mohamed Ibrahim, Rural Extension and Development Society, Kutum
- Gabriel Jago, Director, HAC Upper Nile State
- Gen. Ali Abdel Aziz Musnad, North Darfur State Government Advisor
- Hamadi Hano, UNIRDO Peace Building Committee, Malakal
- Hassan Mohamed Ibrahim, Kutum,
- Hassan Musa, Pastoralist, North Kordofan
- Ibrahim Mustafa, Farmers Union, Mellit Province
- Issa Mohamed Ahmed, Chairman, Farmers Union, Kutum Locality
- Issa Mohamed Ibrahim, Native Administration (pastoralists)
- Jammie' Mohamed ElSayeh, Native Administration (Meidob), Malha
- Jamri, North Darfur State National Congress
- Khadija Mohamed Bahar, Chairperson, Malha Women's Development Society
- Kweth Nyial, Malakal
- Leila Tujar, Oxfam North Darfur Programme

- Lulut Kok Dyang, UNIRDO Peace Building Committee, Malakal
- Magda, Oxfam North Darfur Programme
- Makki Ali, the Charitable Society for Pastoral Development Services
- Malik Adam Shummu, Native Administration, Mellit
- Malik Sharif Adam Tahir, Kutum, North Darfur
- Mekki Ahmed El-Amir, agro-pastoralist, North Kordofan
- Mohamed Abdel Rahman Abdallah Gad Allah, teacher, nomadic schools, Um Sayallah
- Mohamed Ahmed Abu ElGasim, Kutum
- Mohamed Ahmed Adam, Rural Extension and Development Society, Kutum
- Mohamed El-Amin Abdel Rahman, Director, Federal Range and Pasture Administration, Ministry of Agriculture, Khartoum
- Mohamed Haroun, Oxfam North Darfur Programme
- Mohamed Ibrahim Ya'goub, President, Mellit Locality
- Mohamed Ibrahim, Oxfam North Darfur Programme
- Mohamed Mohi Eldin, Director Internal Security, Kutum
- Musa Ali Musa, pastoralist, North Kordofan
- Nelson Kuony Thoal, Chairman, UNIRDO Peace Building Committee, Malakal
- Omda Mohamed Ibrahim, Native Administration, North Kordofan
- Omer Mohamed Ibrahim, Pastoralist Representative, North Darfur State Legislative Assembly
- Osman Ali Osman, Kutum
- Rabee' Saad Allah Mursal, Chief , Upper Nile State Legislative Assembly
- Sali Mohamed Ibrahim, Kutum
- Salih Adam, Pastoralist Union, Mellit Province
- Salman Suliman ElSafi, pastoralist, North Kordofan
- Sharif Mahmadien Adam, Deputy Wali and Minister of Agriculture, North Darfur state
- Siddig Elnour Hassan, Pastoralist Union, Mellit Province
- Solomon Lek Deng, Malakal
- Stanslawous Peter Oul, Assistant Drug Supply Officer, Ministry of Health, Upper Nile, and livestock owner
- Sultan Enoch, Anuak Chief (displaced to Malakal)
- Sultan Edward Amum Okiech, Malakal
- Sultan Gedion Choul Malou, Malakal
- Sultan James Getworth Lul, Malakal
- Sultan Nak Tulieth, , Malakal
- Sultan Nyok Daw, Malakal
- Sultan Odol Along, Malakal
- Sultan Sabit Kurkur, Malakal
- Sultan Simon Kweth Nyal, Malakal
- Taha Bilal, Omda, Malakal Town
- Ustaz Chamngur Awow Adogjok, Malakal
- William Deng Nyial, Malakal
- Yasir Mohamed Adam, Rural Extension and Development Society, Kutum
- Yusuf Bab Allah Rihan, teacher and livestock owner