

The denied land rights of the indigenous peoples and their endangered livelihood and survival: the case of the Nuba of the Sudan

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Abstract

The current situation of indigenous peoples in the Sudan is the result of the independent state's adoption of land and other policies identical to those introduced by colonialists more than a century ago. The Sudanese state has not only unwittingly maintained some colonial coercive institutions and policies but it has introduced more aggressive ones and brutally deployed them against its indigenous peoples, particularly the Nuba. In the light of this, this paper attempts to demonstrate analytically how some historical and contemporary socio-political dynamics have continued systematically to deprive these indigenous Nuba peoples of their customary land, and to assess to what extent the recently concluded Comprehensive Peace Agreement (CPA) has been successful in addressing the land question as one of the root causes of the recurring civil wars in the Sudan in general and in the Nuba Mountains in particular.

Keywords: Indigenous peoples; Nuba Mountains; land rights

Introduction

The current situation of indigenous peoples in the Sudan, and probably elsewhere, is the result of the independent state's adoption of land and other policies identical to those introduced by colonialists more than a century ago. The Sudanese state has unwittingly maintained some colonial coercive institutions and brutally deployed them against its indigenous peoples (Salih [1999](#), p. 1) as part of its relentless endeavour aiming at building a socio-culturally homogeneous society. However, similar to the experiences of many multi-ethnic societies in the developing countries, policies of assimilation and integration aimed at bringing these indigenous groups into the dominating socio-economic and political hegemonic domains are often proved to be counter-productive (UN [1995](#)).

The responses of the various indigenous groups worldwide to the threats facing their cultures, land resources and their survival as distinct groups do not always take the same forms. Some indigenous groups have been relatively successful in their endeavours while others, including the Nuba of the Southern Kordofan in Sudan, are still actively involved in acquiring legal status towards maintaining their claimed

ancestral lands as the source of their identity and livelihood. In the light of this, the central theme of this paper is to demonstrate analytically how some historical and contemporary socio-political dynamics have continued systematically to deprive these indigenous peoples of effective access to their customary land rights, and to what extent the recently concluded Comprehensive Peace Agreement (CPA) has been successful in addressing the land question. The paper is primarily a synthesis of secondary data sources, though some personal experiences by the author of close participatory observations in the area during the last two decades enrich the overall analysis.

Indigenous peoples and their region: conceptual perspectives

Indigenous peoples defined

Indigenous peoples are 'the descendants of those who inhabited a country or a geographical region at the time when people of different cultures or ethnic origins arrived, the new arrivals later becoming dominant through conquest, occupation, settlement or other means' (UN [1995](#), p. 1). Despite the domination of the late comers over their perceived ancestral homeland, indigenous peoples continue to retain their social, cultural, economic and political characteristics, which are clearly distinct from those of the other segments of the national populations. In this context, the indigenous peoples of the Nuba Mountains of the Sudan, a case in point, are no exception, as argued in this paper. Their case 'typifies the most common features of indigenous peoples' struggle to reclaim their land and resources that have been under sustained grabbing by the successive state institutions and their local allies' (Salih [1999](#), p. 1).

Region as source of livelihood and identity

For the purpose of the paper, the concept of region is fundamental, because region as an entity is usually loaded with social, ethnic, economic and, therefore, political contents. The term 'region', therefore, is perceived in this paper as describing not a mere geographical space but a societal set-up full of political, ideological, socio-cultural and economic dynamic realities (El-Tayeb [1989](#)). Indeed, 'region' could be conceptualized as:

1. *local response* to historical dynamic processes of external/internal forces and realities;
2. *focus of identification*, i.e. the interrelationship between land/territory and ethnic/community identity; and as
3. *medium for social interaction* (Murphy [1991](#), emphasis added).

The significance of regional understanding is manifested in the dynamics of ethnic and/or nationalist movements, as part of an open and complex process of identity formation. Collective identities are what people make of them. They are not pre-ordained but, rather, reflect feelings of community and solidarity which have evolved through history as social, political and economic processes within the context of a particular, well-defined, demarcated or loosely perceived region. For the indigenous people, their region is 'a source of identity and self-sustaining resources; it is an historic territory, a homeland, a rightful possession of one's forefathers through

generations. It is distinctive and a unique territory; and the identity of the nation is bound up with memory, and this memory is rooted in a homeland' (Williams and Smith 1983, p. 509).

With the rise of the idea that societies are defined territorially, socio-cultural and political identities are fundamentally tied to territorial affiliation. What lie behind the framework of political territories or formal ethnic regions are spatial constructs with deep ideological significance that may or may not correspond to political or formal constructs. These ideologies are forged in the territorial struggles that produce particular regional arrangements and understandings, and these, in turn, shape ideas, practices and an overall orientation of the group.

Relating this to Sudan, a country characterized by ethnic, cultural and ecological diversities, the term 'region' has emerged as a self-identifying concept that serves as a focus of cultural, economic, religious, political and historical identities. It also functions as the context within which the pre-colonial, colonial and postcolonial problems of resource allocation and distribution of political power are contested. Ethnic groups which occupy a particular region make their demands to national government on the basis of their region. Thus, the concept of region has been obviously concretized as a political category, a contiguously definable geographical space, with specific character, image and status in the mind of the inhabitants of each region (Komey [2005](#)). The formation of ethno-regionally based political organizations and movements from the 1950s onwards - like the Nuba Mountains General Union, the Beja Congress in the east, the Darfur Development Front in the west and the Sudan Peoples Liberation Army/Movement (SPLA/M) in the south - is self-explanatory.

This implies that sub-state ethnic regions are explicitly understood to be places whose distinctiveness and identity formation rest on socio-political grounds. As social constructions, regions are necessarily ideological and no explanation of their individuality or character can be complete without explicit consideration of the types of ideas, perceptions, attitudes and aspirations that are developed and sustained in connection with regionalization processes within the context of the nation-building process.

It is within this conceptualization of the region as an entity and a homeland, and its relation with ethnic identity, that the Nuba peoples as the indigenous inhabitants of the Nuba Mountains region can be understood, and analysed accordingly.

Land tenure systems and the rights of indigenous peoples in the Sudan

The land tenure system in the Sudan is characterized by sharp dualism:

1. communal traditional land-tenure systems regulated by customary laws and institutions, which are not legally recognized in government courts when it comes to legal ownership, and
2. modern state land-tenure systems based on civil laws and institutions. Most of the Sudanese rural communities and their traditional customs in land tenure are beyond these modern land-tenure systems (Egemi [2004](#)).

The concept of tribal homeland is the most important constituent of traditional land tenure in Sudan, and it is intimately related to the principle of native administration. The system follows historically derived tribal territorial rights initially constituted during the successive indigenous kingdoms of pre-colonial Sudan. Within the tribal homeland a collective security of the community is constituted with individual use and inheritance rights without alienating the land from the collective ownership of the community.

In northern riverian regions, however, it was during the eighteenth century that land started to be monetized and traded for on individual basis, while it remained a common property and not a commodity with price in rest of the Sudan. With the rise of the Islamic Kingdoms of Funj in northern, eastern and central Sudan and the Keira Sultanate in Darfur in the sixteenth century, land rights were granted to local administrators, religious and communal leaders. In this way some lands were transferred from being communal property to individual ownership authenticated by documents known as *wathiqa* (or charter) in Funj and *hakura* (or concession/monopoly) in Darfur. The grants made to religious leaders and other dignitaries created a class of landlords owning vast tract and extracting dues and/or agricultural surpluses from their tenants and/or slaves. The system was further consolidated and carried further in the Turco-Egyptian era (1821-85) (Suleiman [1998](#)).

This early process of land registration was not practised over the indigenous lands of the Nuba Mountains, the Blue Nile and the south. These lands remained communal, with individual rights of use marking the beginning of inter-regional differentiation in land ownership in favour of the peoples of the northern and central regions. Between 1898 and 1956, the Condominium rule made Sudan subject to British and Egyptian colonial administration. By 1899, this colonial administration had issued its first Land Ordinance by which it recognized and registered the continuously cultivated lands in northern and central riverian Sudan as private properties while no registration of similar lands in Nuba Mountains, western, eastern and southern Sudan was made and no individual private landownership of land there was recognized (Bolton [1954](#), p. 187; Suleiman [1998](#); Egemi [2004](#)).

A Land Settlement Ordinance issued in 1905 made general provision for the settlement and registration of claims to lands which were alleged to be waste, forest or unoccupied and added the important provision that all such land should be deemed the property of the government unless claims to the contrary were proved. Accordingly, the uncultivated and unsettled land of northern and central Sudan and the whole lands of the Nuba Mountains, east, west and south were classified by the colonial government as government-owned land subject to customary usufruct rights vested in community being tribe, section, and village. And because the customary usufruct rights are not legally registered, they are also implicitly subject to withdrawal by government (Egemi [2004](#); El-Tayeb [1989](#)).

The colonial administration conferred land rights upon the religious leaders of the Khatmiyya and the Ansar as well as tribal leaders in order to consolidate and legalize these rights and to encourage these emerging landlords to grow cotton by pump irrigation along the banks of the White and Blue Niles. These arrangements were reinforced through the 1918 Native Disposition of Lands Restrictions Ordinance by

which the colonial government sought the protection of the native private landowners from dispossession by expatriates. The same pattern did not happen in the peripheral regions of the South, Nuba Mountains, Igassana, Beja and Darfur (El-Tayeb [1989](#)).

Moreover, the colonial government continued to introduce series of ordinances aiming at consolidating the rights of government to withdraw the customary usufruct rights, such as 1) the 1925 Land Settlement and Registration Ordinance that enabled anybody who claimed title or rights on land to be recognized and registered (title to land according to the common law principles was classified into either freehold or leasehold ownership which is an individual rather than the traditional tribal ownership system) and 2) the 1930 Land Acquisition Ordinance that paved the way further for government to acquire any land subject to village or tribal rights when it appeared that it was likely to be required permanently or temporarily for any public purposes.

After independence in 1956, land tenure legislations did not deviate much from the colonial legacy. In fact, the successive national governments in the centre reinforced this colonial legacy to their advantage. The 1970 Unregistered Land Act was introduced and implemented indiscriminately all over the Sudan despite the fact that the history of land tenure in the northern and central parts of the Sudan developed differently from that of the South, Nuba Mountains, Blue Nile and Darfur. The Act proved to have even more repressive and detrimental arrangements than the colonial ones, as Article 4(1) states that:

All land of any kind whether waste, forest, occupied, 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 registered as such, as if the provisions of the Land Settlements and Registration Act of 1925, have been duly complied with (Egemi [2004](#), p. 4).

The implication here is that all rural lands, including that of the Nuba Mountains, became government lands while large portion of the lands in the central and northern Sudan become privately owned lands because they were registered quite long time ago. The Act gave the government rights to use force in safeguarding land designated as government land. This has further been strengthened by the 1991 and 1993 amendments to the 1984 Civil Transaction Act, which states that '[n]o court of law is competent to receive a complaint that goes against the interest of the state' (Manger [2004](#)). This series of Acts came to have far-reaching impact manifested in denying the rights of customary land ownership or even rights of access use by the indigenous peoples, as evidently demonstrated in the following case of the Nuba peoples of the Sudan.

The Nuba Mountains region: land resources and Nuba-Baggara interaction

Physical set-up

The Nuba Mountains region, a homeland of the Nuba peoples, covers a total area of approximately 30,000 square miles in almost the geographical centre of the Sudan in South Kordofan State. Its topography comprises a complex land configuration constituting four main mountains masses and a number of isolated granites hills separated by plain land of various sizes as part of basement complex formation. The region is part of the savannah summer-rain belt of the Sudan, with sufficient rainfall for crop-raising and cattle-grazing and, on the whole, well-watered valleys and hillsides. The plain areas are covered with muddy cracking and/or non-cracking clay soils with some alluvial deposits on the edges close to the Bahr Al Arab River in the south and the White Nile in the east. Another type is the sandy soils, which cover the western and northern parts of the region, and this is vulnerable to degradation processes. Its vegetation cover varies according to the level of soil fertility, which is richer to the south (Harragin [2003](#)).

As a promising agricultural region and strategically located between the equatorial southern Sudan and the desert northern Sudan, the region acts as one of the major economic bases for the Sudanese economy. Rich oil fields which were discovered in the far western part of the region added more economic, political and strategic significance to the region (Ibrahim [1998](#)).

The Nuba and Baggara settlements' history and land use patterns

According to the 2003 population census, the Central Bureau of Statistics estimated the region's population to be about 1.1 million, representing 3.5 per cent of the total population in the country, while the estimates of the All Nuba Conference in 2002 amount to 2.4 million persons. This population comprises two major ethnic groups: the Nuba, representing about 80 per cent of the total population in the region (Salih [2003](#), p. 46), are dominantly sedentary groups that practise traditional rain-fed agriculture as their main livelihood, besides the activities of rearing livestock and other animals; the Baggara Arabs are pastoral nomads. Other minor but extremely influential groups include the Jellaba, a merchant class, from northern and central Sudan, and West African migrants known as Felatta.

The term 'Nuba' is commonly used to refer to the indigenous inhabitants of the more than eighty hill communities of the Nuba Mountains. Notwithstanding the racial, ethnic and linguistic diversity of the Nuba hill tribes, there exists something like a Nuba culture, a cultural make-up common to all the various groups. It does not pervade the whole cultural life of the groups, yet it goes deeper than merely a common system of livelihood - a cultural affinity that could be explained, in the common environment, as an adjustment of essentially dissimilar groups to identical conditions of life (Nadel [1947](#), pp. 3-4). Based on this feeling of togetherness, their territorially based ethno-political identity has progressively been constructed, though systematically being contested. It seems that most scholars agree that Nuba peoples were the first to settle in the area, being there for more than 500 years before other groups came in. 'The Nuba are indeed the indigenous peoples of the Nuba Mountains; they have the strongest ties to their lands and have lived in this region before colonization' (Salih [1999](#), p. 10).

The Baggara, who moved into the area of the Nuba Mountains over 200 years ago as pastoral nomadic peoples, represent the major sub-ethnic group, that of Arab origins. They migrate systematically north-south between the hilly Nuba areas towards the traditional homelands of the peoples of South Sudan and then back northwards. In the recent years, some of these nomads have gradually been transformed into settlers and have engaged in traditional rain-fed cultivation in the Nuba Mountains (Musa [2004](#)).

Following this demographic structure, the land-use pattern in the region is characterized by the coexistence of the two traditional sub-systems of subsistence rain-fed cultivation and pastoral nomads. Agricultural land-use patterns are practised by the Nuba in the areas of the massif and extensive mountain ranges, enclosing large tracts of arable lands, as well as in wide areas of the plains. In addition, there has been successive introduction of modern mechanized rain-fed farming systems in the region since the 1960s. Generally, land-tenure systems in the region are specific to particular ethnic groups, and evolved in the interaction of culture and environment over the centuries. The tenures are often communal, with some hierarchies in rights of use available to members of the group at different levels of their organization (Manger [2004](#)).

The dynamics behind the Nuba dispossession on their own indigenous land

At the outset, it is worth noting that, for rural Sudanese, land is not just a material resource-base but is essentially a human world replete with meanings and symbols as an ethnic/tribal identity, social interaction and livelihood. This implies that sustainable access to land resources is a prerequisite for livelihood, security, social peace and development for the regionally based ethnic groups. Thus, the denial of all or part of these land resources is bound to invite some sort of resource-based conflict that may escalate into a national conflict, as manifested in the Sudanese civil war (1983-2005). In fact, the land question was the single biggest issue of contention on the outbreak of the Nuba armed struggle (see Suleiman [1998](#); Rahal [2001](#); Manger [2004](#); Komey [2005](#)).

Due to some major historical and contemporary forces, the indigenous Nuba peoples were forced to resort to the hilly parts of the region, while the fertile lands of the plains had forcefully been occupied by others. These historical and contemporary forces include, among others: 1) the influx of waves of Baggara Arabs into the region and their effective participation in the pre-colonial slave-raids; 2) Turco-Egyptian rule and its successive slavery campaigns against the Nuba; 3) British colonial rule and its closed districts policy; and 4) the postcolonial state associated with a number of separate yet interrelated dynamics - the Jellaba domination over the national power and wealth, including land, nationwide; the outright grabbing of the land by government for public and private mechanized schemes; and the civil war associated with mass displacement, ethnic cleansing, ethnocide and genocidal atrocities. Each of these four dynamics needs further elaboration as detailed below.

The influx of the Baggara Arabs into the region

The influx of the Baggara Arabs into the Nuba region marked the beginning of the Nuba inaccessibility to their ancestral land. Upon their arrival in the Nuba territory around 1800, the Baggara, with their military superiority, drove the Nuba from plains and took part in slave raiding among the Nuba for the next 100 years following their arrival. And that was followed by division of the plain and fertile lands among different Arab sub-groups 'where the Messiriya *Zurg* occupied the area to the west of South Kordofan in the *Lagawa* area; Hawazma in northern, eastern and central parts of the region; while Humr concentrated mainly in the south-western parts of the region' (Cunnison [1966](#), p. 6).

Gradually, the barter-trade relations began to stimulate a kind of cooperation between the two communities, and each of the Baggara sub-tribes started to protect, as far as possible, the hills of its own zone, in return for supplies of grain and slaves. These sporadic good relations should not obscure the fact that the most prominent feature of Baggara/Nuba relations was the slave raids by the Baggara upon the harassed Nuba communities, followed by forceful and permanent dispossession of the Nuba from their own land by these Baggara Arabs. It is not difficult to trace the participation of the Baggara in pre-colonial slave raiding in the Nuba Mountains back to the Funj Sultanate (1505-1821) invasion of the region, which 'marked the beginning of the Nuba enslavement, principally for soldiers, to be later followed by the Baggara, Jellaba, and foreign slave traders and the Turco-Egyptian rulers in 1821' (Ibrahim [1988](#), p. 24).

The Turco-Egyptian era: the Nuba people slaved and land confiscated

The process of the Nuba marginalization, humiliation, oppression and dispossession from their claimed plain land in favour of the Baggara Arabs, and later the Jellaba, was reinforced and institutionalized during the Turco-Egyptian rule in the Sudan (1821-85). One of Khedive Mohamed Ali's main objectives in conquering Sudan was to recruit black slaves from the Nuba Mountains, Blue Nile and Southern Sudan to reinforce the building of his empire army. Towards that end, the Khedive wrote to his deputy in Kordofan: 'you are aware that the end of our efforts and these expenses is to procure Negroes. Please show zeal in carrying out our wishes in this capital matter' (Ibrahim [1988](#), p. 24). Given the fact that the Nuba were technologically powerless, inaccessible hills offered great resistance to the Turkish troops. Despite the fact the Nuba were strongly resisting this inhuman practice, slavery raids were effective only after:

The Turco-Egyptian rule, which was unable to subjugate the Nuba, used the Hawazma Arabs by giving them relatively free hand in the Nuba Mountains region in return for taxes payable in Nuba slaves. To secure this relationship, the tribal sheikhs of the Hawazma were formally recognized as *Nazirs* and their holdings as tribal lands (*dars*) or homelands (Ibrahim [1988](#), p. 23).

In a nutshell, the Nuba land was sold out by the Turkish to Arabs, in return for getting Nuba slaves through Baggara involvement. For several decades thereafter, the Turks, Egyptians, Arab traders and middlemen from northern and central Sudan raided these areas for slaves and the region was reserved as slave-field where regular raids were vigorously carried out (Rahal [2001](#)). Through time, slavery became a major trade activity among many local Arabs and Jellaba, who were able to climb upward on the

socio-economic and political development ladder after they had established a strong coalition with the Turco-Egyptian rulers and some local Nuba chiefs (El-Battahani [2003](#), p. 40). In the process of slave raids carried by joint efforts of both external and internal forces, the powerless Nuba were forced to seek refuge and protection up in the hills, leaving behind their arable plain lands to be occupied by the local slave raiders, the Baggara, before this land was designated as their *dar* (homeland) by the colonial government without Nuba consent. The rise of the Mahdist movement in the 1880s brought further suffering to the peoples of the mountains when the Mahdist forces subdued the Nuba and more than 10,000 Nuba perished and even more were enslaved (Suleiman [1998](#)).

The colonial era and institutionalization of the Nuba plain land as Arabs' homeland

Following the overthrow of the Khalifa in 1898, the British interpreted the spatial distribution of the Nuba and Baggara groups in the Nuba Mountains as being the norm rather than as an anomaly brought about by violence. It went further in assigning some kind of land ownership or rights to the Baggara and later to the government, even though the Baggara wanted only passage rights for their animals rather than land rights (Harragin [2003](#)). Moreover, the Nuba resistance to the colonial rule that followed pacification military campaigns reinforced the Nuba movements up into the hills for protection. This forced retreat of the Nuba people to the hills gave more opportunities for the Baggara to encroach further into their previously inhabited plain lands. In fact, in the early period of the pacification, the local Arabs were commonly used by the British government in punitive expeditions against the rebels, before they revolted and supported Faki Ali al-Mirawi, a Nuba leader, in 1914 (Ibrahim [1988](#), p. 35).

The introduction of cotton production in the region by the colonial rule in 1925 was another practice that accelerated the land dispossession of the Nuba people. The cotton, which was introduced within the framework of the Nuba policy, was also geared towards Baggara settlement in their newly established *dar* within Nuba homeland (Kamal [1983](#)). The Nuba were not able to invest in their land reserved by the British government for cotton production. At the same time the Baggara were successful in cotton production, leading them to extend themselves once more into Nuba land for more cotton production. That was in line with the colonial policy for supplying their industries with raw material. Contrary to Nuba empowerment in preserving their land, as intended by the colonial policy, cotton production, in fact, added new dynamics to land economics and politics in the region, with more powerful actors being involved, and hence presented more threat to the livelihood and survival of the powerless Nuba.

The national era and reinforcement of the colonial legacy in land rights

The colonial legacy pertained to land rights in the Nuba Mountains inherited by the national government on the eve of the country independence was vigorously reinforced by successive national governments through various types of distorted development and discriminative land policies. The Sudanese state has unwittingly maintained some coercive colonial institutions and brutally deployed them against its indigenous peoples. In the process, the relationship between Sudan's mainstream

society and the indigenous peoples has developed in a manner identical to that which existed during the colonial period (Salih [1999](#)).

On the clay plains, large-scale mechanized rain-fed farming was introduced in 1968 as a government development. Under the 1968 Mechanized Farming Act, 60 per cent of the land was to be allocated to local people and no one was to have more than one farm. However, in practice, this was ignored and some outside landowners ended up with more than twenty farms. For example, 50 per cent of the leaseholders in Habila mechanized rain-fed farming project were merchants and only 11 per cent had previously been farmers. By 1993, large-scale mechanized farming covered 2.5 million feddan and in 2003 the figure was in the range of three to four million feddan representing between 9 and 12 per cent of the total area of the South Kordofan (Harragin [2003](#)). The intervention was mainly exploited by the private sector based on the concessions made by the governments to secure food for the urban population and cash crops for export. The 1970 Unregistered Land Act, the 1984 Civil Transaction and its amended versions of 1991 and 1993 were meant to reinforce government power in taking the communal lands for mechanized public and private farming. As a result, the local communities and traditional farmers were pushed to the margins and reproduced as farm labours in these large-scale mechanized farms. The introduction of the mechanized capitalist agricultural schemes in the region marked the economic climax of the Jellaba traders, who assumed full control of all economic spheres in the Nuba Mountains. At the same time, it crystallized the present socio-economic structure and stratification in the region where the Jellaba, the Baggara, and the Nuba occupy the top, the middle and the bottom of the socio-economic system respectively (Ibrahim [1998](#)). In short, the introduction of the mechanized farming projects on the Nuba Mountains plains had a disastrous effect on the Nuba. 'Their land was seized, and they were evicted and driven from their ancestral land without compensation. It brought suffering to the Nuba people, and caused widespread ecological disaster to the region creating further social dislocation and conflict over diminishing resources' (Rahal [2001](#), p. 46).

Civil war, displacement and further alienation of the Nuba land

The denial of land rights and access to the indigenous Nuba peoples was intensified further with the emergence of the second cycle of the civil war in the area in 1985. The first began on the eve of independence in 1955 and ended with the Addis Ababa Agreement in 1972. The single most important issue behind the extension of the civil war into the Nuba Mountains is the encroachment of mechanized rain-fed farming into the customary Nuba farming land bringing socioeconomic devastation. The Nuba were squeezed and had to choose between two options: either leave the area to work for the government as soldiers or become workers in a mechanized farming scheme. This phenomenon is becoming massive. What remained for the Nuba was to fight back against these changes by way of forming an ethno-regionally based movement championed by Philip 'Abbas Ghabush who led an unsuccessful plot against the central government in 1984. Thus, when civil war broke out in the south in 1983, the Nuba were generally sympathetic with the proclaimed aims of the Sudanese People's Liberation Army/Movement (SPLA/M) and by 1985 the late Commander Yousif Kuwa Mekki had joined the armed struggle movement (Suleiman [1998](#)).

Throughout the second civil war period in the region, many Nuba were pushed further up to the mountains, leading to overcrowding and over-exploitation of local resources. And, again, they have been denied access to the resources on the plains, not only for reasons of war but also for reasons of continuous land grabbing by the government and its alliances, usually from the central part of the Sudan (Manger [2004](#)). And that has further pushed the Nuba people systematically to the margins of the Sudanese economy, culture and politics. This process was part of a wider government programme aiming at uprooting Nuba people from their territorially based identity. Following the introduction of Islamic *Shariya* law in 1983 the Khartoum regime staged a military *jihad* (holy war) campaign to force their version of Islam and Arabism upon the Nuba, denying them access to land necessary for survival, relocating them to so-called 'peace villages' (Manger [2006](#)).

In order to enforce its ideology, the government has also rewarded the dominant ethnic groups, basically Baggara and Jellaba, which supported its policies and military campaigns in kind, i.e. Nuba land and natural resources. Land alienation, including forcible land evictions and joint military raids by the Sudanese army and the Arab militia became the dominant form of state engagement in the region (Salih [1999](#), p. 10). Hence, the Nuba share at least one major predicament with indigenous peoples worldwide: state-sponsored policies assist in the systematic appropriation of their lands and natural resources by the colonial and postcolonial institutions. The results are gross and multi-dimensional human rights violations: excessive socioeconomic marginalization, political persecution, ethnocide and genocide.

Sadly, it took some time before the international communities turned their eyes on these immense human tragedies and several human rights activists and institutions started monitoring the systematic government policy of land alienation and genocide in the region. In 1992, Africa Rights Watch, a London-based human right organization, documented an upsurge in violence against the Nuba peoples by the army and the Murahaliin Arab militia after being legitimized by enacting the Popular Defence Forces (PDFs) Act in October 1989. In its report *Eradicating the Nuba* Africa Watch ([1992](#)) described a litany of killings, destruction of villages and forced removal of the Nuba peoples from their own land. In addition to the burning of villages and disappearance of civilians, large-scale plans of forcible relocation were implemented and tens of thousands of Nuba were scattered in small camps in remote areas in northern Kordofan. The scale of killing and relocation reached the level of genocide. Later, in its publication titled *Facing Genocide: The Nuba of Sudan*, African Rights ([1995](#)) reported the genocide and ethnocide atrocities committed by the central government among the Nuba communities. It details mainly the human rights abuses committed since the beginning of the war in the Nuba Mountains in 1985, but also includes detailed background information on Nuba identity, the history of relations with Arab-speaking tribes and the development of the Mechanized Farming Corporation. Quoting an extensive list of sources, the report describes how successive governments have supported an aggressive policy of expansion of mechanized farms and enacted ever-more-sweeping land legislation in order to allow confiscation to proceed.

The Nuba elites in Diaspora launched an advocacy campaign to raise the awareness of the international community on the Nuba tragedy. In the 1990s, several forums were formed such as Nuba Solidarity Abroad, Nuba Survival and its publications *Nafir* and

The Nuba Vision in London, and the Nuba Relief, Rehabilitation and Development Organization (NRRDO) in Nairobi, Kenya. They played a role as main advocacy and vocal voices for the voiceless Nuba peoples. A quick look at issues being raised in the above-mentioned two publications reflects the centrality of the Nuba autochthonous claim over their land as source of their ethno-political identity, socioeconomic livelihood and survival: 'What is Slavery?', 'Agriculture in the Nuba Mountains', 'The Question of the Land', 'Nuba Culture', 'Nuba Land Rights' and 'Nuba Lands on Sale', to mention just a few. These multi-dimensional Nuba human tragedies were, to some extent, brought to an end with the signing of the Nuba Mountains Cease-Fire Agreement (CFA) on 19 January 2002 and the Comprehensive Peace Agreement (CPA) on 9 January 2005. Hence, the Nuba peoples entered a new era in their political history yet with further dynamic challenges to their livelihood and political choice as featured below.

Comprehensive Peace Agreement and the Nuba land question

The CFA as well as the CPA guaranteed cessation of hostilities and the free movement of civilians and goods, with the broader objective of gradual achievement of a just, peaceful and comprehensive settlement to the conflict nation-wide. They were remarkably successful in putting an end to open warfare. But, paradoxically, in the Nuba Mountains region, some of their central features - increased stability, increased freedom of movement, the opening up of the areas hitherto considered no man's land - re-introduced new sources of conflict that the war had caused to subside temporarily, all of them tied to the issue of land. These include the return of pastoralists and their herds, and the return of the Jellaba investors to practise mechanized farming in areas which were not accessible during the war because they were effectively controlled by the Nuba-led SPLA/M. The CPA changed this (see Manger [2006](#)).

Despite the fact that the CPA provides some mechanisms for settling land-related issues in the post-conflict era, the current difficulties facing the implementation of the Agreement had raised great fear among the local Nuba peoples as to whether their customarily owned land is going to be safeguarded by the agreement - or it is going to experience further grabbing? Against the backdrop of a decade and half of bloodshed associated with slow steps towards implementing the peace agreement, including security arrangements and the formation of institutions related to rule of law, it is likely that the coexisting but competing sedentary Nuba and nomadic Baggara peoples over land and water resources will inevitably lead to recurrent local conflicts. Given the political polarization along ethnic lines and in the presence of widely spread weapons, these local conflicts can easily escalate to regional level or even beyond. In fact, several cases have already substantiated this gloomy scenario: for example, the deadly conflicts between the Nuba Ghulfan and Dar Naya'la Arab nomads around water sources in Debri area during November-December 2005; between Nuba Daqiq and Messiriya nomads on water sources in Reikha village during January 2006 and between the unidentified camel riders and Nuba of Werni during April 2006, to mention just a few. In these conflicts automatic arms like Kalashnikov and GM3 were used.

The potential tensions are also manifested in local discourses in various tribal/ethnic conferences. Looking critically into their final communiqués, it is obvious that the question of land was the central theme in the first and second All Nuba Conferences held in December 2001 and April 2005 respectively in Kauda, as well as in the first Traditional Leaders Conference in Julud, Nuba Mountains, during 17-22 July 2005, to mention just a few. Counter to this, the Baggara held their first and second Conferences in Kurchi, Moro, 20-1 May 2005, and in Kadugli, 21-3 June 2006 respectively. Land-related issues were also a central theme of their two conferences. They emphasize the need for the government to guarantee the rights of all citizens in the region to secure land for farming, grazing and settlement, among other things.

The CPA dealt with land issues in the Wealth Sharing and South Kordofan/Nuba Mountains and Blue Nile States Protocols. However, land policy issues were not fully addressed in the agreement despite the centrality of the land question in the civil war. The wealth-sharing protocol highlights the traditional nature of the land-tenure arrangements but it explicitly avoided addressing the core issue, i.e. land ownership. The main instruments of land-use management during the interim period are Land Commissions at national and Southern Sudan levels as well as at the State level in the conflict-affected areas of Southern Kordofan and Blue Nile. Their functions may include - at their discretion - arbitration and consultation on land reform and customary land rights, appraisal of compensations and recording of land-use practices.

In the absence of clear-cut solutions in the CPA to issues related to customarily owned lands, there are uncertainties concerning the nature of the law upon which arbitration will be based, recognition of the customary law, enforceability of the verdicts on lands and alternatives for redress in case a commission refuses to consider a claim. Despite the fact that the Interim National Government has spent almost two years in power, the establishment of the stipulated Land Commissions at national level as well as at the level of the Southern Kordofan and Blue Nile States has not yet been finalized. Therefore, no progress has been made in incorporating customary land rights into the legislations at national, state and local levels. This implies that the government policy of grabbing the customarily owned lands from the local peoples in Sudan in general and in the Nuba Mountains in particular may continue to be practised despite the existence of the CPA. On the ground, tensions between the coexisting but competing sedentary and nomadic peoples will continue to recur insofar as the existing laws are failing to enforce nomadic land use rights consistently. In this way, it is doubtful as to whether the CPA's laid-down indicative principles regarding land issues are sufficient to redress land grievances among the indigenous peoples of the Sudan.

Conclusion

Conceptually, the paper, at the outset, highlights the concepts of 'indigenous people' and 'region' and the existing strong linkage between them. For indigenous people, the paper argues, their region is perceived not as a geographical entity only but as source of their ethno-political identity and socioeconomic livelihood. The paper then traced the evolution of the land-tenure system in the Sudan, which is characterized by sharp dualism between the customary and the modern land-tenure sub-systems, where the customary land rights are not legally recognized by the successive outlined civil

legislations and Acts. This series of Acts came to have a far-reaching impact on the indigenous people and their customarily owned lands, particularly in Southern Sudan, Blue Nile and Nuba Mountains.

Taking the indigenous Nuba peoples of the Sudan as a case study, this paper has attempted to trace analytically various historical and contemporary socio-political dynamics that have continued to push these indigenous peoples systematically to the margin of their customarily owned land. Following a brief note on the land question in the Comprehensive Peace Agreement (CPA), the paper questioned the competency and effectiveness of the vague principles laid down in the CPA for redressing the multi-dimensional grievances related to customary land rights for the marginalized indigenous peoples in the Sudan in general and the Nuba Mountains in particular. The failure of the CPA in redressing the issue of customary land ownership signifies its failure to accomplish a just and sustainable peace in the Sudan because of the centrality of the land question in the Sudan's recurrent civil wars.

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