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Sudan: Shari'a and Asylum

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INTRODUCTION

This work aims to examine analytically the asylum system devised by Sudan, a country that has been chosen as subject of this research and case study in order to understand whether and the extent to which such a country as Sudan is still able to meet the refugees' needs and fulfil the duties of asylum deriving not only from international and regional law, but from domestic legislation as well, whether religious or secular, under a considerable growing migratory pressure. Since Sudan has made *Shari'a* the main source of legislation, successive constitutional committee worked with the aim of transforming the principles and precepts entrenched in the Qura'n and the Sunnah into legal provisions. The main goal of this research is to assess whether Sudanese legal system has set out a generous and comprehensive asylum system to protect refugees, especially when it has to deal with South Sudanese refugees, and provide them with the necessary services, or Islam has been waved as an ideology in the hands of the Sudanese elite and decision makers instrumental to satisfy their interests and justify violations of legally binding international obligations, such as those related to refugees. This work does not want just to focus the attention on the effectiveness of the Sudanese asylum system and treatment reserved to South Sudanese refugees as the subject matter handpicked for this research, but it also wishes to acknowledge the difficulties, ranging from its highly heterogeneous ethnic and religious composition against several attempts to make it homogeneous (through campaigns of Islamization and Arabization), to chronic underdevelopment, decade-long civil wars (South Sudan and Darfur), regional and social disparities, a country such as Sudan is currently challenged.

Methodologically, the research is conducted two parallel levels. On the one side, by consulting and using the existing consistent body of research and literature both on Sudan's early (Trimingham, Woodward, Warburg) and contemporary history (de Waal, Deng, Burr and Collins), and on the study of the Holy texts as the principles of hijrah (emigration) and amān (protection) are concerned (Ahmed, Arnaout, Shoukri, El-Wafa). Problems arise in relation of the existing literature on the Sudan's asylum system, since the country lacks an effective and efficient domestic structure to protect refugees, whose reception is often left to chance. On the other level, this work has been conducted through field research during the period of my internship at the Embassy of Italy in Khartoum, Sudan. three different interviews have been held between September and December 2018, a few days before the tension smouldered under the surface and suddenly flared up, exploding in massive popular demonstrations calling for resignation of the thirty-year-long regime led by President Umar al-Bashir.

Today, the country is on the brink of the abyss and this work wants to draw attention on a substantial portion of the population, which has not only , been uprooted from its homeland as a result of massive displacement which affected the Horn of Africa and the Central region of the continent as well over the last decades, but it sought shelter into a country which does not provide for its basic needs and often use it as a tool of foreign policy, by aiding rebel groups against neighbouring countries' regimes and of exchange in dealing with them.

CHAPTER 1

INTRODUCTION

This chapter raises and deals with the following question: what are the factors at work that have affected the path Sudan even today keeps walking down? This question inevitably springs to mind when one sets foot in Sudan and usually is impressed with its extraordinarily motley ethnic make-up, but, at the same time, with learning that the Islamic Law (Shari'a) is the main source of legislation in the country. How can such a country as Sudan, with its extremely heterogeneous religious, cultural and ethnic composition, come to the conclusion that its domestic political debate could aspire to an acceptable level of liveliness, its society could prosper economically and culturally, its economic functioning could guarantee a decent standard of living, if its laws mainly derive from the Holy texts?

This first chapter seeks to shed light on the historical events that, according to the literature on Sudan, deserve particular attention in order to well understand the crucial variables and critical dynamics that, from the Christian Kingdoms of the fifteenth century to the 1980s, have constantly constrained its social and economic development and have brought the country to currently stand on the edge of the abyss.

SUFISM

Tasawwuf means literally “becoming a Sufi”, hence the common English translation is “Sufism.” These about the word origin range from *suf*, the Arabic term for “wool”, the raw woven with which prophets and saints’ traditional clothes were made in the Near East, to *safa*, purity, as the ultimate aim of the wandering man who, along his route, gets rid of anything but God (kullu ma siw Allah). Despite its motley nature, its heterogeneous composition and complex map, Trimingham seeks to include as many of the realities and practices relating to Sufism as he could by labelling *sufi* as “anyone who believes that it is possible to have direct experience of God and who is prepared to go out of his way to put himself in a state whereby he may be enabled to do this.” It pulls together the dimension of personal spiritual experience whose aim is direct connection with God with the medium represented by revelation of the divine message through Prophet Muhammad, such as embedded in the Shari'a. Mysticism is the Sufi way for drawing closer to the Reality, God, by awakening and training human emotional and spiritual ability. Early Sufism stems from the individual's need to claim his right to personally, directly and freely approach the Reality, beyond the extreme rationalization of religion in law and theology, and its institutionalization. Indeed, Sufis experiencing such a mystical union with God, later witness the true nature of Islam, as being unlimited by a “legalistic directive.” This is the reason why the 'ulama have always voiced their opposition or they have even taken a hostile attitude toward Sufism, as mystics commit themselves to grasp on divine reality, or rather to reach the knowledge of the Real (al-Haqq, the term used by them for Allah) without the main source of Islam, that is the revealed codified faith. Also, 'ulama stressed the God's transcendence and omnipotence. The leading Syrian ulama, Ibn Taimiyya, issued several fatwas against customs of Sufis who, when rapt in ecstasy, used to dance and play music, and followers' practice in visiting saints' tombs with presents and vows as well. Yet, it should be noted that early Sufi leaders, warding off jurists' charges of heterodoxy, wished to make it clear that Sufism falls within the Shari'a principles (Corrao). This is why 'ulama's Islam could not win the hearts of the mass population and be its living faith.

Despite its wide and complex spread, tangled network of affiliations to this or that *tariqa* and its many dimensions, a Sufism has some common features in its conceptual structure. Sufi thought envisages a bottom-up journey made up of three different layers. Faith in the five Islamic pillars, arkan upon which the Shari'a is built. Yet, though it cannot stand

Sufis to experience and gain the deep and true meaning of the Real. The middle level is *tariqa*, the way understood as the personal path toward the inner dimension of Allah's will. *Tariqa* is the term by which organization of religious orders will be later named (XII century) to mean the communal dimension of Sufism, as the main practice to approach the divine essence is the *dhikr*, the dance through which Sufis play out the remembrance of God: "Remember God with frequent remembrance and glorify Him morning and evening" (Qura'n, 23:41). Indeed, as staged on Friday at sunset in the Omdurman's *sug*, while dancing and beating the drums mystics repeat the many names of God. This rhythmic loop and breathing, which perfectly overlap with the God's creating breath, culminate in the *sama'a*, the collective singing, the spiritual concert, where the individual gets lost to materialize in the purest dimension, the divine presence. The older word *sama'a* was replaced by the term *hadra*, to mean the traditional presence not of God (al-hadrat ar-Rububiyya), who is omnipresent, but of Prophet Muhammad. This development, that is a stronger emphasis on the prophetic figure, is a key feature of orders developing as offshoots of the two nineteenth-century reform movements of Muhammad 'Uthman, the founder of the Mirghani family in Kasala, and Muhammad ibn 'Ali al-Sanusi, the founder of the Sanusi *tariqa*.

Orders' organization and teaching system take shape from the relationship between the master and the disciple, the *murshid* and the *muris*. Early masters were more concerned with directly living the divine experience than speculating about God, so that pupils themselves could soar to highest heights of perception of the spiritual truth: "Sufism in practice consists of feeling and unveiling, since *ma'rifa* (gnosis) is reached by passage through ecstatic states" (Trimingham, 1971, p. 3). Abu Hamid al-Ghazali, after having such an experience, a theorist ethical mysticism, also concludes that Sufism cannot be taught and learned, but just gotten 'by direct experience, ecstasy and inward transformation' (al-Ghazali, *al-Munqidh min ad-dalal*).

The mystic, in the last stage, almost gets hold of the divine gaze and thus crosses and withdraw the cognitive process whereby he gains objective knowledge, and basically identifies with Him. In 909, the Persian Sufi Mansur al-Hallaj was heard screaming and uttering 'ana al-haqq', a statement that, though easily misinterpreted, well sums it up what Sufis should feel in this last step. Undoubtedly, he must have tasted the *dawq*, the divine flavour, and then explained his fellows quite clearly how he was feeling, as he was tried for apostasy and executed brutally in 922. All of this comes with some appropriate remarks: seeking separation from the earthly distraction is matched with fully caring about and engaging in earthly concerns, since Sufism does not at all either result in nihilism or provides individuals with a loophole. Rather, it necessarily implies active involvement, a pragmatic approach in social aspects by giving hospitality to travellers and taking care of the sick and poor.

As mentioned above, the original meaning of the term *tariqa*, the phased process of spiritual contemplation toward ecstasy, came to identify disciples' free and unfettered rally around a master for training. Though in this early period Sufi circles were loose and their members preferred wandering, organizational foundations were laid as reception hubs for hosting these roving travellers and several terms came to name Sufi convents, *ribat*, *khanqah*, *khalwa*, each with a different of level of institutionalization. Sufi distance away from acknowledged religious leaders did not surely help soften ulama's inflexible attitude toward them and their suspicion was further fed by the progressive institutionalization and definitive foundation of *khanqa*, centres, as well as organization of the *sama'a*. indeed, former loose groups began turning into self-perpetuating orders that survive their founders' death. Yet in the late eleventh century, spreading acceptance of Sufism and their official congregations was supported by some Sunni Muslim leaders (e.g. Kurd Salah al-Din in Egypt) who had been succeeding in supplanting Shi'i hegemony in Persia and Maghrib. Since then, Sufism came to be a popular movement and Sufis' travels played a key role in spreading Islam in the countryside and non-Arab

centres or schools. These newly born official places emerged as spiritual communities organized around a charismatic teacher and committed both to spread his teachings and bring forward his name and heritage. The tariqa was passed down through a chain, *silsila*, from a designated shaykh to another. As an outcome of the Sunni triumph over Shi'ite dynasties (Fatimids and Buyids) in the eleventh century, the need to fill the gap left by the takeover of Shi's sectarianism was accomplished by the silsila-path. As Trimingham makes it clear, the tariqa was not to take the place of traditional Sunni organization deemed by Sufis as a privilege to human weakness. Rather, Sufi leaders were aware of the risks linked with an outrageous alienation from orthodox institutions and thus they kept formal duties, law and ritual practices of Islam.

But now enthusiasm, communitarian values and devotion (*collegium pietatis*), typical of times when orders included just *darawish*, gave way to pupils' loyalty to the Master (*collegium initiati*), also as a result of admission of lay members, who kept having their usual job along with their religious duties: they would follow his path and hand down his teachings through future members. Also, the Shi'ite tradition of initiation with oath of allegiance, *bay'a*, to the shaykh caught on. Introduction of visits of the shaykh and his successors, who had inherited his spiritual powers, *baraka*, to saint' tombs marks another change in the development of Sufi practice. Despite its elitist nature, visits to the saints' tombs contributed to mass participation, which is a peculiar trait of Muslim communities even today. As Trimingham highlights, "the blending of the saint-cult with the orders and new reverence for the Prophet is one aspect of change" (Trimingham, 1971, p.27).

Sudan thus provides a fertile ground for superstition and popular beliefs to put down roots. Even today, despite higher levels of education among population, they keep playing a key role in the daily-lives of Sudanese. Most notably, saint-worship is the most widely practiced. Saints are the intermediaries of Allah, those who handle earthly affairs on the behalf of God, but they have no credit for being provided with *baraka* (literally benediction, miracles, something holy given by God) though. Trimingham warns the Christian from judging Islamic saints, who could even be the model for the worst possible acts to others, by his own standards: "the saints were the product of a religious environment which needed them and they have been a real means of providing a living religion to the masses to whom orthodox Islam was an empty show. Compare the attitude of the worship at a mosque, with its dignified formal ritual, with that of those at the shrine of a saint, where the people, [...], freely express their devotion to one who was the guardian of their ancestors and is their protector today, one who is 'near to God' now as then, who hears their pathetic supplications and intercede with the remote One" (Trimingham, 1950, p.129). In Sudan, they are several and they are all linked with the religious orders and, in order to give an idea of how deep mysticism went in the country, it is interesting to note that most of the orthodox representatives also bring the banner of Sufi orders and bragged about their training in both formal law and Sufism.

Between the eighteenth and the nineteenth century, Sufi orders in Sudan went through substantial changes that enabled them to live through even modern times today. Levtzion argues: "In the eighteenth century, brotherhoods transformed from old patterns of decentralized diffusive affiliation into larger-scale organizations, more coherent and centralized" (Levtzion, 2002, p. 114). Neo-Sufism, indeed, played an essential role in the Islamic political propaganda and movements grown in the Muslim world generally. As Lothrop Stoddard noted, after the First World War, when the Third World began organizing reaction against Western imperialism, one of the Muslim countries' answers was Pan-Islamism, which arose in the early nineteenth century, but because of the lack of coordination, was bound to be cast

consciousness and with a systematic structure. This comes, for example, with the Sanusiyya, an order committed to kick the Italians out of Libya (Stoddard, 1921, p. 52).

In Sudan, too, in the early nineteenth century, Sufi brotherhoods acquired a supra-national physiognomy. Centralized brotherhoods began spreading and such a transformation, allowing orders to broaden national support across tribal membership by merging already active religious centres into a larger new tariqa network, mostly affected the Sammaniyya and the Khatmiyya. They, however, followed two different fates, as a set of circumstances smoothed the path to the Khatmiyya. It lined up with the Turco-Egyptian rulers, whose conquest of Sudan coincided with the moment of major expansion of the order enabling it to reap the benefits in terms of additional adherents since, and finally, unlike the Sammaniyya, it did not go through inner splits. Because of its inner strength, during the Mahdist state, it was the only tariqa which rejected Mahdi's religious mission and political role in the country, a position which forced Khatmi leaders to flee the country and seek asylum in Egypt to come back only in the wake of the 1898 Anglo-Egyptian takeover.

EARLY ISLAMIZATION: THE FUR AND FUNJ SULTANATES

Before moving on to the Mahdist revolt against the Turco-Egyptian rule, it would be better spent some words on the Islamization process as sparked off in Sudan with its own peculiarities. Peculiarities in its cultural and social structure that, when faced with Islam, were absorbed and integrated. Indeed, according to Goldziher's description of Islam as a system, "its dogmatic development shows the stamp of Hellenistic ideas; its judicial systemization reveals the influence of Roman Law; its political organization under the 'Abbasid Kalifate shows the usage of the political ideas of Persia and its mysticism the appropriation of the current ideas of Neo-Platonism and Hinduism." Islamic faith has showed its handsome ability in sinking in indigenous features while, at the same time, holding on to "its own inner will to power, organic unity and world outlook" (Trimingham, 1950, p. 106). Mutual assimilation implied both that each population has adopted those traits that better fit in their ways of life and national identity, and Islam's capacity to absorb local features makes it possible for it to become itself indigenous anywhere it penetrated.

The Sudan bumped into Islam in the 15th century, when Holy Families and Sufi Sheikhs from the Arabian Peninsula brought the religion with them, even though orthodox Islam had already seeped superficially over the country thanks to jurists' proselytism. Indeed, the seventh century saw, on the one hand, military expeditions into Nubia led by the Egyptian Muslim general 'Amr b. al-'As (641) and migration flows of Arab nomads who had just been converted to the new creed by the new political leader of Arabia, the Prophet Muhammad. The Nubian region was at that time ruled by two kingdoms, Nubia (Dongola) and 'Alwa (Soba), that in the sixth century had been Christianized by missionaries sent from Egypt. Christianity laid the basis for a community united by a common religious culture and, Searcy argues, this unifying element could explain the failure of Muslim military expeditions to conquer the Kingdoms. Egyptian governors' resolve ended with the signing of a treaty, the baqt, which paved the way for the establishment of trade relations between Egypt and Nubia, but imposed harsh terms on the Christian king, including acceptance of the Mosque Muslims had built in Dongola, provision of grain and 360 slaves annually. Most importantly, the baqt laid the first stone of Muslim missionary activity in Sudan. Gradual and slow cultural infiltration of Islam and Arab elements in the region, through inter-marriage, may have triggered the collapse of Dongola in 1320 and 'Alwa in 1504. Since then, the region has been ruled by an Arab-Islamic elite.

But Christians were not the only one who have been reigning and ruling kingdoms in the Sudan. In the early sixteenth century, the Funj Sultanate (Sennar) arose and survived as long as the Turco-Egyptian invasion set off its downfall. Despite the high number of available theory on its origins, the most striking one has its roots in a letter sent by the Funj king to Sultan Salim, who conquered Egypt in 1517 and was threatening the Sultanate, where the former attempted to make Funj's claims about their Arab Muslim bloodline stronger through genealogical tables. Beyond the truthfulness of these claims, the letter successfully hampered the invasion at first and witnesses how "Even at this early stage in the Islamic history of the Sudan, access to power involved possessing some relationship to the Prophet Muhammad's family" (Searcey, 2011, p. 13), so that such supposed links with the Umayyads lent religious and political legitimacy and Quraysh bloodline acted as buttress to their authority. Though the Sultanate positively affected the process of Islamization since it promoted migration of Holy Men and Families from Hijaz (the north-western region of the Arabian Peninsula, today in Saudi Arabia), who were entitled to be given grants of land and privileges, the Islam of the Funj was fictitious and they had declared to be Muslims because of political opportunism (Trimingham, 1950, p. 100). Nonetheless, Sufi orders came out as a substantial power in the religious life of the Funj Sultanate (Niblock, 1987, p. 102). An additional contribution for Sudan's Islamization stemmed from the Mahas, a Nubian ethnic group, who claimed to be Arab Ansar. They migrated and settled in the Funj Confederation, where they started speaking Arabic and training in jurisprudence, adopted 'a mystical succession, and set up as miracle-working feki-families, deeply influencing the life of the indigenous tribes [...]' (Trimingham, 1950, p. 101). Thus Islamization of the country before the Mahdiyya state arose, was brought about by two states that practiced Islam as state religion. The Funj Kingdom, by now torn apart by domestic strife, cracked under the Turkish invasion, and the Darfur Sultanate, survived up to 1916. Indeed, Trimingham highlights that out of the Funj state, Islamization kept sleeping until the Egyptian conquest. It is worth noting that the Holy Families and Men coming from the Hijaz, as encouraged by Funj elite, were responsible for bringing religious orders, the Qadiriyya and Shadhiliyya, into the country. Their original shape varies from that acquired later: they were not centralized tariqa and religious authority lay in the hands of more than one teaching shaikh. In the words of Trimingham, "Sudanese Islam thus became 'cellular'", in the sense that Sufi convents and schools became the nucleus of Islamization in a heathen country such as Sudan, where saint-worship began exercising strong influence on the population, pagan rituals and local customs in place were absorbed and people were free to keep their animistic beliefs under Islamic forms.

The Fur rulers laid claims to their Arab Muslim descent as well, but they assumed to have familiar ties with the Prophet's uncle, 'Abbas, and thus with the 'Abbasid caliphate (720-1258). Sudanese tradition about the supposed Fur's Islamic origins tell that two brothers belonging to the 'Abbasid family fled Baghdad after the city surrendered to Turks in 1421, and sought shelter in Tunis. One of the brothers, Ahmad, was forced to leave Tunis and, after crossing the desert, settled in Darfur, a land known for its ethnically heterogeneity but ruled by the Fur elite, which as socio-political dominant power lent somewhat political cohesion around the crown. Sulayman Solong, the first Arab ruler and founder of the Sultanate, Ahmad's son, would run the Sultanate from 1660 to 1680 by upholding its cultural and ethnic diversity. He ushered in Islamizing the population, though popular pre-Islamic and animist practices started giving way to Islam when at last Ahmad Bokkor (1682-1722) launched a more active and dynamic religious policy with the construction of mosques and Islamic schools, and by supporting holy men and traders' visits from Muslim lands and their settlement in the Sultanate.

Al-Turkiyya al-Sabiqa is the term by which Sudanese mean the former Turkish government. In 1820, the Ottoman

people's bold and daring resistance, Darfur was subdued and became a region of the Turco-Egyptian Sudan from 1874 up to 1882. Muhammad 'Ali fleshed out the Egyptian plan to make Sudan its own pool of human, agricultural and mineral wealth. Most notably, Sudan turned into a crucial route for the slave trade of Egypt and the Ottoman Empire. The first effort to end the thriving Sudanese slave trade was undertaken by Sa'id, who actually was simply speaking on the behalf of the British government and whose attempt did not yield any result. Indeed, under Egyptian rule, this shameful trade became the main source of revenue in the country. It granted by far the greatest income stream that central government's declarations on stopping the slavery fell on deaf ears, since the Jallaba, northern Sudanese Muslim traders, had become such a powerful social class that provincial governors feared the latter's reaction. Traders sent slaves overland to northern markets and kept them in cages with thorny fences, called zaribas, along the way. Areas of the Upper Nile, Bahr al-Ghazal and Jabal Nuba, where ethnically motley groups dwelled, became well-known hot spots for catching slaves and selling them off on the regional markets of El-Obeid, Fashoda and al-Qallabat and then in the largest ones of Khartoum and Shendi, located in the northern side of Sudan, from which they were legally smuggled to Egypt or Hijaz across the Red Sea. Another reason for this soft call by the Egyptian government to put a stop was its direct involvement and its own gain, as it was able to pull an important share of its army out of the slave trade. The Jahidiyya was, for example, employed by the governmental forces against the Mahdiyya army and some of these slave soldiers fell into the hands of the Mahdist troops to fight against their former colonial masters. Finally, in 1877, Egypt signed the Slave-Trade Convention with the Great Britain. However, this setback suffered from Egypt was offset by a more aggressive expansionism in the Red Sea region, which pushed its forces so far as to occupy Massawa and Harar in Ethiopia, trigger a confrontation with the latter, give the British an excuse for Isma'il being unseated and his easier-to-handle son being set up (Searcy, 2011, pp. 7-24).

THE MAHDIYYA

Ibn Khaldun tells us about the popular belief in the Mahdi, a future deliverer, by writing in his Muqaddama (p.218): "It is a universal belief amongst the Muslim masses throughout the ages that at the End of Time a man of the family of the Prophet must manifest himself to confirm the faith and proclaim justice. [...] He will be called the Mahdi. [...] 'Isa will either descend after the Mahdi and kill the Dajjal. [...] He will follow the Mahdi as Imam in worship" (Ibn Khaldun, 1377, p. 218). Undoubtedly this powerful message could not leave Sudanese fertile ground for superstition and mysticism untouched. Because of the lack of separation between temporal and religious powers in Islam, Muslim reformers have always resorted to use political tools, invoked the jihad and sketch out structures for a model state. The outcome is that, wherever Muslim people suffered from oppression, the messianic doctrine takes on both religious and political overtones. And as Trimingham notices, 'it was religion which provided the stimulus though economic conditions determined the response (Trimingham, 1949, p.150).

In Sudan, the task of fighting against the infidels, ridding the 'Ummah of the Turco-Egyptian miserable occupation rule, bringing back justice and equality, cleansing Islam of impure elements and breathing new life into the Muslim community, was entrusted to Muhammad Ahmad, who declared himself to be *al-Mahdi al-mutanzar*, the awaited divinely guided one, in 1881. As far as the roots of these messianic elements are concerned, the belief in the coming of a saviour belongs to all monotheistic religions and dredges up whenever people feel they are discriminated against and live under a corrupt and cruel regime. Islam absorbed them through new converts and such traits immediately became an integral part of popular Islam. It should be noted that the Qura'n, in Sura 43:61, teaches 'He shall be a sign of the Last

and thus strict orthodoxy cannot be deemed as the ground for the belief in the coming of the Mahdi (Trimingham, 1949, p. 148).

Muhammad Ahmad thus became the leader of Sudanese nationalism, holding up his background and never reneging on his Sufi education. He never disguised he had joined the Sammaniyya and Idrisiyya orders. Because, if it is true that the Mahdi's main claim was to delete innovative elements leading to a corrupt Islam, the Mahdiyya grew rich of some peculiarities that made the movement typically Sudanese. In a letter, written on September 5th 1880, Muhammad Ahmad talks about his concerns over Islam's conditions with a tribal sheikh of central Sudan: "Innovation in the land has become widespread and the 'ulama and the disciples alike engage in it... The only thing that remains of Islam is its name and the only thing that remains of the Qura'n is its representation" (al-Mahdi, 2:59). Furthermore, he cared about explaining that he was not another majdhub, 'not in a state of sleep or ecstasy, [but enjoying a sound mind, keeping to the sunna of the Prophet, adhering to what he ordered and avoiding what he forbade' (Shuqair, Tarikh as-Sudan, iii. 123).

On the other hand, however, he embraced the traditional Sudanese religious pattern, that of the holy man, and he told of a vision of Sufi saints declaring their submission to his mission, thus using their reputation in order to lend his Mahdship legitimacy and authority: "God helped me with His favourite angels, with the saints both living and dead from Adam to this day [...]. In time of war the Prophet appears in person with them before my army" (Shuqair, op. cit. iii. 122). The Mahdi's quoting the Prophet deserves attention, since, while Sufi practice aims at unity with God, 'he moved in the direction of an assertion of the transcendence of God', as Voll asserts (Voll, p. 155). According to the American scholar's model, in the tension between transcendence-immanence of the divine in relation to the believer, Islamic fundamentalist tendency has increasingly emphasized the former and thus taken a hostile attitude toward Sufism, mysticism and popular practices. Thus, the Mahdi had resolved the issue by adopting the Muhammadiyya Tariqa, which closes the doors to 'the Sufi doctrine of union with God, substituting for it, as the goal of the mystical life, a mystical union with the spirit of the Prophet' (Gibb, 1953, p. 171).

In 1881, he was able to gather different ethnic groups and people from various tribes to wage jihad against the infidels Turks under the Mahdiyya flag and he successfully kicked the Turco-Egyptian rule out of the Sudan. Its unifying effect, 'which was of crucial importance in a Sudan divided by tribal, ethnic, and regional differences', even resulted in the Baqqara (an Arab tribe) and black slaves fighting side by side under one banner. Also, those who until then had occupied the last layers of the Sudanese social class could strive for improving their social standing, since rich and poor enjoyed substantial equality in the Mahdist state. To mirror the Prophetic state and the early 'Ummah, both the Mahdi and particularly his successor, Khalifa 'Abd Allah al-Ta'aishi, required Sudanese sheikhs around the country to head their tribes to Omdurman, the Mahdist capital, in order for them to swear allegiance and unite to fight the jihad against the infidel Turks. The policy of hijrah conjured up the early Muslim community's emigration under the Prophet's leadership and blended in well with the African practice of seeking asylum and protection with a holy man while fleeing from oppression. Yet it turned into being a forced migration since, if not fulfilled, it would amount to disobedience to Allah and the chief judge of Omdurman could order seizure and sale of the wrongdoers' goods. The newly dubbed Ansar, muhajirun and mujahidun were mostly the muzari'in, those who really needed to be free from oppression, followed by de-tribalized blacks, Danaqla and the Baqqara (Arab tribes) the Khalifa's own Ta'aysha tribe (Darfur), Arab tribes of Kordofan and Darfur, western Sudanese pastoralists. Thus hijrah to Omdurman ensured them protection and privileges, yet being conditional on their religious duties' fulfilment. As people were expected to travel to the capital

well. Among other things, *hajj*, now redundant, gave way to *jihad*, a duty outside the Sunni practice, and *shahada*, the profession of faith, stretched to gain a statement about the Mahdi. A revolution took place in Sudanese daily life as well, with the introduction of a ban on tobacco, amulets, music, processions, visiting saints' tombs. Since then, a new popular belief, emigration to Omdurman amounted to 70 pilgrimages, started to catch on. But the radical change just lapsed up to the end of the Mahdiyya state, when they got back to the surface (Trimingham, 1949, p. 156).

As the structural organization the Mahdist state came to acquire, the path to follow was that of the Prophet Muhammad's early community, when people had been living free from fear and oppression under the Prophet and his four rightly-guided *khalifas*. His longing for emulating the early 'Ummah means that, on the one hand, since 'the Prophet informed me saying "he who doubts your Mahdship is a disbeliever in God and His Apostle"' (Shuqair, op. cit. iii. 123), he imposed both loyalty only to him (not any other sheikh) above tribal ties, and declared in 1883-1884 dissolution religious allegiances and Sufi orders as well. Also, he banned the four *madhhabs*, since he 'was the best intermediary between us the Prophet', as al-Kurdufani, the Mahdi's biographer, maintains (Al-Kurdufani, 1982, p. 82). On the other one, the state took on a military nature and designated four successors. Just as he witnessed the fulfilment of his own project with the seize of Khartoum in January 1885, the rule of God on earth, he died in June and left Khalifa 'Abd Allah al-Ta'aishi in charge of carrying on his religious and political plan. Yet Mahdist fanaticism started to dwindle from his tyranny, followers' enthusiasm and faith made away for old religious and tribal loyalty: "The nomad tribes were reconstituted, the riverain and Jezira cultivators renewed their loyalty to their religious tribal sheikhs, the heads of orders such as the Mirghaniyya won back their followers, and the pagan tribes relapsed into paganism" (Trimingham, 1949, p. 158). Moreover, he was unable to hold Sudanese ethnically heterogeneous landscape and centrifugal forces gained the upper hand. The end of the Mahdiyya state came in 1898 with the battle of Omdurman, when it was overthrown by the Anglo-Egyptian joint army.

THE GRADUATE CONGRESS DURING THE ANGLO-EGYPTIAN CONDOMINIUM

The political and social dynamics of post-independence Sudan cannot be understood without shedding light on the pre-1956 economic and social structures. The latter were mainly set during the Anglo Egyptian joint rule over the country and bequeathed a great deal of regional disparities and socio-economic underdevelopment. More accurately, the Condominium economic policy created a split between those who were and stayed out of the government schemes, and those who, by virtue of their privileged position, were able to extract a substantial income from the government plans and re-invest it in thriving business activities (Niblock, 1987, p. 49).

Despite its name entailing a fair burden and benefit sharing, it was British, rather than Egyptian, interests that were at stake in Sudan. At that time, the Lancashire cotton industry was struggling with the growing competition of the United States and Germany over hoarding long-staple cotton in the international market and Sudan's climate and ground fit the British textile industry's interests. The Condominium government launched plans for cotton growing in the country, but tight budget constraints heavily shaped the way cotton production was organized. Indeed, rather than exploiting the chances of seeking development by developing a national cotton industry and investing in the country's peripheries in the farmers' small-holdings, the plans provided for centrally-handled schemes (the most well-known is the Gezira scheme) and estates in a concentrated area to be more easily monitored. Obviously, such plans did nothing to improve small producers' lives living out of the state-owned schemes. They did nothing but to exacerbate regional disparities and

government. Plots of land taken over by the government were usually village or tribe-owned, but as the government started recording holdings, tribal leaders were able to embezzle them while common people failed to file complaints against such misappropriation. At the same time, the Condominium endorsed such practices as economic leverage for leaders' compliance, because of the fear that leaders could encourage a mutiny among workers (Niblock, 1987, pp. 11-19).

The role played by religious and tribal leaders in Sudan's games during the Condominium and the way the latter mould the future path of Sudanese socio-economic structure deserve particular attention. as Deng emphasizes, with elitist groups asserting themselves as representatives of the wider national interests and with the Condominium rulers competing for affecting their decisions, varied factions plotted, manoeuvred in steadily changing web of alliances and affiliations with the ruling powers. As already mentioned, wealth of the economic elite depended on its capacity to extract resources and re-use them in thriving activities. Political role these elites came to stage on the playground did not just rely on their economic status, but was underpinned by their pre-existing social influence. As the first category, religion and the shape it took in the Sudanese society with Sufi religious tariqa enabled some leading families, such as the Khatmiyya and the Mahdiyya, to make a fortune, different in size though. The tariqa's inner organization hinged on either dues by the order's followers, which generally amounted to one tenth of their income, or their contributions in the shape of working on leaders' land for free (if part-time job) or in exchange of as much money as they need to barely live on (if full-time job). But some variables affecting their capacity to successfully extract funds to re-invest them came to play. For example, the degree of centralization of the order underlay the scale of revenue stream as it meant whether the flow's direction was one-way (the Mahdist case) or territorially spread (Sammaniyya localized leadership), as well as the sect's dimension, its investment readiness and natural aptitude for engaging in economic activities, and their geographic position as long as the centre of its main interests was in growing income areas (Niblock, 1987, pp. 11-19).

A successful story is that of Sayyid 'Abd al-Rahman al-Mahdi who was particularly successful in asserting its authority and economic strength. It is useful to recall that such a path could not have established without the rulers' need to steer into local leaders' interests and go along with them, as a way for paying off their loyalty, and "in the hope that [...] they could defuse the political threat posed by tightly organized movements capable of fanaticism". In 1908, the condominium government decided to authorize the Ansar to grow the Aba Island's land, which became their headquarters from then on, and enabled him to be "in 1936, by any standards, economically prosperous and politically important", as reported by Niblock (Niblock, 1987, p. 51), who also records the increase in his income per year. But what kind of function did his standing as religious leader perform? As Niblock argues, it was complementary to his economic position in the way, for instance, he could exploit the work force, which was made up of Ansar who had moved on the island from Darfur and Kordofan to be actively involved in the life of the sect, but their work ended up being unfairly used to fill the Mahdiyya family's coffers. At the same time, his strong economic position in Sudan served to enhance and widen his and the sect's religious and political status across the country (Niblock, 1987, pp. 49-54).

The second category stakeholders were tribal leaders, mostly those resided in the northern side of Sudan. Though before the Condominium seized power, they had already drawn gain from farming by holding rights on grazing land, water resources and so on, such activities were indeed not that much profitable to secure enough capital for investment in more viable business, out of the agricultural sector. But the Anglo-Egyptian built up their economic and political position. As shortfalls in financial resources impaired condominium's capacity to control the territory, in order for it to address such

area of authority to cover important trade routes. The designation of tribes as administrative areas endowed with a certain degree of autonomy, allowed the leader to exert governmental powers and take decisions affecting their interests in the area. Moreover, as already mentioned, the lack of transparency in the procedures of land registration also improved their status, since they could record previously common land under their own properties.

CO-DOMINI AND CO-PATRONS IN POLITICS

In spite of the Mahdi's struggle to melt traditional Sudanese tribal bonds as well as religious divisions along the lines of Sufi sects, and ease the burden of ethnic affiliation within the society, Sufi orders were never totally uprooted and, as mentioned above, dredged up in the aftermath of the Mahdist state's collapse in 1898. Above all, they strongly benefited from the possibilities the foreign joint rule offered them to resurface stronger than ever. This was the case of the Khatmiyya order, whose leaders returned once the exile was over and the Anglo-Egyptian conquered the country, and benefited from the alignment with the foreign rulers. Instead the Ansar, the followers of the Mahdi, defeated by the new foreign invaders, were scrapped, but Abd al-Rahman the Sayyid, as Mahdi's son and Ansar's Imam, initiated the reconstruction of the tariqa in the early 1910s, by building the family mosque on the Aba Island, where he laid the ground for the political, economic and spiritual heart of the movement. Thanks to his pragmatism and opportunism, he drove Wingate, the British governor who was looking for Muslim friends against the Turks during the First World War, to lift the ban over the sect. And when the Sayyid mustered the Ansar, the latter took up their leader's call and renewed their *bay'a*, oath of allegiance, by making their *hijrah* to Aba Island. Once again, whenever independence of the country was under threat, the Ansar had come to embody the national rescuer. This happened in 1954, when they gathered to protest against the Egyptian proposal, backed by part of the Sudanese elite, to launch a process for merging the two countries in the aftermath of the Anglo-Egyptian condominium's withdrawal.

But in the post-independence political spectrum, it was the Khatmiyya in 1953, not the Mahdist Umma Party, that got the upper hand and formed the first democratically elected, but short-lived government in coalition with the Sudanese intelligentsia. From this period onward, these two Sufi sects, which had now grown into political parties, came to heavily affect Sudanese politics by aligning themselves with this or the other movement in power over time. Also, in 1954 the country's political landscape witnessed the foundation of the Sudanese branch of the Muslim Brotherhood. Actually, members, mainly students, had already organized in Cairo, where they, however, could not openly carry on their political mission because of their affiliation with the illegal Egyptian Brotherhood. They came out in 1947, when they founded the Islamic Liberation Movement (ILM) at Gordon College, now the Khartoum University, and started garnering consensus among north Sudanese students from the riverain regions, inhabited mostly by Khatmiyya families.

As Niblock holds in his book *Class and Power in Sudan* (Niblock, 1987, p. 204), the post-independence period in Sudan did not necessarily mean a radical shift in the distribution of political power from the earlier period, that of the Anglo-Egyptian Condominium. Indeed, those groups and forces which had strategically bartered to side with the foreign rulers kept benefiting from their lasting privileged position. Woodward (Woodward, 1990, p. 236) adds that the relationship patron-client was bequeathed to Sudanese establishment by the British rule because of the restrained ability of the state to exercise one of the basic tasks a state should perform, that is to exercise effective control over its territory according to the principle of *cuius region, eius religio*. The lack of statehood's basic attributes, coupled with the extraordinary heterogeneity of Sudan's society, intensified competition among rival groups and made Sudan a chronically unstable

status quo despite the pressing need to address the imbalances affecting the country's socio-economic and political structure. Key variables and crucial dynamics for political parties seeking support kept being social influence of establishment figures. In a country like the Sudan, social influence was undoubtedly linked with prominent figures' power held within tribal, religious and economic organizations.

Reaction to the establishment's struggle to maintain the status quo was voiced by regionalist and radical groups that had come out between the 1940s and the 1950s. In the run-up to the Nymeiri's government, a small (but not enough to be ignored) fraction of the Sudanese establishment realized the need for reforms to remedy structural disparities and to devise plans to boost economic growth equally. Such reformist views, which inevitably meant departure from the elite's stance, showed up between 1956 and 1958 with the NUP's bold step to join the national front along with the Sudanese Communist Party, the 1966 split occurring in the Umma between a reformist and a traditionalist wing, and finally the grievances of DUP's members against their leaders between 1968 and 1969.

THE GRADUATE CONGRESS

“The Sudan at this early stage of its modern history needs leadership and planning. The conclusion then is that today's call is directed to the *litterati*, to the enlightened Sudanese, to the graduate . . . How could the graduates perform their duty when they are a non-existent body? . . . Their first duty is to achieve intellectual unity . . . by this is meant the organising of the enlightened section in an association that would exploit the country's sources of strength”

(Al-Fajr, 1937, quoted in Abu Hasabu, 'Factional Conflict', pp. 150-1).

Despite being laid down in 1938 to be a secularist organization and then to develop into a nationalist movement, (though the Condominium preferred to deem it as a body to give a voice to the interests of the young Sudanese generation of graduates), disputes and divergent views within the Graduate Congress drove some groups to seek outside help. Nothing wrong with looking for external back up in order to move beyond the limits of a graduates' lobby and to open up the organization to a wider electoral constituency with the aim of turning it into a national movement, one could say, expect for the place where they got help. Once again, the Sudanese establishment came to the aid. “although the political parties which emerged from the Congress developed strong political followings, then, these followings were mediated through the involvement of senior establishment figures” (Niblock, 1987, p. 186). In other words, militant members and voters of these parties flowed directly from religious orders since the leaders took first-hand the field and mobilized their followers for this party or the other one. The two prominent figures to turn to were the two Sayyids: Sayyid 'Abd al-Rahman al-Mahdi and Sayyid 'Ali al-Mirghani, who could rely on their social influence which drew its strength from their economic status and political power they enjoyed in Sudan. by that time, those disputes and divergent views were now affected by where support came from and mainly dictated by their alignment with one of the two Sayyids, with the Congress initial aim falling by the wayside.

The step-by-step approach was aimed at allaying the Condominium government and senior graduates' moderation was the principle underlying the action of the Congress, as set out and agreed with the government. Things had started changing since August 1940 when a partnership led by Mahdi's circle came out and outnumbered the Mirghani group. In the 1942 elections, the Congress Committee broke free of its senior members and a radical change took place, also as a result of growing dissatisfaction of the youngest elements, whose number in the meantime had risen, over the Congress' putting off nationalist agenda indefinitely. Faced with the threat of the Congress being a smallest ground

back to the Congress' table. Such claims were increasingly resting on reasonable grounds, since, as the World War Two moved to the African continent, the Sudanese Defence Forces had successfully contributed to the British military struggle against Italy in the battle of Keren (March 1941) and against Germany in North Africa. Sudan now was in a much better position to put forward their demands, also because self-determination rights were recognized by the West and enshrined in the Atlantic Charter. The Congress submitted a memorandum to the Governor-General, in which it called on the Condominium to pledge itself to the cause of Sudan's self-determination once the war was over. Private talks brought the governor to recognize legitimacy of their claims and to work together to achieve Sudanese people's will.

As usually happens in times of stress, in the face of the government's diplomatic attitude, the Committee divided between those who wanted to keep contacts with the government with a gradualist line and those (mainly the Ashiqqah faction, that is the Mahdi's protégés) who wanted to confront foreign authorities in order to force them to accept the memorandum's claims immediately.

A radical turnaround in the Committee's strategic alliances happened. Sayyid 'Abd al-Rahman al-Mahdi, who was growing worried about the radical tendencies of his allies, ordered to sever relations with the Ashiqqa, whose new urgent need for support was catered for by al-Mirghani, who in turn had to cope with the spreading aspirations and popularity of the Mahdi among the Sudanese graduates. Sayyid 'Ali took a bold step and took in the confrontationist line, a policy which found an ally in Egypt, which 'constituted a nationalist pole around which opposition to the British presence in the area could coalesce, and with which Sudan's post-colonial future would inevitably be entwined' (Niblock, 1987, p. 195). Sudan's self-determination under the Egyptian rule was summed up in the well-known motto 'Unity of the Nile Valley' of 1944 and gives the perception that in the Graduate Congress Pan-Arabism had been catching on for some time.

Some paths may be highlighted after this historical account. Graduates and their subsequent political organizations, the way they took shape and how such shape marked Sudanese politics' future trajectory. First of all, graduate political leaders seeking the establishment's patronage rather than campaigning in the streets for popular support and round up public opinion into a nationalist movement.

Polarization came to characterize the Congress between 1943 and 1945. The interventionist and confrontationist line adopted by the Ashiqqah group led by al-Mirghani came to be known as the political party voicing unionist requests, while the moderate approach and stable cooperation with the British intended to longer-term aims, was the line adopted by al-Mahdi and the Umma Party, who wanted to use the existing institutional channels, created under the condominium, to advance the independence stance.

The extremely polarized environment brought moderate to long for creating separate structure outside the Congress, which was left to be the organizational structure of the Ashiqqah Party. Propped up by Egyptian funds and aided by Khatmi traders, the Ashiqqah called for the creation of 'a democratic Sudanese government in union with Egypt under the Egyptian crown', as stated by the Ashiqqah-led Committee of April 15th 1945 (Niblock, 1987, p. 196). The whole organization strongly opposed sectarian strategies and affiliations, though its social and cultural composition rested mainly on a Khatmi background and it went through several splits. Within it, the Ittihadiyyin, the core of the Unionists, was mainly made up of intellectual elements, a factor which prevented them from achieving the size and form of a mass popular movement. Another faction of the Congress, the Ahrar (Liberals), advanced the proposal for a confederal union

Ittahiyyin, the Liberal Unionists, were those who had not withdrawn their loyalty to the Khatmi order, but later would merge into the Sudanese Communist Party. The pure unionist stance was that of the Unity of the Nile Valley Party, which advocated complete incorporation into Egypt. Finally, in 1952 all the groups calling for union with the Arab brother wended up joining force and founding the National Unionist Party. On the other extreme of the political spectrum, the slogan was the 'Sudan for the Sudanese.' The heard of the independence side was the Qawmiyyin 'club' which urged the foreign rulers to fix a period of transition during which Sudan would gradually be entrusted with governmental powers. When the Umma Party was officially set up in 1945, the Qawmiyyin was melted (Niblock, 1987, p. 197).

Political dynamics may be summed up as follows: the political parties born, grown up in the Graduate Congress, were still unable to take their own way from the religious establishment, which, in its turn, linked its existence and survival to the co-domini. After the second world war, Britain started planning its orderly withdrawal from colonial commitments, while protecting its own interests and believing it could continue to play a role even after formal colonial control had been removed. Therefore, its main concern was how to guarantee independence while keeping a hand in Sudanese affairs. Its goals, coupled with the Egyptian ones, were whether Sudan should be merged with the Egyptian territory and their preferences about the political future of the country shaped alliances with the Sudanese elite and the newly-born political parties. Radical economic and social change of the Condominium structures fell outside their considerations. However, it might be highlighted that a mass-based political movement which was able to pull out of such dynamics and give radical nationalism with their calling for economic and social transformations, a voice, was the Sudanese Movement for National Liberation (SMNL), which later took the name of the Sudanese Communist Party.

POST-INDEPENDENCE SUDAN

Allegiances and alliances were the essential forms of the parties' commitment in the political arena. Even once Sudan was recognized as an independent country, the upper ring of the chain of political influence encompassed those groups which had most enjoyed the flow of resources from the Anglo-Egyptian Condominium. The period from the very year Sudan achieved its independence and 1969, the year of the Abbud's military coup, witnessed exacerbation of regional and social differences, since top political stakeholders held their economic interests in the status quo and had no interest in dismantling and laying the groundwork for a new more even order. Alliance and allegiance with tribal and religious leaders were the tools that ensured their social influence was used for swaying and mobilizing popular vote. Electoral preferences and popular votes were dictated neither by political parties' manifestos nor commitments over which the best response to unequal development was and how to better promote Sudanese wealth. But such dynamics, as time went by, were put under stress and faced increasing challenges from radical and regionalist groupings to their grip on Sudan. repression and censure, reliance on the armed forces or rejection of traditionalism were the three main reactions to growing stress.

THE KHATMIYYA AND THE NATIONAL UNIONIST PARTY

The Mirghaniyya or Khatmiyya Sufi order was founded by Muhammad 'Uthman al-Mirghani, who, in 1817, made his journey to Sudan as sent by Ahmad Ibn Idris (founder of the Idrisiyya order in the Hijaz) for converting the population

four different smaller orders: the Sanusiyya, the Mirghaniyya, the Idrisiyya and the Rashidiyya. In Sudan, only the Mirghaniyya asserted a significant authority and, under his son's leadership, the Sudanese branch of the Mirghaniyya established in Kassala and took the name of Khatmiyya. The order, under the guide of Muhammad 'Uthman Taj SIRR, served as base for mobilising support for the Turko-Egyptian rule and as the main opposition to the Mahdi's claims in the 1880s. This is the reason why Khatmi leaders were forced to flee the country and seek shelter in Egypt during the Mahdist state. Under the Condominium, the sect acquired a geographically diffused organization with five leaders being entrusted with regional responsibilities. Sayyid 'Ali al-Mirghani took on a leading status within the order and enjoyed the government's solid back up as a way to counteract potentially threatening re-emergence of anti-British Mahdist fanaticism in the northern side of the country (Warburg, 1995).

The party foundations were laid in 1952 when the Egyptian government sought to provide unionist parties a formal and strong organization and recognized the Sayyid 'Ali al-Mirghani's leadership. In 1953, the NUP won the elections for the House of Representatives and led the country with al-Azhari being appointed prime minister. However, al-Azhari's radical stance against establishment figures and religious patrons' interference in the party led him to move away and change radically his course. Getting closer to the independence claim and thus to the Umma did not reveal to be a tie breaker. The NUP leader, staving off the chance for an al-Azhari-al-Mahdi axis, struck a deal with the Umma in order to overthrow the al-Azhari government, which, however, enjoyed a mass popular support that enabled him to hold his grip on power. The expedient to reduce al-Azhari's room for manoeuvre was a national government with the support of the Umma. Nevertheless, the al-Azhari cabinet will be recalled as the government leading Sudan to its independence on January 1st 1956. Finally, at the end of the year, the splitting PDP and the Umma Party forced al-Azhari to resign and embrace a more radical and secular nationalism. In the 1958 elections, the Sudanese political spectrum thus witnessed the battle between the Umma-PDP and a national front including the SPC, the Sudanese Workers Trade Union Federation, student unions, the southern Federal Party and the NUP. In the run-up to the 1958 elections, the Umma-PDP coalition government, in the attempt to cling on to power, changed electoral laws: "A concerted attempt was made to ensure that the electorate was structured in such a manner that the more conservative political forces gained increased representation. Greater 'representation', therefore, was given to those parts of the population where tribal and religious allegiances remained strong and where the electors would vote loyally for whoever their tribal or religious leaders nominated" (Niblock, 1987, p. 211).

THE ANSAR AND THE UMMA PARTY

In 1959, after a three-period of democratic government, the newly independent African country was plunged once again into the depths of terror and oppression, when General 'Abbud, solicited by the then Umma Party Prime Minister, 'Abdallah Khalil, staged a coup on November 17th 1958. Sayyid 'Abd al-Rahman al-Mahdi's words to the public opinion unveiled the close association of the Umma with the military regime, when he states: "It grieves me greatly to say that the politicians who have led the political parties have all failed. None of the four governments which followed one another in the seat of power proved successful. [...] this now is a day of release. The men of the Sudanese army sprung up and taken matters in their own hands" (Niblock, 1987, p. 119). Two days after the coup, al-Mahdi's statement left no doubt about his support to the armed forces' takeover. The Supreme Council of the Armed Forces (SCAF), led by 'Abbud, appointed the members of the new council of ministers and will be dissolved with the overthrow of the military regime in October 1964. A document by the Umma Party SCAF committee, issued with the military regime's overthrow,

the Ansar was devoid of an imam. Siddiq al-Mahdi, the new religious leader, drifted the party apart from the military regime and, in 1960, sided other politicians by signing a memorandum calling for the restoration of civilian rule. His early death one year later, however, led to another turn around in the party's attitude toward the regime with the new imam al-Hadi seeking rapprochement.

It should be borne in mind that meanwhile the South's political situation was evolving as well, with a relevant part of the government's Arabization and Islamization policy being carried out during the 'Abbud regime that the south was going to be one of the main triggers that brought down the regime. If, immediately after independence, the southern political leaders rallied around federation as the best form of government to deal with the South's needs, the military regime gave them the impression it was a direct emanation of the northern political elite to arise barriers against their demands. Abbud's management of Southerners' requests for decentralization was to even out diversity and pursue homogenization.

The October Revolution of 1964, which is often recalled by many Sudanese as being the Arab Spring, was sparked off by massive popular demonstrations and a general strike mobilized by radical political forces, succeeded to overthrow the authoritarian military regime. A transitional government, led by al-Khalifa, run the country in the run-up to the April 1965 elections, held only in the North because of the conditions of insecurity in the south. The Revolution unleashed new forces in the Sudanese landscape, a young generation of enlightened politicians, not only SCP members, but also, for example, al-Turabi's brother in law, Sadiq al-Mahdi. The two traditional parties, the NUP and the UP, came out as the dominant political forces in the country, just to mirror the electoral results of the 1956-58 post-independence period. Such a result despite the military regime's crumbling down had mainly taken place because of the struggle of forces unfamiliar with the Sudanese elite's politics. Indeed, the main figures who unleashed revolutionary powers were doctors, teachers and lawyers. Rather than seeking outside support from tribal and religious leaders and influent merchants, went down to the streets and set to work on involving intermediate layers and urban workers. Their demands, including nationalization plans and state's management of exchange, were channelled into the platform of the Sudanese Communist Party, while the old establishment and their political formations (the NUP, the PDP, the UP, now sided by the Muslim Borthers/Islamic Charter Front) took their own shape and came together under a common flag. Muhammad Ahamd Mahjub, part of the UP leadership, was appointed as Prime Minister of the new transitional government, after days of bargaining to ensure a broad representation of the interests at stake. Unfortunately for the traditional sectarian parties, the proposals for new domestic and foreign policies put forward by the government, ended up with threatening the latter's status and unfolding the left-wing front's aim, that is to play a major and longer-term role in Sudanese politics. Such higher ambitions waved by the workers and professionals' front were increasingly terrifying the opposite side, which spelled the radical experiment's end out by creating a new cabinet, without the radical component, leading the country up to the April 1965 elections.

As already mentioned, the results highlight the dominance of the traditional forces, but, as Niblock points out, some significant differences should be noted. An upward trend in the preferences toward the regionalist parties and the independents as well as downward trend in traditional parties' popularity. Undoubtedly, the latter derived from the split affecting the UP, when the designated leader of the Umma Party, al-Sadiq al-Mahdi, turned 30 and the Party suffered from a major split between the modernist wing of Sadiq al-Mahdi, and the traditionalist one led by al-Hadi. This second period of democratic government saw a series of UP-led coalition governments headed by three different cabinets, which followed each other (Mahjub, Sadiq and Mahjub once again up to the May 1969 coup). Though on the grounds of

Sudan as an Islamic Republic rooted on Shari'a and aligned his vision about the country's future with the Islamic Charter Front (ICF)'s. Right about that time, Hassan al-Turabi was leading its Muslim Brotherhood to join forces with Ansar al-Sunna and some small Sufi sects under the Front, and was looking around in need for political allies. Luckily, both sides found what they were looking for. Yet this period with its developments is undoubtedly to be held responsible for the extraordinary rise of the Islamic Movement, still in charge of the country. Participation to Sadiq's government meant for ICF members to be able to penetrate the Constitution Committee.

The creation of the Constitutional Commission in 1966 was to provide Sudan with a modern formulation of the shari'a which, according to al-Sadiq, can easily meet the needs and adapt to the features of a modern state. The Commission was in charge of reviewing the domestic legislation in light of the Qura'n, the Sunna, the four madhhab, other legal systems and those issues currently faced by society. The real obstacle to the Ummah's well-being and its vulnerability to foreign domination is the '*ulama*'s 'uncritical adoption of legal decisions through *taqlid*, imitation' (Warburg, 1995, p. 222), as opposed to the *ijtihad*, the reasoning and interpretations, which had been holding up Islam's flexibility over the centuries. Also, going head-to-head with his political rivals, the Communists and the Muslim Brothers, who were competing over the same constituencies' votes, al-Sadiq highlighted their main shortfalls, by stating that neither of them had spotted the Sudanese claims for modernization and identity. Instead, the former sought modernization while leaving out demands for modernization. The latter had been becoming the spokesperson for the needs of people looking for a Sudanese society while disregarding economic and social progress. As one might expect, only the Mahdist ideology met both Sudanese society's calls, according to al-Sadiq, who also provides five explanatory causes for fanaticism inside Islam which relate to Muslim worlds' lagging behind the rich north in political and socio-economic terms and have given someone the chance "to clothe violence in a religious garb" (Warburg, p. 223).

This reflection led him to adopt a relatively open-minded position over the South and to advocate Islam's flexibility in dealing with the enforcement of Islamic laws that heavily discriminated most of the southern population's rights. In his articles published between 1985 and 1987 (Al-Mahdi, 1985; 1987, pp. 417-20), he acknowledged the lack of features essential to the creation of a nation state in the South, which should be given limited autonomy. Yet he fell short of accepting the substantive function of the 1973 Constitution's clause granting Islam, tribal religion and Christianity equal status and adopting the Islam and tribal law as domestic legislative sources. It should be noted that he strongly turned its back on the 1983 September Laws, held as un-Islamic and unconstitutional, thus recognizing the grounds for their complaints.

THE MUSLIM BROTHERS

The Muslim Brotherhood's relations with the Egypt's political system, where it was born, has had ups and downs, since the creation of the Sudanese branch of the Egyptian Brotherhood. During King Faruk's rule, the Egyptian MB was under the ban of openly and freely engaging in political activity. When, in 1952, the Free Officers took power in Egypt in a bloodless coup, the ban was lifted and Sudan saw the foundation of the Sudanese wing. But in the same year, 1954, an Egyptian Brother sought to kill President Nasser in Alexandria's Manshiya Square but failed. The assassination attempt provided Nasser with ample discretion to crush the MB and hugely boosted its popularity. Two years before Sudan would achieve independence from the condominium, the MB joined Ansar's protests against any possible scenario of union with Egypt. But the newly born movement suffered from a major split between those, like al-Turabi and al-Rahim,

MB, took part, along with the communists, to overthrow the 'Abbud's regime. Though the executive of the movement had not signed off on the plot, he led the MB members in the army and leaders to the jail and to a sad decline, which halted only when Turabi came back home. His prestige lent the movement with a higher status within Sudanese political landscape (Warburg, 1995, p 225).

His return happened to coincide with the 1964 October Revolution, sparked off by the police's crackdown on a students' gathering at the Khartoum University and the killing of a student activist. The event triggered the first civil uprising of Sudanese history since independence and the mass movement put an end to the 'Abbud authoritarian regime. The broad coalition of civilian groups was determined to go on and instead of handing power back to the traditional and old style political dynamics, they created a transitional government with the Professional Front, the Sudanese intelligentsia, being the largest partner and al-Khalifa leading the coalition. But traditional parties' moods and discontent forced the progressive government to hand them back the reins of power. Al-Turabi's strategy to prevent the SCP to put its grips on powers was a counter-revolutionary one (Berridge, p. 53), since, in the run-up to the 1965 elections, he strengthened the Islamic Movement's organization, incorporated it into the ICF and got the upper hands when he decided to side with the Ansar's Umma Party. The DUP, instead, boycotted the elections and thus gave the ICF away its votes for free.

As we already know, al-Sadiq turned 30 in December 1965 and in June was able to outmanoeuvre his uncle and the Prime Minister Mahjub, thus becoming President of a government most of Sudanese expected it to be progressive. But history has told us otherwise. Not only were the ICF members seated into the committee for drafting an Islamic Constitution, but cooperation held up well over the years, even after al-Sadiq was taken out of the government in 1967. Indeed, together with the Sudan African National Union, al-Sadiq and al-Turabi played side by side to knock out the Khatmiyya and al-Hadi's wing of the UP. Their alliance did not bear fruits as they expected. As al-Turabi and al-Sadiq's coalition, elections of 1968 were a failure which, as Warburg explains, was due to the return to the stage of the Khatmiyya in the new style of the Democratic Unionist Party, which gained the lost votes from the ICF.

NUMEIRI

With the seizure of power of Numeiri with the May Revolution in 1969, state's autonomy from the traditional elite's influence over the political system, so craved by some segments of the Sudanese society, was relatively accomplished. The centralizing footprint engraved on the state structure was aimed at improving Sudan's development and handing out gains more evenly across the society. However, the new military regime proved itself to be unable and, in the end, it got caught up too in the traditional dynamics affecting Sudan. At first it could have been able to successfully empower the country's economic and social forces necessary to accomplish its non-capitalist goals. He fully enjoyed the Sudanese Communist Party which mobilized its electoral basis to lend him support, but their relations, after the 1971 failed coup attempt led by his fellow communist army officers, suffered from a severe setback which finally culminated in suppression. But this did not necessarily imply the end of his concern about economic development, which, through a more centralized state structure, could be brought forward, following a very different path though. He started envisaging Sudan as the "breadbasket" of the Arab world and Arab countries' funding and investment, backed by Western technology, flooded in the country. The country had become increasingly dependent on external capital since the early 1970s, as Numeiri's plan was now framed within a capitalist pattern. The relatively autonomy gained from the political

as Abdel Ghaffar Ahmed explains, that though he swung a blow to the Sudanese labour movement and the secular middle class, that is the basis of the SCP, foreign capital and domestic capital owned by the UP and the DUP as well suffered a setback once he implemented nationalization measures. “The reorientation of the economy toward export production coincided with the 1970s’ oil boom in Saudi Arabia and the Gulf countries. The gradual move away from state-led policies toward market-led policies was also promoted by international financial institutions, which supported investment in Sudanese agriculture to meet the needs of Middle East markets. Known as the ‘breadbasket strategy’, this implied further expansion of rain-fed, large-scale, mechanized farming in the plains of western and southern Sudan. The results included impoverishment of peasants and pastoralists in those areas due to the dispossession of their land” (Sørbø&Ahmed, 2013, p. 30).

Turabi and the Islamists rushed to come to the conclusion the Free Officers’ coup, led by Numeiri, would pave the way for a pro-Communist secularist regime. Indeed, sectarianism was one of the features of the Sudanese society Numeiri was resolved to wipe out and targeted at. The Ansar’s massacre during the March 1970 uprising, their imprisonment as they tried to flee the country for seeking shelter in Ethiopia, as well as the seizure of the al-Mahdi’s family were some of the policies that marked the early years of the regime. But immediately after the failed coup in 1971, Nimeiri toned down his reforms, for example by setting aside the Five Year Plan and replacing it with the Interim Program of 1972 to boost production with large-scale mechanized agriculture for exports, and his long-felt hostility toward the MB dampened. The reformist phase of 1969-70 was set aside and substituted by a focus on national unity and economic development, but the new economic lines driving economic policy harmed the labour movement and the secular professional middle class. It is equally true that the plan of the Numeiri regime’s early period damaged the Sudanese establishment’s interests, since nationalization measures dealt a blow both to foreign and domestic capital, with the latter mostly affiliated with the DUP and UP (Niblock, 1987, pp. 256-7, El-Battahani, 2013, p. 29). The new government would ground its legitimacy on the achievement of its goals: promotion of economic development which could ‘reflect the interests of all Sudanese’ and could break free of skirmishes and disputes, the traditional socio-cultural legacy of the country responsible for standing in the way of Sudanese wealth. Although Numeiri had seized power with the help of secularist and leftist forces and he allowed the Sudan Socialist Union as ‘the sole political organization’ devised along the lines of other revolutionary-centralizing parties, his hajj to Mecca in late 1971, where he discussed with King Faysal about the potential Sudan offered for an Islamist phase, and met in Jidda with a Sudanese Muslim Brother in exile, stressed the substantial change in his trajectory. Government’s original radicalism, represented by Communist and Arab nationalist figures in the cabinet, gave way to the so-called technocratic neutrals. Such a reshuffle in government position paved the way for the shift in Sudan’s foreign policy, since the new elements aimed at restoring diplomatic links with the United States rather than struggling to reconnect the country with the Soviet Union and working to be accepted in the Egypt-Libya-Syria federation, the dream of the Arab nationalists.

The role of the technocratic neutrals should not be underestimated, since they were the tools of the International Monetary Fund (IMF)’s policies in Sudan. Washington Consensus reforms made their entrance onto the Sudanese in dire straits with its plan for privatization of state-owned activities, enterprises and services, phasing out subsidies, enhancement of Sudan’s competitiveness in the wake liberalization of foreign trade through a sharp devaluation of its pound, financial austerity and cutting back on public spending to deal the budget deficit and bring down inflation. High expectations tuned into pervasive disappointment. The GDP, far from reporting a plus sign, should have fund and offset the massive loans the Government had been granted and the country soon found overburdened with a huge external debt.

production, the outcome of which should have been exported. “The balance of payments became critically unbalanced; inflation rose in the early 1980s to an effective rate of about 60 per cent per annum; the Sudanese pound steadily lost its value; and standards of living declined severely” (Niblock, 1987, p. 283). External factors pulled their own weight on an already blown economy, with higher oil prices boosting Gulf countries productivity and their need for skilled workers and unskilled labourers. Such migrating flows drained the market of workforce, essential for such an emerging economy as the Sudanese one, and the government, in a bid to hold back labour and draw it from Gulf markets, was forced to pay higher wages, entailing a further loss of competitiveness. Reading one more time the words of Niblock, after living in Sudan for three months, gives the perception time has stood still since the late 1970s and early 1980s, when bad economic conditions spiralled out of control, old centrifugal forces came to the light once again and Numeiri was compelled to embrace the Islamist pattern which could provide his government and failing economic and development policies a base of legitimacy, which, however, broke up the 1972 Addis Ababa Agreement into little pieces and set the civil war in the South on fire once again in early 1983. Indeed, the Shari’a laws would violate the key concessions Khartoum had made in 1972 to the southern rebels to be appeased, namely the right of the Southern Region to have its own legislative (the People’s Regional Assembly) and administrative organs. This was undoubtedly encouraged by the discovery of new oil fields in the South which could take the unbearable pressure. But with little room for manoeuvre, constrained by the massive debt, massive strikes by social sectors (such as the judiciary) usually reluctant to protest, his commitment to Islamization and intrusion in the South and the following outbreak of civil war in 1983, his downfall came in April 1985.

THE NATIONAL RECONCILIATION

Francis Deng, previous minister of state for foreign affairs in Khartoum and ambassador of the Sudan to the United States, Scandinavia, and Canada, in *Seed of Redemption* tells about Numeiri’s spiritual meeting with God, the encounter that would suggest him to turn the tide of his politics:

“Mr. President”, said Abu Qurun, Shaikh of the Sufi order Numeiri was closely associated with, “by revealing Himself, it is clear that God has chosen you to be the leader of this country. You are President, but you are also the Imam of God. He will change you as he desires. I am but a tool of His will. The power to transform you has already descended from God.” (Deng, 1986, p. 207)

The axis of the Northern Sudanese opposition against the Numeiri regime, represented by the Muslim Brothers, the Sadiq’s wing (Ansar) of the UP and the Khatmiyya’s political party, the DUP, coalesced into the 1972 National Front (Warburg, 1985). The NF immediately enlisted the aid of Sudan’s rival neighbours, included also the Marxist Ethiopia and Egypt and was headed by Qadhafi’s Libya, where part of the opposition was forced to seek asylum and flee Numeiri’s harsh oppression. But evolving conditions in the political environment soon put under stress the Front, mostly after the failure of the July 1976 coup plotted by the Ansar from Lybia and the support of the Egyptian army on the field. The same was true for Numeiri, who was troubled by the soaring debt he was accumulating with external creditors. Despite his triumphant achievement of the 1972 Addis Ababa Agreement, the eagerly-awaited peace agreement with southern rebels did not enable him to capitalize on it for gaining the popularity he had been losing over the years. That is when he opted for making up with his enemies. Also, both side were becoming increasingly aware about the low chances each side could have to defeat the other one. Such considerations laid the groundwork for the 1977 National

emerging needs led both sides to make their tones and attitude softer and met each other halfway. Al-Turabi (quoted in al-Majallah on June 29th 1986), when asked about the reasons for the Islamic Movement to sign the deal with Numeiri, explained: “[w]e reconciled with Nimeiri because he had seen our strength in the July movement. We knew what he wanted from the reconciliation and we did not expect anything from him. Our intention then was to build a wide base and an encompassing Islamic movement while avoiding any open move that may antagonize him because he wants power today and tomorrow and we want to inherit the social, political and economic future of the nation (umma). We were mobilizing the masses in rural areas and establishing banks, not for the sake of money but for the sake of applying our theories and transferring services to the South. We were doing this while others were not paying attention” (‘Ilaish, 2005: 19). In other words, he and the Ikhwan sold out principles for pragmatism, or, as El-Battahani (Sørbo and Ahmed, 2013, p. 28) calls this strategy, “entryism” with a view to penetrate the government machinery and thus expecting that such a trade (values for pragmatism) would be rewarded by longer-term gains (El-Affendi 1990, Ibrahim 1992). Turabi’s aim, according to Mekki, ultimately was to “challenge the hegemony of the traditional parties on the political scene” (Mekki, 1992). The agreement of the National Reconciliation, signed in Port Sudan, rehabilitated the opposition and allowed it to come back home and play a role in the country’s political space in exchange for the National Front’s dissolution. Numeiri seemed to fall on hard times, but this newly-discovered and sudden unity must be somewhat justified. In 1980, he released *Al-Nahj al-Islami limadha?* (Why the Islamic Path?), in which he identifies the abortive coup of 1971 as the main reason why he radically shifted from a leftist platform to the Islamist path and celebrated the Mahdiyya state’s founder, Muhammad Ahmad al-Mahdi. In 1983, he published *Al-Nahj al-Islami kayfa?* (*The Islamic Path How?*) to describe the steps to take for implementing Shari’a. The last one collects the works of an international Islamic conference, under the title of *'Am 'ala tatbiqal-shariaal-Islamiyyafi al-Sudan* (*One Year since the Implementation of the Islamic Sharia in the Sudan*).

If one bears in mind how his regime had begun and how it had been evolving, may be impressed by how easily he now sought rapprochement with the sectarian enemies of the May 1969 Revolution and declared his commitment to pursue the “Islamic revival”. But, as Warburg argues, it was not a case. First of all, one should focus on the period of general revival Islam was going through across the Muslim world (among others Iran) and the higher status now enjoyed by the Muslim Brotherhood in the northern neighbour thanks to President al-Sadat. Economic considerations came into play. Miserably failing with his economic plans and facing a situation of extraordinary widespread poverty in the country, he calculated such a shift could smooth his rough uphill race, thanks to a little help from his new friends, Muslim and Arab oil-rich countries, above all Saudi Arabia, which turned into an essential partner for Sudanese exported goods (sorghum and livestock), in exchange for wheat and petroleum. The reversal of the economic trajectory, indeed, took place at the same time as the boom of the oil-sector in the Gulf countries of the 1970s. In 1979, Saudi Arabia stood in for the UK as the first exporter to Sudan (UN 1989, 823). Arab oil capital was channelled to Sudan through various means, with the Islamic banks representing a fast track safe tool. The rehabilitated Muslim Brothers, now seated in key government positions, were entrusted with controlling and ruling administration of Islamic banks in the country. Another sector deeply penetrated by the Muslim Brothers during the Numeiri regime was the army, since, as Rashid al-Ghanusi acknowledged, only the armed forces could eventually succeed in removing an unbearable regime. With the Numeiri’s help, the Islamist movement was able to weasel its way into the army. In other words, the new path of Islamic revival, which laid the grounds for the national reconciliation with the Ansar and the Muslim Brothers, was instrumental to help achieve his economic and political strategies. In the early 1980s, rising oil prices and growing debt forced Numeiri to introduce austerity policies, as required by the IMF, and “In the face of widespread discontent, Numeiri found the

series of strikes by trade unions, in which even the judiciary for the first time went on strike, Numeiri found it expedient to use Islamic laws to contain the protests” (Sørbø and Ahmed, 2013, p. 30).

Islam was finally brought within the state and made a main pillar for its legislation in 1977 with the *lajnat uraja'tal-qawaninli'tatamashama'a al-shari'a*, a special committee “for the revision of the laws so that they are in line with the shari'a”, which was immediately monopolized by the MB and led by al-Turabi, who at that time had also been appointed the attorney-general immediately after the reconciliation. Seven bills were issued to, for example, ban alcohol, usury (riba), gambling. Draft texts were sketched for giving the *hudud* (pl. of had, literally ‘limits’, ‘boundaries’) effectiveness, namely the Qur’anic punishments (ranging from cutting off of the hands, stoning and flogging) reserved to those responsible for such crimes as murder, theft, adultery, but above all, one of the draft proposals related to the sources to use for judicial decisions. Such a bill finally gave Shari’a the room for being applied in all matters uncovered by other laws. Aware of the controversial nature of such bills, the only one to be effectively passed was the *zakat* law. The cherry on the top, the peak of his Islamic revival as the basis for walking down the Islamic path, was the masterpiece of 1983, the September Laws. They included the Sources of Judicial Decisions Acts, which enforced Shari’a, and the Code of Criminal Procedure the Civil Procedure Act, the Civil Transaction Act, whose main function was to ensure a “just and fast execution” of the hudud. Such measures would serve as a barrier against climbing crime rates, because of the hudud’s deterrent effect. Such an effect would spread out, spill over into the whole society, and result in a righteous Islamic society. As undisputed leader of Islam in Sudan, he assumed the title of Imam which, as Warburg highlight, was uncommon in Sunnism, but perhaps the temptation to mirror the all-encompassing powers held by Ayatollah Khomeini in Iran, boosted his oversized ego. At the same time, “This idea of leadership as embraced by Numayri can also be traced to Mahdist ideology. First, one cannot escape the similarity with the manifestation of Muhammad Ahmad as Mahdi in June 1881. Shaykhal-Qurashi wad al-Zayn, a spiritual leader of the Sammaniyya order to which Muhammad Ahmad belonged, not only appointed him as his successor but also told his followers that the expected Mahdi would be one of his adherents, namely Muhammad Ahmad. Numayri's "appointment" by Shaykh Abu Qurun was probably an attempt to follow in the Mahdi's footsteps. Second, Sadiq al-Mahdi, the Mahdi's great grandson, claimed that Mahdism-both in its nineteenth-century origins and at present-acted as a bridge between Shia and Sunna. He thereby inadvertently legitimized Numayri's claim to an all-embracing Shi'i concept of leadership” (Warburg, 1990, p. 629).

Despite resorting to softer tones and less harsh attitude toward the traditional parties, Numeiri never completely abandoned his anti-sectarianism. On the one hand, the Muslim Brothers were now an integral part of the Numeiri’s government and policies. Since the MB’s political future and fortunes relied on the end of tribal social system and sectarian allegiances to build a unified and homogeneous state, based on Shari’a, “they were therefore his natural allies” (Waburg, 1990, p. 630). On the other hand, despite the centuries-old enmity between the Ansar and the Umma Party, and the Khatmiyya order and its political wing, the Democratic Unionist Party, the two traditional sectarian Sudanese political parties joined forces by signing the Sudanese Charter of National Unity, calling for a real Islamic constitution, as they figured out the MB was on the way up. They demanded that the September Laws be abrogated and that Islamic provisions, such as the *zakat*, *jizya*, ban on alcohol and pork, not be imposed on non-Muslims. Though they took a more inclusive attitude toward the South’s grievances, they too ended up with adopting a majoritarian view and urging that Shari’a, on the grounds of its moral superiority, be the main source of legislation in the whole country. This would doubtless have helped Islamize and Arabize the South by assimilation of tribes, ‘ulama and merchants’ settlement in the

the possibility of a secularist alternative for the south, where rights could be granted regardless of religion. It is equally true that in 1992 al-Sadiq published a pamphlet where he held back his calls for Islamization in the South and rejected secession of the south, which would necessarily create two neighbouring hostile countries. But as Warburg wondered, questions arose and reasonable doubts as authenticity of his statements if one is aware of his opportunism and pragmatism.

His objective of socio-economic development and national unity, despite the alteration it went through at some point from the original plans to adjust themselves to new external factors and changed domestic conditions, miserably failed. Islam did not turn out to be enough to legitimize his government and winded up with oppression and economic depletion. In early 1985, soaring prices in essential goods (bread and sugar) coupled with the upsurge by 75 percent in oil prices unleashed powerful social forces. Broad segments of the society took to the streets and the armed forces declared their willingness to stand by the people and meet their demands by stripping Numeiri of the power and hand it over to the people after a transitional period (Radio Omdurman, on April 6th 1985). In sum, it should be recognized that for the first time since ever Sudanese political, foreign and economic policies had not been determined by the Sudanese establishment's interests. Yet he was not able to satisfy the demands of radical change deriving from some important segments of the Sudanese society, which had brought to power and had been the basis of his regime, and winded up to worsen the economic situation, when he opened up Sudan to international markets, investors, financial institutions and the oil-producing countries, leaving them with the right to control economic domestic decision-making process and spell out harsh conditions.

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CHAPTER 2

INTRODUCTION

This thesis did not forget about the South region of Sudan, today the internationally recognized South Sudan, though. Yes, it was July 2011 when the three southern states' population exercised their right to self-determination. Southerners casted ballots in all twenty-five Sudanese states and other eight countries and closely unanimously expressed for independence. Therefore, it has set foot on the international stage as the newest state in the world. But that area has been the place where a five-decade-long armed struggle, culminated in two bloody civil wars (one between 1955 and 1972, the second from 1983 up to 2005) between the Government of Khartoum and the southern rebels, had been carrying out. It is therefore the region, and its relation with the centre, that mostly shaped the fate of the whole country. Rather, the ways successive Sudanese governments dealt with Sudan's cultural, ethnic and religious diversity, and coped with economic and political marginalization of the peripheries, have set the path toward independence and have made a dysfunctional state in "perpetual turbulence" (Lesch 1998, Elnur 2009; de Wall 2007). Its endless territory, being the largest African country before 2011, hosted one of the most multifaceted ethnic and linguistic landscape in the world and could have kept being the bridge between religions and culture, between the peoples of sub-Sahara and those of the Maghreb and Mashreq in spite of deep divisions.

The choice to reserve the second whole chapter of the work to the South arises out of the need to explain how the central government in Khartoum has, over the decades, built its political and economic relationship with the region and talked with its population, with its ethnic, religious and cultural composition being the crucial feature, with the final aim being to understand whether the processes of Islamization and Arabization, as brought about by the Sudanese establishment since independence, resulted in winning score patterns and how successful religion (in the context, Islam) was and still is in being instrumental for the elites' interests. Were Islam and the civilization project really platforms to which the Sudanese religious, political and economic leadership faithfully committed itself? Or was Shari'a a useful tool which made them able to grasp at the power of religious symbols and authority at the service of domestic and geopolitical objectives?

This chapter will, in the first part, map out the meaningful post-independence historical events of the relation between the North and the South, and will seek to explain the role played by religion in the early political developments, from the pre-Condominium period to the late 1980s.

Then, it will account for the period from the fall of the Numeiri regime in April 1985 to our days, a time span of thirty years entirely monopolized by 'Umar al-Bashir and his National Congress Party. Since the intention of this work is to show how damaging and hurting the instrumental political use of religion and ethnicity, in the Sudanese case of Islam and Arab identity, could be to a country's nation-state building process leading eventually to painful divisions, triggering bloody civil wars, claiming thousand deaths and causing massive displacement, the next second paragraph will start dealing with the still-alive al-Bashir government, which made Islamization and Arabization a banner for its policies, feeding hatred, anger and mistrust among different ethnic and religious identities to serve its interests. It is not by chance that the June Revolution of 1989, when al-Bashir-led armed forces backed by al-Turabi-led Islamists, arises out to stem the tide that the northern political parties could achieve a final settlement with the SPI M/A by freezing the September

commission of genocide, crimes against humanity and war crimes during the 2003 Darfur conflict, in which he armed rival Arab tribes and pitted the latter against non-Arab tribes, and issued an international arrest warrant against him. Finally, after years of violent propaganda and rhetoric about the civil war as the eternal struggle between too extremely different religious and ethnic identities (assuming the Muslim Arab one as superior), he headed the South's secession process.

Finally, the last part will give a brief sum of the conditions leading to conclude the Comprehensive Peace Agreement in 2005, in Nairobi, and eventually to independence of the South in 2011. The divide-and-rule strategy did not completely run out of its effects, even after the secessionist process, with the Sudan being trapped into a disastrous economic situation and every-day civil protest calling for President's resignation while met with repression, and with the South Sudan being unable to escape from its ethnic rivalries and competition over resources which led to a three-year civil war just two years after independence. The North of the country or, more generally, the "Global North" did not leave an enviable legacy to the South.

THE SOUTH

"Educated Sudanese regarded the South as Egypt regards them. The loss of it would become a matter of prestige and to some extent of anxiety, but there is also the fear that in the South might subsequently be discovered the wealth which could guarantee the Sudan's independence. The South, like Northern Sudan to Egypt is also a source of cheap labour and servants."

(Report of the Fabian Colonial Bureau, 1945)

Many scholars (Deng, Woodward, Ahmed) have interpreted the crowning event of independence in 2011 as mainly the century-long struggle between the Arab Muslim North and the African Christian/Animist South, and have identified its roots in the resistance of the Southern region against attempts by the North to Islamize and Arabize it, and the uneven development among the centre and the peripheries of the country, an element bequeathed by the British colonial exploitation, during the Anglo-Egyptian Condominium. It is also true that, according to the Deng's model assimilation-resistance, the South's rebellious posture against the Arabs was to be found in the period prior to the Anglo-Egyptian Condominium, since even then the South was the most favourite place for hunting slaves but their interests were restrained to the economic sphere and not extended to somewhat broader dimension, such as religious propaganda or forced conversion. Converting the African Blacks would have meant that the Arab traders could no longer exploit the benefits of slavery, since Islam prohibits to enslave the Muslim brothers.

During the Turko-Egyptian rule, the slave trade acquired a more institutionalized dimension. At that time, northern Sudan was dominated by the Kingdoms of Sennar and Darfur, while the South was inhabited and controlled by the four major ethnic groups, the Dinka, Nuer, Shilluk and Anuak. Deep exploitation of the southern region started being outstanding in the 1860s and the 1870s, even in the words of Sir Samuel Baker, who was sent on a mission in 1869 by the viceroy of Egypt to put the slavery down, Ismail Pasha, and recorded: "It is impossible to describe the change that has taken place since I last visited the country. It was then a perfect garden, thickly populated and producing all that man could desire. The villages were numerous, groves of plantens fringed the steep cliff on the river bank, and the natives

Not a village is to be seen. This is the certain result of the settlement of the Khartoum traders. They kidnap the women and children for slaves and plunder and destroy wherever they set their foot” (Deng, p. 71).

In such a context, the southern population answered to the Mahdi’s appeal and agree to fight under his religious flag to rid themselves of oppressive and cruel foreign rule. It accepted the Mahdi’s holy message against the infidel Turks and assimilate Arab and Islamic elements into their cultural framework, as witnessed by the following words: “The Dinka have composed hymns that portrayed the Mahdi as a manifestation of the Spirit of Deng, their deity associated with rain and lightning as manifestations of God’s might. They prayed him to save them from their long suffering at the hands of successive invaders, who eventually included the Mahdists. Mahdi, as a symbol of spiritual power and righteousness, became known as the Son of Deng, while the Mahdists themselves came to be viewed as Arab aggressors” (Deng, p. 72). Eventually, the Mahdist revolution was not seen as a change for a lasting national unity with the North, as the Mahdi’s followers as well took the shape of slavery exploiters and aggressors. So much so that slave trade came to be viewed as a custom inherent in the cultural identity of the Arabs and poles apart from the Dinka moral principles. Slavery came to represent a gaping wound in the national Sudanese identity, in the sense that in the North much attention was used in mentioning such a sensitive historical period, since slavery was a Western “carefully worked-out, diabolical scheme which has for its aims the fostering of antagonism and alienation between the sons of one country”, as the first prime minister of the united Sudan, Ismail al-Azhari, declared, and posed the threat to feed the southern population with hatred.

As showed in the first chapter, the Anglo-Egyptian Condominium, where it was the British interests that were really at stake, put an end to the hostilities between the Arabs and the Africans by restoring law and order in the South. However, southerners’ widespread mistrust brought the British to draw some conclusions in order for them to gain credibility, as the consul-general’s words show: “The purely native requirements are, in fact, very simple... a light system of taxation, some very simple forms for the administration of civil and criminal justice, and the appointment of a few carefully selected officials with a somewhat wide discretionary power to deal with local details are all that for the time being is necessary” (Deng, p. 79). In order for Britain to provide its Lancaster cotton industry with cheap raw cotton, the European power devised the world’s largest irrigated scheme but concentrated in the Gezira area, south of Khartoum. Such a pattern promoted the formation of an urban class and, around the latter, the following creation of services, the setting up of an administration, and the setting in motion of a vicious circle whereby investment and the construction of infrastructures concentrated in the riverine area. Little was done elsewhere and in the post-colonial period governments did nothing to turn the tide, thus perpetuating and exacerbating underdevelopment in the peripheries, mostly in the South.

Indeed, the South was particularly affected since the British promoted a policy of separate development in the South, where the colonial government’s main concern was to maintain law and order and kept the South’s incorporation into the East African colonies eventually open. They, therefore, relied on the pre-existing cultures, values and institutions, promoted tribal and ethnic factions and perpetuated the gulf between North and South. In the South, the statement of Lord Cromer leaves no doubt about the British separationist policy, when he declared the only way to peacefully administer the region was tribal law coupled with military oversight, since: “I do not suppose that the most ardent advocate, whether of internationalism or of equality or of freedom to all creeds and races, would seriously contend that it would have been possible in practice to have worked a system under which Kwat Wad Awailbung, a Shilluk who

been tried by a procedure closely resembling that followed at Paris or Lyons” (Deng, p. 79). Hence, the solution: the light and quiet activities of the Christian missionaries.

In 1919, Egypt blew his national pride up against the British occupation. The date was significant for Sudan as well. They became more resolute in preventing the Egyptians from spreading their Arab nationalism and cultural influence across the country and they initiated the Southern policy, by setting out separate military forces made up of only southern elements, introducing English, prohibiting non-Sudanese to enter the Sudan and Sudanese must be allowed by British authorities to move southward or northward each time they wished to. In 1930, Civil Secretary Sir MacMichael explained in the following terms the southern policy: “The policy of the Government in the Southern Sudan is to build up a series of self-contained racial or tribal units with structure and organization based, to whatever extent the requirement of equity and good government permit, upon the indigenous customs, traditional usage and beliefs...” (Deng, p. 81). As far the South’s population is concerned, the British, with such a low-level intrusiveness in their habits and customs, won their trust and some tribal chiefs viewed them as the God-sent rescuers against the Arabs.

Collins defines the British native administration as racist: “At worst, they adopted Arab attitudes toward the Africans of the Southern Sudan, regarding them as savages compared with the more sophisticated northerners. At best, they ignored the Southern Sudanese, hoping that they could be controlled with as little expenditure as possible. Throughout the Condominium many members of the Political Service had neither understanding of nor sympathy for the Southern Sudan and its people and made little effort to acquire either” (Deng, p.85). Finally, their completely different dealing with the northern and southern populations boosted distinctive Sudanese cultural features, and while the North was developing, the South was lying inactive. But in 1936, the position of Egypt was more or less restored, and yielding to domestic and external pressures, the Condominium figured out the errors inherent in the native administration and rushed a reversal. In 1942, the Graduate Congress asked the government to lift restrictions on trade and movement across the national territory.

When in 1946 Condominium authorities, under mounting criticism, realized the mistakes and sought to change the course, the British officials held the Sudan Administration Conference and decided that Sudan should be ruled as a united country, thus move the first steps to favour integration through the re-admission of Northerners administrators in the south, the abolition of trade restrictions between the two areas and opening up the North’s labour market to Southerner workers. At that point, despite British authorities’ misgivings about such policies’ outcome as eventually triggering rebellion, Khartoum government allowed Muslims to resume to proselytize and introduce Arabic as the administration language in the South. As the British native administration it was too late to seek protect the South. Nine years later the colonial rulers would withdraw the Sudan, where the separate administration had strengthened Arabism and Islam in the North while feeding underdevelopment along ethnic African lines, promoting Christian missionary education and “rudiments of Western civilization as elements of modernization on the South” (Deng, 1995, p. 11).

When the Condominium left, no constitutional arrangements to ensure the South protection in a unified country were set out and when Sudanese elite, for the first time, gained access to the backrooms of power in Khartoum, they immediately tried to dominate and impose their vision on the South, culturally, religiously, politically and economically speaking. El-Affendi, focusing on the “softness” inherent in the Sudanese state structure, attaches a very great deal of weight to the “minimalist governance of indirect rule under the British”, mostly in the South, where the authorities did not even

churches and farm them out to the missionaries' activity. At the same time, lacking infrastructure and low state capacity were compounded by leaving wide room for manoeuvre to tribal leaders, who in the south played a middle-person role between the illegitimate northern-elite and the population which did not recognize the authority of the northern-led governments.

As early as August 1955, four months before independence, a first crack opened up with the Torit mutiny, when Southern army units in Torit district mutinied as a protest against their transfer to military district led by Northern authorities. But the protest soon spread throughout Equatoria and transformed into a general rebellion. Unfortunately, many northern units were killed. Dustan Wai, a prominent South Sudanese scholar and former executive of the World Bank, wrote in his book *The Southern Sudan: The problem of national integration* that "what occurred, in the eyes of the South, was not a mutiny but a responsible reassertion of Africanism over Arab hegemony in the South" (Wai, 1973). This misunderstanding led to frame southern nationalism as an anti-North movement, and on the other side led the North to occupy the South with repression and finally sparked a full-scale civil war (Deng, p. 96). The fight started and in the 1960s would acquire the scale of the first Sudanese civil war. As Deng argues, the good faith of the Northerners may not be questioned in the first place. Concerned with how to deal with the consequences of the separate administration and seeking to make up for the divisive implications of the separatist policies, they logically responded by applying policies "pursuing the forced assimilation of the South through Arabization and Islamization" (Deng 1995, p. 12) aimed at unifying the country. The reaction was resistance, first with a political request for a federal structure and then with the armed struggle to achieve the right to self-determination.

The standstill created by the South-North confrontation was overstepped by General Abbud who, in November 1958, took over power with a military coup by putting an end to the post-independence two-year parliamentary government (according to him, unable to cope with the political deadlock), to more energetically stand off the Southerners and impose the Northern vision. As many scholars highlight, the popularity of Northern governments waging wars in the South has never been high and when Abbud tried to rally support for the armed struggle against the Anya Nya (as the southern rebels called themselves) with an open debate in the fall of 1964, public opinion strongly criticized the military, which crushed the dissent but ended up to spark off a popular uprising which ultimately led to the regime's collapse with the October Revolution. Protests against the political situation set out by the civil war toppled the regime and new elections, in March 1965, were held in the whole country, albeit belatedly in the southern region because of its state of insecurity.

As Salam Sidahmed notes, the 1960s were marked by mounting radicalization of politics (p. 51). The coalition government, led by the traditional Democratic Unionist Party and the Umma Party, initially relaxed Khartoum's repressive line. The Prime minister of this brief democratic experience, Sadiq al-Mahdi, was expected to run a progressive government, but he soon unfolded his willingness to make Sudan an Islamic Republic grounded on the Shari'a. Al-Turabi had just come back home from Paris and found the country as a fertile ground where to sow the seeds of the Islamic movement. His Islamic Charter Front (ICF) emerged as the main actor promoting an Islamic platform, hence an Islamic constitution. At the same time, the electoral sectarian base of the traditionalist parties had been demanding a more Shari'a-based political line, as the religious foundations of their sectarianism had been declining. Thus, to stem the risk of pushing their electorate in the hands of the ICF and with the latter being able to lure traditional constituencies' Islamic devotion and religious feelings, Sadiq al-Mahdi enforced a more radical line, and, as Deng

Constitutional Commission, created in 1966, in charge of providing the country with a modern formulation of the Shari'a so that the latter may meet the needs of a modern nation state.

The second parliamentary democracy, however, elapsed quickly, trapped by factional disputes and spats between the Umma groups, the NUP and the splitter faction of the PDP (which however in 1968 found renewed unity in the Democratic Unionist Party), but also the confrontation between the Sudanese Communist Party and the Islamic movement competing for the same constituencies. It was then that the weak crumbling government, unable to rely on a substantial majority and pursue a coherent political line, collapsed under another military takeover, this time supported by new political forces and stakeholders to dismantle the traditionalist parties' base and state structure, such as the abolition of the 'yellow paper' relating to the 1968 draft Constitution for an Islamic Republic. In May 1969, Numeiri seized power with the purpose of breaking the vicious circle of violence, increasing inequalities and political instability. He was determined to solve the civil war issue and in the early 1970s conditions seem to be ripe to settle it. On the one hand, Numeiri, standing out as a survivor from the 1971 failed Communist attempt, could exploit an unrivalled position in the north and reap the benefits deriving from the presidential system, while Lagu was by then the undisputed leader of the Southern Sudan Liberation Movement (SSLM). The 1972 Addis Ababa Agreement grounded its statements in the 1965 round-table conference to find a solution granting the south regional autonomy and self-rule exercised through its own executive and legislative bodies, and accounting for its ethnic and religious diversity. The Agreement, the Southern Provinces Self-Government Act, ended the civil war. It was incorporated into the Sudan's permanent constitution of 1973, which laid the basis for a secular republic with a socialist orientation, though based on a one-party system (the Sudan Socialist Union). Undoubtedly the country gained international standing, so much that it hosted the Organization of African Union summit in 1978.

Unfortunately, Numeiri was not able to capitalize on the gains earned with the signing of the 1972 Addis Ababa Agreement, whose benefit could not offset the huge losses suffered by the huge economic problems, and growing challenge posed by the Northern opposition of the National Front, forced the President to rethink his plans. Certainly, the southern rebels, also involved in tribal rivalries leading to some confrontation between the Dinka and certain Equatorian tribes, pitched in crumbling the agreement. But much of the blame rests with the Khartoum government, not only because it earmarked a very low budget for the implementation of the accords, but it also made a political breakthrough in the history of Sudanese disputes and alliances when in 1977 Numeiri opted for reconciling with the Umma Party and the Muslim Brothers, and welcomed al-Turabi as attorney-general. At that point, the former enemies pressed toward a more vigorously enforced policy of Islamization and Arabization. Islam got access into politics and a special committee "for the revision of the laws so that they are in line with the Shari'a" was set. To make things worse, in 1978, the American oil company Chevron found oil in Bentiu, in the Southern region, and a debate on the administrative re-division of the South arises. The Northern elite, levying on a strategy of divide-and-rule by backing the anti-Dinka movement for the regional re-division led by Equatorians (the Anya Nya of Lagu), showed to be dependent and at ease with tribalism, its perpetuation and even its exacerbation. In 1980, the Government passed the Regional Government Act to satisfy the increasingly violent Darfurians calls for more autonomy, but responsible for implementing the re-division of southern Sudan into three regions. The Act and the Republican order n. 1 finally shattered the Addis Ababa Agreement with the provision of self-government, compounded tribal rivalries and ultimately triggered the second civil war's outburst in 1983.

same time as the Sudanese People Liberation Movement (SPLM) and its military wing (SPLA), led by Garang, called for a new Sudan, that is a united, secular and democratic country. In January 1985, Numeiri, facing mounting criticism against the implementation of the Shari'a law, decided to break free from one of the most relentless critics of his regime, Mahmud Muhammad Taha, the founder and leader of the reformist wing Republican Brothers, who, according to Mansur Khalid, was specifically handpicked to warn other but most popular critics, including Sadiq al-Mahdi, about the dangers they were running. On January 7th, in a two-hour trial he and four other members of the party were convicted and sentenced to death for "heresy, opposing application of Islamic law, disturbing public security, provoking opposition against the government and re-establishing a banned political party" (Sudan News Agency). Taha had been a strong supporter of the "Second Message of Islam", according to which, unlike strict orthodoxy which assumes the principle of abrogation (*naskh*), the Mecca Qur'an, despite being revealed earlier and thus theoretically being supposed to be abrogated by the Medina Qur'an, better suit the modern state and society's needs because of its different approach to religious freedom and gender equality.

THE SHARI'A AS A TABOO

As may be recalled from the previous chapter, in April 1985, a massive popular demonstration, labelled the "million-man march", aided by the armed forces, toppled the sixteen-year-long dictatorship of General Numeiri. The DUP and the Umma Party were able to form an anti-Numeiri coalition, called the National Alliance for National Salvation. On April 6th 1985, a popular *intifada* promoted by the Muslim Brothers, brought the powerful political parties, the DUP and the Umma, to persuade the armed forces, led by al-Dahab, to seize power and ousted Numeiri, while in Washington, from power. Despite the Muslim Brothers' defensive position because of its close association with the Numeiri government, al-Turabi looked like accumulating might. The armed forces laid down the Transitional Military Council and, supplemented by a civilian cabinet, within a few hours set the groundwork to lead the country to free and multiparty elections scheduled for one year later. During the electoral campaign, of *Al-Jabha al-Islamiyyah al-Qawmiya*, the National Islamic Front, founded by al-Turabi just one month after the coup, stressed the indissoluble link between state and religion, and the Shari'a as the legal grounds of the government's power and legitimacy. His emphasis on the universal conscription to gather lambs to be sent to the slaughterhouse, the civil war in the south, did not allow him to drum up votes. However, al-Turabi should be given the merit to figure out the widespread discontent among the students of the Khartoum University as well as the junior officer of the Sudanese army, who loathed both their senior officers and the traditional parties. Those were the basis of recruitment of the Islamist movement, first the ICF and later the NIF. One of those was al-Bashir. In the elections of April 1986, the polling stations were kept close in the South and the southerners were prevented from voting in the national elections. Al-Turabi's still low electoral popularity, coupled with the DUP's return to the stage during the 1986 campaign implied that the third democratic period too was dominated by the two sectarian parties, the DUP and the UP, which, in spite of their leading parliamentary majority, formed five highly unstable governments between 1986 and 1989, the same year as a military takeover was once again assumed to be the best answer to political instability. However, al-Turabi joined the DUP-UP coalition government in May 1988. But before turning to the current leader's coup, the three-year parliamentary democracy was headed by al-Mahdi, who was elected on an "anti-Shari'a ticket" (p.31), but those years saw the gradual emergence of highly polarized political spectrum: the NIF pitted against the SPLM-led coalition. The former resorted a violent campaign against the traditional leadership, depicted as morally decadent and corrupt (O'Brien 1986; El-Battahani 1996), and the SPLM, portrayed as an

highlights how successful the 1985 popular demonstrations and the delegation of powers to the army were for the NIF consolidated his alliance with the military. The conflict in the South started being the spotlight of the public opinion and a central issue which the elite could leverage to mobilize popular support and wave political contestation. The rhetoric of the NIF and its media called upon the threat posed to the Sudan's "Arab-Islamic identity", as opposed to the SPLM's narrative of the non-Arab non-Muslim Sudanese population's marginalization. Undoubtedly, such populist speeches were able to rally larger strata of people. In addition, the NIF "deployed their efficient organizational structure and mass media to the maximum, supported by, inter alia, seemingly unlimited financial resources from the Islamic banks" (p. 31). Such a climb was made possible mainly by two factors. First of all, the half-hearted and wavering attitude of the traditional parties on the issue of Shari'a. since the emergence of the NIF and the championing of the Shari'a implementation, no Sudanese group could declare to oppose such a stance and "any challenge to shari'a became taboo". The second element to be accounted for was the record of landslide victories of the SPLM in the late 1980s, that deepened the sense of insecurity faced by the northerners. But perhaps even more serious was Sadiq al-Mahdi's decision to arm the Arab tribes living in the border regions in order to enable them to defend themselves, thus reigniting and heightening hostility and shaping the war as the "Arab against Black" conflict. Actually, this was not the first time, because al-Dahab, the Minister of Defence of Numeiri, the same person who staged the coup against his President, had waged war in the South by equipping the Arab Baggara (from Arabic, the cattlemen), the so-called *muraheelin*, the "nomads", tribes from South Kordofan, at the border with the South for self-defence. Sadiq al-Mahdi, advised as well by his Minister of Defence, kept arming them with automatic weapons in order for him to have a greater bargaining power at the negotiating table with the SPLM. "The result was massive devastation by the Baggara of the non-Muslim Dinka and Nuer in the northern Bahr al-Ghazal and western Upper Nile" (Burr and Collins, p. 17). Meanwhile, the northern armed forces allied and fought the SPLA by siding the anti-SPLA southern tribal militias, adding to fragmentation and disorder (Mohamed Salih and Harir, 1994, pp. 186-283).

It should be admitted that this time the SPLM/A saw strong enough to pose an effective threat to the Khartoum government and the northern population, as this time the southern rebels found a certain unity under the leadership of Garang, who succeeded in gaining access to Libyan, Ethiopian and other African countries' aid. Despite his might, the main obstacle to a comprehensive agreement, which could extend to all the key actors, including the NIF, between North and South was Shari'a and its implementation through the September Laws: on the one hand, the SPLM deemed their freezing as a pre-condition for a negotiated settlement; on the other one, the NIF championed their existence, thus turning them into a stumbling block. Yet he started serious peace talks with the northern parties and led to the Sudanese Peace Initiative (SPI) with the DUP leader, al-Mirghani, on November 16th 1988. The SPI embraced the principles of the Koka Dam Declaration, agreed two years earlier by all the unions and parties, with the exception of the DUP. The last man standing too, al-Mirghani, went along with the need to freeze the September Laws, frightening al-Turabi, who denounced the SPI. At this point, Sadiq al-Mahdi realized he should form a new government to kick the NIF out, but its followers took to the streets and started violent unrest. With his common wavering attitude, he froze the Shari'a legislation and scheduled a meeting with Garang to sketch the final arrangements out and call for a conference which would amend the constitution and include the enacted legislation.

The coup was finally staged on June 30th 1989. According to a memorandum, which would catch on in the 2005 days, when the NIF government would finally sort out the civil war with the Comprehensive Peace Agreement, the June Revolution would have been recalled because it "prevent[s] the Crusaders from repeating what happened in Zanzibar

Sudan, promoted by Western and Christian propaganda to prepare the world for Christian rule of the Muslim majority [in Sudan]. This project implies, as is well-known, ethnic cleansing directed against the carriers of Arab blood and culture” (The text of the memorandum is available in Arabic at <http://www.sudanile.com/2008-12-01-11-35-26/36806-2012-01-14-06-54-23.html>). As it may be noted, the narrative employed by the NIF harks back to the rhetoric standard, typical of environments with a high ethnic and religious polarization, aimed at heightening the sense of insecurity and seeking to bring back bad memories. Following the same path as Turabi’s predecessors’, he resorted to the tool of “low-cost” counter-insurgency but lent it institutionalization, by creating the Popular Defence Forces (PDF), in which he incorporated the Sadiq al-Mahdi’s undisciplined *Muraheelin* and were mainly made up of supporters, students and public employees. As its name points to, it would be a people’s army, both in the way soldiers were recruited and the way it was used by the President, who deployed it against workers and students’ unrest because of the high degree of violence which well-trained soldiers of the Sudan Armed Forces were not willing to use. In Turabi’s mind, this would be also a useful instrument to contain the SAF. As the events in the South, but above all in Darfur show, the new NIF-led government, with General al-Bashir seating as President, played, more than his predecessors, the ethnic and religious card, but soon became caught up in the maze he himself had designed.

But it would be better to take a step back and follow the events chronologically. The two main figures of the early 1990s until the breakdown in their relation, were Omar Hassan Ahmad al-Bashir and Hassan ‘Abd Allah al-Turabi. Coming from a working class Ja’aliyyin (a northern tribe) Muslim Arab family, he was admitted to the military academy and held two masters’ degree, quickly rising through the ranks and achieving top level positions, such as the command of the 8th Infantry Brigade lined up against the SPLA. He served in the Egyptian army during the 1973 Yom Kippur War against Israel and as he led the military coup of June 30th 1989, he was just selected to attend military courses at the Egyptian Military Academy. In other words, he had shifted from being an unknown brigadier to being a student of the prestigious Sudanese military school thanks to the NIF plans designed to financially support their education while recruiting them into the Islamic movement. Just as al-Bashir, al-Turabi, intellectual, politician and leader of the Islamic movement, under his many successive names, could not turn to the external support provided to the DUP and the Umma Party by the Sudanese sectarian establishment. Al-Turabi graduated in 1952 at the Khartoum University, which had been the Gordon College, where the first Sudanese political parties were founded and rudimentary nationalism took shape. In 1949 the Sudanese Muslim Brothers founded a branch out of the Egyptian al-*Ikhwan al-Muslimin* (the Muslim Brothers) at the Gordon College.

Founded in 1929 by Hasan al-Banna in Egypt, the Brotherhood was by far inspired by the reformist movement of Sayyid Jamal al-Din al-Afghani (1838 – 1897), who was the pioneer of Islamic reformism, a cultural movement born as a reaction to the growing awareness of the political and cultural backwardness of the Islamic world when measured against the Western backdrop. The downfall’s causes were to be found in the followers’ misleading attitude, including the unoriginal imitation of the tradition, the *taqlid*, and the solutions were provided by the creative struggle of interpretation, the *Ijtihad*, of the Holy texts, that is within Islam itself. The ultimate objective was to reform Islam, by making the latter more sensitive and reactive to modernity. He also appealed the intellectuals to rise up against autocracy. Hassan al-Banna (1906 – 1949), was born and had grown up in a small village of Egypt and was lately forced to migrate to the capital because of the harsh economic conditions. He was so much badly impressed with the process of Westernization and secularization the Egyptian society was going through, that he arrived at radical condemnation of the pro-Western path walked down by Egypt. During his studies, he approached Islamic reformism thanks to Muhammad

Islam by ridding it of the rigid orthodox structures and to meet the claims of the modern society.

One of the most active followers was Rashid Rida (1865 – 1935), a Syrian intellectual, who was in support of a democratic reform of the Islamic caliphate. All this comes to show how lively the cultural Islamic environment between the nineteenth and the twentieth century was. Coming back to the founder of the Muslim Brotherhood, al-Banna aimed at people's phased and bottom-up education about the true Islamic values. Grounding his ideology and political opinion on the study of the holy sources, he sought to update the Shari'a law. According to him, *shūra*, "democracy", was the result of a social contract between rulers and governed, with the *Umma*, the community, being the only legitimate ruling authority. In its early steps, the movement committed time and resources to the social assistance but 10 years later, it set its foot on the political arena to pursue national emancipation. The Egyptian Muslim Brothers were banned by Nasser and they found shelter in the neighbouring Sudan, where al-Turabi had the chance to pull his members' attention who made him their spokesperson.

He left for London, where he graduated in law from the London School of Economics and then held a doctorate in law from the Sorbonne in Paris. Paradoxically, "his dissertation condemned the emergency powers employed by liberal democracies" (Burr and Collins, 2003, p. 5). As soon as 'Abbud was toppled, he came back home and since then he became the ideological guide of the Islamic Movement, at that time called the Islamic Charter Front. He provided the party with the intellectual bedrock. Also, gradually and quietly, he was able to infiltrate the country's key institutions: the army, the civil service and the school teaching. Thanks to his pragmatist collaboration with the originally secular and leftist regime of Numeiri, he temporarily traded his values to achieve long-term gains. Indeed, he paved the way for the Islamic movement to penetrate the state machine and once the conditions were assumed to be ripe, he headed the NIF to conquer the state's institutions, as stated by his own words that "the Shari'a should be the law of the land for all Sudanese" (Burr and Collins, 2003, p. 9). As the financial resources feeding the booming growth of the Islamic movement, in 1978, one year after the national reconciliation with President Numeiri, Turabi harnessed a presidential decree establishing the Faisal Islamic Bank and borrowed Saudi cheap loans to fund education for promising Islamist recruits. The Islamic banking system, as grounded in the Qura'n, forbids to charge interest on loans, and in 1983, with the September Laws, Numeiri extended it to the whole sector, thus requiring all banks to adapt it. As Natsios explains, "By "By doing so, he inadvertently gave license to Turabi's Islamist networks to expand their influence over the business and finance sectors. Any enterprise that needed capital had to be part of Turabi's network to gain access to financial markets. Over time, this has concentrated economic power in the old families from the Three Tribes who were loyal to the new regime and who gradually took over—either through outright expropriation or political pressure—the business interests of the old Lebanese-Christian, Greek, Iraqi-Jewish, and Armenian families who had run the economy under the British. The new business elite simply transformed themselves into Islamists after the Bashir government took power" (Natsios, 2012, p. 226), necessarily implying that the new business elite had to become affiliated with the Islamist regime. Actually, they were required to turn themselves into "Turabists." He was able to deeply penetrate the state and laid the conditions for, as Garang thought, hardly "de-NIF-izing" the northern Sudan.

One of the most interesting episodes of the military-led coup of the June Revolution in 1989 was that al-Turabi, though he was the mind, sought to cloak his involvement. The Revolutionary Command Centre for National Salvation (RCC) set aside the same fate to al-Turabi, by imprisoning him in Kober, alongside other Sudanese political leaders. Most noteworthy were the rumours that major decisions were not taken by the RCC and its leader, al-Bashir, but the political

of the Revolution, better known as the Council of Forty, in charge of overseeing whether the military RRC was full-fledged committed to the cause of Islam. There was something different in the way he was treated during his days in jail. For example, he was allowed to “go home to pack a suitcase” and to meet with NIF officials. The kindness shown at him went far beyond what could be thought to be respect, so that it “produced rumours and aroused speculation among the urban Sudanese of Khartoum and Omdurman that Bashir must be a Muslim Brother or a sympathizer to NIF, yet Bashir was not disposed to hand over his coup d’état to NIF” (Burr and Collins, 2003, p. 10). He was told to control and manipulate the government’s decisions from the Kober prison. Those early days witnessed the start of a radical political climate change: the press, the television (even the usually secular Omdurman channel) and public discourse, all portrayed the Sudanese people’s identity as a clash between religious and secular, Muslim-Arab identity against Afro-Christian self.

As already briefly mentioned, Sadiq al-Mahdi had just scheduled his journey to Addis Ababa, where would meet with Garang to sketch the details and final arrangements out in order to incorporate the principles embraced by the Koka Dam Declaration through a constitutional revision. This would imply the settlement of the civil war, the freezing of the Shari’a in the South and probably a newly-found stability of the Khartoum governments. In the face of such mounting threats, the military seized power. The government unveiled its Islamist nature over the next half a year when he set in motion a barely irreversible transformation of society, starting from the rights recognized to women, who were forced to change their dress-code and start wearing integral clothes, were relegated to a narrower public space, and “well-educated Sudanese women from elite families who had been in book clubs with expatriate women in Khartoum were ordered by the new internal security apparatus to stop reading Western books and to end all contact with Western women” (Natsios, 2012, p. 212). Weird if we thought about the Turabi’s progressive wife, Wisal al-Mahdi, who advocated a greater role for Sudanese women. Turabi was released from the Kober jail in December 1989, thus new Islamic days had come. According to him, *shura*, ruled by the Umma, does not need legal provisions passed by democratically elected institutions since the Qura’n and Shari’a have within themselves a complete set of guidelines to rule the society.

In foreign policy, Islamic precepts, in Turabi’s interpretation, translated into the erection of the caliphate and the rejection of the uneasy artificial construction of the Western nation-state, incoherent with the Islamic system of governance. Alternatively, the caliphate was the perfect structure of governance with a legal system grounded on Shari’a to rule the reunited Islamic community. The new Islam-led foreign policy drove Sudan to establish great relations with Iran, despite the challenging nature of the initiative because of the historical schism in the Islamic tradition between Sunnism and Shi’a. but by 1992, Iran had become the main arms sellers of the regime in return for using Sudan as the basis for spreading the Islamic revolution throughout the continent. Another Islam-led initiative was the establishment of the Popular Arab and Islamic Congress in 1991, which included organizations such as Jama’at al-Islamiyya, Hamas, al-Qai’da and Hezbollah. The first meeting of its General Assembly in Khartoum was a provocation to more traditional regional organizations, including the Arab League and the Organization of the Islamic Conference. the Sudanese government embarked upon such a venture when his support to Saddam Hussein’s Iraq and its 1990 invasion of Kuwait turned against itself, since Saudi Arabia did not warmly welcome al-Bashir’s backing and cooled down their relations. Hence, the organization of the “largest single meeting of radical Islamist organization ever sponsored by a sovereign government” (Natsios, 2012, p. 233). The country became a safe haven for the world-wide Islamist network, as illustrated by the case of Osama bin Laden. The latter in the 1980s was looking for investment opportunities and met with al-Turabi in London and, after some field-inspection, decided Sudan owned the fertile ground for his business

United States, Pakistan and Afghanistan for its troops to withdraw from the Afghan Territory in 1988. The *mujahedin* did no longer need American and bin Laden's help, thus he was able to move its core interests to Sudan. Osama's business activities and al-Turabi's interests had become so intertwined that the latter "arranged a series of government contracts to build the highway connecting Khartoum with Port Sudan on the Red Sea, where bin Laden's construction company was located. When the government could not pay the bills for construction work, the regime essentially expropriated almost a half million hectares of farmland that had been under the traditional ownership of some African tribes in Blue Nile State and gave them to bin Laden, igniting an ongoing land dispute" (Natsios, 2012, p. 235). Finally, the NIF-government supported the assassination attempt of the Egyptian president on a visit in Addis Ababa for taking part to a meeting of the OAU in June 1995. However, al-Turabi initiatives, aimed at making Sudan as the theatre, the platform for the Islamic revolution, as a springboard for its success, miserably failed. He had to cope with his country's chronic underdevelopment and centrifugal forces continuing to spiral out of the government's control. Also, the second civil war kept draining state's resources and state's coffers further emptied out as a consequence of the war between the Fur and the Arab Rizaqat in Darfur between the late 1980s and the early 1990s.

NIF VS. SPLM/A

It will be often recalled in this work the importance Mengistu's Ethiopia took on for the SPLM/A steady growth and military achievement, mainly from the start of the Second Civil War in 1983. The country provided southern rebels with shelter, strategic bases for military training and Soviet weapons, since Ethiopia, during the Cold War was the number one African client state of the Soviet Union. The last years of the Cold War inevitably witnessed the reduction of Soviet aid and by April 1991, Mengistu was toppled by Ethiopian rebels to install Meles Zenawi, the former rebel chief of the Tigrayan People's Liberation Front, which had been aided by the Khartoum government. The SPLM/A lost its Ethiopian headquarters, its safe haven and was forced to flee and return to Sudan. The idea to allow the Sudan Armed Forces to use the Ethiopian soil as a base for attacking the southern Sudanese rebels also came to Zenawi's mind, just point out the intimate relation between the now neighbouring regimes. In 1991, the Nasir Faction, made up of three senior officials of the SPLA, Machar (a Nuer), Kong (a Nuer), and Akol (a Shilluk), mustered the courage and declared Garang had been ousted from command. Such a bold step was helped, according to Natsios, who emphasizes the Western meddling's worse results, by some Western democracy groups. The latter suggested they could at last break free Garang, who had built up the SPLM/A successes of the last years thanks to the Soviet client's aid, Hence, their strategy could gain the back of American and European governments. The internal split led to no good. Support did not come and the Nasir faction was held responsible for the massacre of the Bor County, where Garang came from. But above all, the splitting faction took economic and military aid from the Khartoum government. In sum, the split sparked off the start of civil war in south, pitting southerners against southerners, the strategy of divide-and-rule, well-known in Khartoum. Second, it was conducive to one of the most tragic atrocities of the war. Third, it breathed new life into the northerners' war plans.

TURABI OUT OF GAMES

International isolation was the condition in which the Sudan in the 1990s found itself, after sponsoring the assassination attempt against Mubarak in 1995 and being the staging ground for spreading the Islamic revolution. Ultimately, Turabi

PAIN organization. Though the President's office was by far a very lasting one in the track record of Sudanese governments thanks to his preference to delegate major issues to the dominating factional interests while interfering just on strategic decisions, as time went by, eventually keeping a low-profile presence damaged him: ““Yet by 1998, Bashir's detachment was threatening the survival of his government because he had left too many major policy decisions in the hands of Turabi's acolytes within the RCC—particularly to Nafie Ali Nafie, director of the NISS and later senior advisor to Bashir, and Ali Osman Taha, who served as social affairs minister, foreign minister, and eventually vice president of Sudan (Nafi and Taha were later bitter rivals to succeed Bashir)” (Natsios, 2012, p. 252).

By the 1996 elections, an institutional confrontation started between al-Bashir and al-Turabi. After winning his seat in the National Assembly as the sole candidate, he ran for speaker of the parliament. He now held an institutional office and consolidated his position, by reorganizing the party and changing the name of the NIF into that of the National Congress Party (NCP); seeking to reduce al-Bashir's powers, he issued legislative proposals to introduce the direct election of the governors, previously directly appointed by the president, to broaden the chance for parliamentary legislation by a two-third vote; he proposed to lift the ban on the political parties. It seemed that “Only when Bashir put the brakes on his Islamist revolution did Turabi ‘discover the constitutions” (Natsios, 2012, p. 254). The reaction, on the other side, was harsh. In December 1999, two days before the NA should have expressed its vote, Bashir declared the state of emergency and called for new elections, which, held in 2000, proclaimed al-Bashir the undisputed leader of Sudan with 86 percent of preferences. It was then that the security and intelligence services, well-devised and well-equipped by Turabi, came back to haunt him, as he had been imprisoned, released and rearrested over again. Two different pattern of the Islamist agenda may be highlighted. The time-tables of the steps the Islamist revolution should take are different, for al-Turabi believed that Sudan should have immediately launched the revolution. Also, the attitude toward state institutions seem to differ, with al-Bashir being more concerned to keep his hold on power and survive rather than radically turning Sudan into a revolutionary country and transforming the whole globe. The latter vision prevailed, but his position on presidential powers undoubtedly enjoyed the availability of a strong security service and loyal armed forces, which withstood al-Turabi's efforts to Islamize them.

At the same time, survival for the regime and its President received a huge back from oil revenues, which since the 1980s had notably grown after newly-discovered fields. However, growing international pressures brought Chevron and other Western companies to withdraw from Sudanese oil fields. The withdrawal was speeded up following disturbing revelations about the Sudanese government's involvement in “scorched-earth policy in the oil fields. The Sudanese government, its Murahalin militia, and Major General Paulino Matip (a southerner, a Bul Nuer who had been initially allied with Garang but later incorporated his militia into the Sudanese army, effectively becoming no more than a hired gun) burned Dinka and Nuer villages to the ground, stole their cattle herds, raped and kidnapped their women, and killed any young men who might join the SPLA. The whole point of it all was to make way for oil exploration” (Natsios, 2012, p. 262). But state's commitment to oil-based activities and oil-led industry kept and allowed to remain anchored in the Sudan's regions and strengthen its power and control over Sudan's economic and political order, since figures are impressive. Alex de Waal, one of the leading Western scholars on Sudan, reports that government expenditures were less than 10 percent of the country's GNP in the 1990s but “rose quickly after 2003 to reach 23 percent in 2006, at a time when the GNP was growing 6 percent to 10 percent per year.” Exploration and extraction activities expanded in the South and contributed to heightened hatred and anger among the southern population, adding fuel to the popular perception of the North's theft of the South's resources. Once again, to make things more compounded, southern

Khartoum from the southern population. At the same time, the war's popularity in the North has declined over time, also because it drained much of the government's material and human resources.

The al-Turabi's oust from the government has removed one of the major reasons for waging war in the South. The government had to win the war over the south, as a prerequisite for spreading the Islamic revolution across the country and the continent. The newly-acquired pragmatist approach of al-Bashir, coupled the end of the *jihad*, the holy war against the south, led the two rival sides to strike the 2005 Peace Comprehensive Agreement. In other words, "Oil replaced religious expansionism as the reason for war, and since the war was inhibiting oil exploration, peace became a logical policy" (Natsios, 2012, p. 270).

THE 2005 COMPREHENSIVE PEACE AGREEMENT and INDEPENDENCE

The Comprehensive Peace Agreement of 2005 was the result of a long and struggling mediating effort between the SPLM and the Khartoum Government, mediated by the Inter-Governmental Authority on Development. Serious talks started in 2002, when the so-called Trojka (USA, UK and Norway) gave a thrust to the peace process. Some external factors that have boosted and gave momentum deserve attention. Regionally, changing environmental conditions had laid the conditions for crucial stakeholders to end their solid and cohesive opposition against Sudan. The end of the Eritrea-Ethiopia war of 1998 had broken up the US-led coalition into little pieces and the intervention of African States (Uganda, Rwanda) in the Democratic Republic of Congo had drawn their attention to a new front away from Sudan. Internationally, the US, mostly after the 9/11 attacks, badly needed to engage in constructive relations with Khartoum, and important American lobbies, the President Bush's constituency, were pushing Washington to renew its efforts in the negotiation. Domestically, al-Bashir was able to dismiss the threatening Islamist revolution, embodied in al-Turabi, so that the government could now adopt a more pragmatist and realist approach. As mentioned above, deteriorating economic conditions urged al-Bashir to settle a solution with the South in order to get access to the region's oil fields without resorting to violence, causing population displacement and fight causing damages to the fields and pipelines.

The first step to engage into serious negotiations was to recognize the Southern population the right to self-determination to be exercised through a referendum. In exchange, the South would withdraw, at least for now, its long lasting claims for a secular state and accept the application in the North. Power would be shared among a President of the Republic and two Vice Presidents. One would be appointed by the North, while the other would also be the President of the Government of South Sudan, in the Government of National Unity, the NCP and the SPLM would occupy 80 percent of the ministerial seats. As the South, it would be provided with a Government and a Legislative Assembly to grant the South with a large regional authority. Military issues were also settle as well as the equal share of the natural resources found in the South.

Problems arose as far as Abyei, Southern Kordofan and the Blue Nile, the disputed three areas, which ultimately were left unresolved and feed still today territorial disputes. The problem is that they, despite their being part of the North, were inhabited by population which, during the civil war, decided to side the SPLM/A, or, as in the case of Abyei with its Dinka inhabitants, the oil-richest region, they are home to ethnic groups geographically and culturally belonging to the South. The Abyei protocol gave the chance to its population to decide about their fate through a referendum. As

was not reducible to a North-South cleavage, but traced its roots to a broader centre-periphery imbalance which would have required a radical transformation of the structure of governance in the country, something that the ruling elite was in no way willing to accept”, with the exclusion from the peace process of important segments of the marginalized Sudanese periphery (above all, the Beja tribe of Eastern Sudan), which had fought the civil war with the SPLM/A against Khartoum and expected to be somewhat rewarded. Despite its name, the establishment of bilateral negotiation prevents in the first place to be comprehensive (Young, 2007). But it is also useful to recall the nation-wide scope of this Agreement, should we think about the indirect involvement of the National Democratic Alliance, the opposition front established in 1995, made up of the DUP, the Umma and the SPLM/A.

The Agreement was finally signed in Nairobi and both parties came back to their own homes, with the commitment to make unity attractive in the run-up period to the 2011 referendum across their respective constituencies. Yet as the referendum came closer, it was clear that Khartoum must prepare to face secession.

On July 30th 2005, six months after the signing of the Peace Agreement, Garang, the first vice president of South Sudan, fell victim into a helicopter accident while it was flying over Uganda. As the strongest supporter of unity, his death deleted such a chance, casting some doubts about the Khartoum government’s involvement. But no evidence has been found. On his death, Salva Kiir was immediately chosen as the new president had he had to face a hardly smooth implementation of the CPA. Indeed, on both sides, mounting criticism charged the leading figures who were conducting the negotiations to have sold off their respective interests. Even, Salva Kiir, just before the deal was stricken, had headed a revolt against Garang. His death has changed the spectrum of Sudanese politics, since “He was the strongest advocate of a united Sudan in part because he believed he was destined for the presidency, where he could have transformed all of Sudanese society” (Natsios, 2012, 392).

CONCLUSION

“We, the democratically elected representatives of the people, based on the will of the people of Southern Sudan and as confirmed by the outcome of the referendum on self-determination, hereby declare Southern Sudan to be an independent and sovereign state”. Eventually, on the 9 of July 2011, this solemn statement declared the birth of the Republic of South Sudan, as the African 54th state and the United Nations’ 193rd member state. A state, bound to a sad and bloody fate, where pre-existing centrifugal forces were harnessed to satisfy the appetite of powerful leaders. The 2011 referendum showed the southern population deep desire to cut off fake and man-made national unity. Renewed conflict and later the burst of a new civil war in the newly born South Sudan in 2013 witnessed that real brethren, as supposed to be by the South, is not enough to live peacefully and improve their own living conditions. On the northern side on the border, a thirty-year-old regime still survived despite huge current mass demonstrations. This was undoubtedly possible through rising oil revenues, by developing a poor weapon industry, and lately by increasing the public spending, using oil revenues to finance the public sector jobs, rather than employing them for long-term gains, such as infrastructures. But the perpetuation of the patronage system throughout all sectors, including the public one, has ensured him with a longer life span. The independence has posed a major threat for its survival, draining away the country of 75 percent of oil resources. Time prices rapidly skyrocketed and the inflation rate achieved 70 percent. In the north, the government has hard times and even struggle to pay for the public sector and civil service’s wages. Moreover, the huge debt did not prevent the al-Bashir from diverting resources into his own coffers or to the military and defence

the ruinous political, social and economic conditions of Sudan. The latest massive demonstration took to the streets in late December 2018, they were all met by repression, with team of soldiers and secret agents chasing down protesters down in the streets of the capital. Some images diffused by the BBC showed the harsh treatment reserved to demonstrators, with some of them being held without a charged in detention centres and tortured. He stubbornly, with immense cruelty, keeps not surrendering.

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CHAPTER 3

INTRODUCTION

ARAB/ISLAMIC CONVENTIONS AND DIFFERENCES WITH THE INTERNATIONAL REFUGEE SYSTEM.

Seeking asylum calls for special attention in Islam: its development and spread owe a great deal to hospitality and acceptance of Muslims' cry for help by Abyssinia and Yathrib populations, since "the Muslims moved from a position of subjugation to a position of control; from a period of developing inner strength to a period of outward expansion; and from a religious community to a religious state" (Yakoob, Aimen, 2001). The hijrah of Prophet Muhammad and the Ansar was not only a way of fleeing persecution and torture they had been suffering from in Mecca, but also a journey that unveiled the Muslim Ummah, that is "a new Muslim community based on Islam, the universal divine message that calls for morality and human rights" (Weiss, Minear, 1991). As Yakoob notes, refugee protection in Muslim countries may easily build on Islamic values, since the Qur'an and Sunnah address the issue of persecution and oppression suffering with a very empathic response, mostly when such pain is perpetrated for religious beliefs. Also, Islamic jurisprudence is indeed awash of migration and persecution stories. While many obstacles, such as the historical context and the post-Cold War international order based on nation states, makes it impossible classic Islamic protection's direct application, the underpinning Islamic values may serve as relevant principles.

Even though, over the centuries, Islam laid down the foundations for protection and has in turn deeply embedded asylum, such tradition is either rarely claimed or, as will be shown later, is mismanaged and politically exploited. "Humanitarianism which remains the sole preserve of the West and fails to enlist the involvement of local peoples and governments as well as to establish resonance with the rich resources of non-Judaeo-Christian religious traditions, will remain unnecessarily foreign and interventionist in nature" (Zaat, 2007). Regionalization of human rights and fundamental principles as entrenched in international law is a worldwide phenomenon and aims to reconcile universal values with different interpretations countries give when they are asked to respect human rights. Interpretations provided by national legal systems are driven by their different geopolitical and cultural dimensions. The main point does not only relate to human rights violations committed by Arab countries, but deals also with the use of religious principles as means to provide plausible justification for violations (Pacini, 1996, pp. 24-26).

Islamic and Arab countries have positively reacted to universal conventions and declarations on human right by adopting legal tools drawn on rules and principles from Islam. However, regionalization process across Arab and Muslim countries has not implied homogenous positions over definition and protection of human rights. Conservative and radical tendencies in Saudi Arabia and Sudan have paved the way for a shari'a-based social organization, whereas more progressive elites in Tunisia and Morocco have widened their cultural references and adopted normative principles belonging to legal systems inspired by different traditions (Piccinini, 2007, p.7). Generally, when Arab and Muslim countries have sat next to each other and successfully come to an agreement, rights proclaimed by these documents are not a voluntary political decision. Rather their recognition stems from God, who himself lends human dignity.

If one were to read preliminary work of the 1948 Declaration and the reservation made by some countries in ratifying the 1966 International Covenant on Civil and Political Rights. he would notice that Islamic countries have never felt at

and thus opposed the universal conception of human rights. The western view that judicial personality is the cornerstone of all the other rights and freedoms recognized to human beings as such clashes with the Islamic notion of divine personality giving rise to the rights of the individual (Alcino, Gradoli, 2003, pp. 150-151). For this reason, regional codification of human rights in Islam started, albeit later than in the West, thanks to the League of the Arab States and the Organization of the Islamic Conference (Modica, 1997, p.124). The first document that proclaims human rights in Islam is the 1981 Universal Islamic Declaration, adopted by the Islamic Council of Europe (ICE), in the Preamble of which one can read: “*WHEREAS* Allah (God) has given mankind through His revelations in the Holy Qur'an and the Sunnah of His Blessed Prophet Muhammad an abiding legal and moral framework within which to establish and regulate human institutions and relationships” (ICE, 1981).

As far as asylum and protection of refugees are concerned, the Organization of the African Unity, also realizing the unstable situation most African countries found themselves after getting rid of their western colonizers, adopted in 1969 the “Convention governing specific aspects of Refugee problems in Africa”, which broadened the 1951 Convention Relating to the Refugee Status’ definition provided in Article 1 over who is entitled to be recognized as refugee, by adding that “The term “refugee” shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality” (OAU, 1969). The statement “events seriously disturbing public order” is devised to cover a set of man-made hazards causing unsafe conditions and thus acts as legal basis for allowing access of mass groups of refugees with a *prima facie* procedure.

Many regimes, after independence, chased the source of their legitimacy by adhering to or showing themselves as strict followers of Islamic law and traditions. The secular substance of the international regime puts a strain on and tightens up the relation with the Shari’a. Hence the Organization of Islamic Conference (OIC), since 1982, has voiced its concerns “over the aggravation of the problem of refugees in many parts of the world, most of whom are members of the Islamic community” (OIC, 1982). In 1990, the OIC, which is made up of forty-three Arab and non-Arab states, signed the Cairo Declaration on Human Rights, recognizing in article 12 that ‘every man shall have the right, within the framework of the Shari’ah to free movement and to select his place of residence whether inside or outside his country and, if persecuted, is entitled to seek asylum in another country. The country of refuge shall ensure his protection until he reaches safety, unless asylum is motivated by an act which the Shari’ah regards as a crime.’ Within the OIC context, concerns have often been raised not only over their living conditions, but also the consequences triggered by large numbers of forced migrants on national security,

Such concerns were not met by appropriate measures, neither has an international or regional Islamic legal framework or body for enforcement and oversight been put in place, while the Shari’a and the fiqh (Islamic jurisprudence) have paved the way for laying out national tools to protect and support forced migrants in the Muslim world. Indeed, vast differences in Muslim states make it difficult the creation of a binding Islamic instrument relating to refugees. It is enough to think, as Papa states (Corrao, Violante, 2018, p. 56) that within Islam, as it lacks a clergy and heavily relies on the jurist’s figure, a plurality of judicial schools emerged and led to wide differences in interpretations of Islamic law according to jurists’ adherence to one school or the other (madhhab). Such a high degree of diversity, potentially undermining unity of the faith, suggests Islam’s great capacity of adaptation to cultures Islam had being faced over the

as Islam spread and met with non-Arab cultures resorting to different scientific and rational systems as well as philosophical reasoning, since the fifth century, Sunni schools took a bold step and declared the closure of the interpretative struggle, the *ijtihad*. The result was the loss of that great capacity in soaking up local customs and a break in Islam's progressive evolution. Later, the emergence of modern nation states in the wake of the collapse of the Ottoman Empire and the following secularization of the state machinery have yet meant that these new actors are now the only one responsible for the production and enforcement of law: since then, in some countries Shari'a law has been recognized as the legal basis for family and inheritance laws, though going through several revisions and reforms triggered by an evolving approach, with only a few states, including Sudan, placing the Islamic law on the top of the hill as source of legislation and introducing crimes and punishments provided by the Holy Qura'n.

Even though only few Muslim majority countries have made Shari'a as a source of legislation, local means, inspired by the Qura'n, could be the best-suited for dealing with asylum and refugee protection, since "the positive means to promote any concept within a particular culture is through evidential support from within its legitimizing principles" (Baderin, Mashood, 2005, p. 6). Arab countries have kept trying to devise regional tools. In 1992, Arab countries met in Cairo and signed the "Declaration on the Protection of Refugees and Displaced Persons in the Arab World", which yet looks like being drafted mostly as the solution to the Palestinian issue and thus lays great emphasis on the right of return. In spite of the efforts to elaborate a regional framework, the Declaration adopts an Islamic understanding and religious identity in coping with refugees' problems, but bypasses the need to set specific and concrete guidelines and ultimately ends up being a declaration of intents, just as other universal legal instruments. Indeed, as Elmadmad has noted, 'the Arab participants tended to divide into: those who supported the human rights of the Arab peoples; and those more concerned with the interests of governments', making it hard for them to reach a compromise. If the Declaration invites Arab states to ratify universal legal tools in coping with the refugee issue (art. 4), it also urges these countries to implement Islamic and Arab humanitarian values, while highlighting the pressing need for refugee protection and asylum law to be spread across Arab countries. To stem from the risk that recognition of the refugee status be perceived as a tool of political pressure, as it has sometimes been the case in Arab countries (see relations of Sudan with Ethiopia and Eritrea), Article 3 of the Declaration "considers that the granting of asylum should not as such be regarded as an unfriendly act vis-à-vis any other State." As Elmadmad concludes (Elmadmad, 1992), "Many of the Arab states which have not adhered to the international system on refugees and migrants claim that they are ruled by Islamic Law, but nothing in their practice reflects the humanitarian and protective Islamic rules on asylum and *amaan*", thus calling upon states to adopt regional and domestic asylum systems that are effective, consistent with Islamic principles and international norms.

They agreed to meet again in 1994 and struck a more effective instruments, the "Convention on Regulating the Status of Refugees in the Arab countries", jointly devised by the UNHCR and the Arab League. Because of its legally binding nature, however, it was signed only by Egypt and ratified by none of the participating countries. Since the League of the Arab States lays down the requirement for a convention entering into force must be ratified by at least seven countries within two years of its signature, the 1994 Convention will never become legally binding on them. As the 1992 Declaration had already written down, the 1994 Convention's Preamble requires state parties to cleave to "their religious beliefs and principles that are deeply rooted in Arab and Islamic history, making man a great value and a noble target for various systems and legislations to cooperate in ensuring his/her happiness, freedom and rights." Finally, the

session stating that “the rich traditions, customs and practices involved in Arab and Islamic values serve as a firm underpinning for the integrate protection of refugees and respect for their human dignity.”

All these references come out as a means to explain why many Arab countries (except for North African countries, far more deeply shaped by the colonial experience) in the Middle East and in the Gulf area have not been willing to adhere to the global protection system and stuck to the Islamic identity which embraces asylum as a key concept: as an obligation to grant hospitality to anyone asking for asylum lies upon every Muslim, institutional rules turn out to be of little use. In Islam, as in universal instruments, seeking shelter (*istajārah*) is a sacred right, and ensuring safety (*amān*) and asylum to both believers and non-Muslims is a duty whose principles, *Iṭār* (manners) and *Takāful* (social solidarity), require the *musta'min* be fairly treated with because of vulnerable nature. His needs, both the material and spiritual well-being (*falah*), bear on the hosting Muslim community. It is worth recalling that the Quran refers to Christians and Jews, the People of the Book who came before the Umma, as “the persecuted people” “oppressed in the land”, “those who have been unjustly driven out of their homes”, “those that suffered persecution.” It is useful to recall that, in 2017, developing regions are home to 85 per cent of the world’s refugee population, almost 17 million people. Among countries with the largest share, Lebanon hosts the highest number of refugees relative to its population, followed by Jordan and Turkey. In absolute terms, Turkey shows up as the country with the largest share of refugees worldwide, followed by Pakistan and Uganda. Sudan ranks eighth (UNHCR, 2018).

By studying Qur’anic teachings, the practice (Sunnah) of Muhammad and by tapping into cultural common practice of Muslim countries, scholars have drafted a comprehensive body of ethical teachings and legal orders (‘Abd al-Rahim, 2008, p.15). The reading and analysis of Shari’a (the Qurān, the Sunnah and the Ahādīth) allow a comparative study with international asylum law. Both, first of all, deem the decision to force a refugee back or toward a country where he is in danger of being persecuted as inadmissible, penalties’ imposition on a refugee for illegal crossing an international border as prohibited as well, and recognition of asylum to non-political criminals as unlawful. Also, the definition found in Islamic law is more comprehensive to include different asylum forms: it may be recognized to Muslim people seeking asylum for hearing the Allah’s words (religious asylum) and to non-believers either to enjoy temporary protection, as in the case of the *musta'min*, or to live in *dar al-Islam* permanently, as in the case of a *dhimmi*.

According to the legal consensus (*ijma*) among Hanafite, Shafi’ite and Hanbalite jurists, a *musta'min* is the person who entered *dar al-Islam* under *amān*, a temporary covenant, granted by both the ruler or any Muslim of the Ummah. Protection under *amān* may be converted into a permanent status for the *dhimmi*, the individual who is going to stay in *dar al-Islam* for more than one year and is thus required to pay *jizya* by virtue of a contract with the Ummah. Furthermore, his freedoms, the right to family reunification, prohibition of discrimination, are essential principles in both legal systems. Islam does not allow distinction based on race, gender or creed that may result in discrimination. The Qura’n grants tolerance for all beliefs and encourages people to embrace respect, as can be read in Surah Al-Kafirun and Surah Al-Baqarah: “You have your own religion and I have mine” (109:6) and “there shall be no compulsion in religion” (2:256).

As mentioned above, the Islamic instruments sometimes prove to be outdated and lagging far behind the international legal tools. For instance, the Cairo Declaration on Human Rights in Islam of 1990 subjects the enjoyment of human rights to the Shari’a (art. 24-25), provides for the possibility of corporal punishment (art. 2), does not exclude religion as

dignity’, pointing out to the enjoyment by all human beings of “equal human dignity” rather than “equal human rights”, thus allowing for limits on freedom of interreligious marriage, the recognition of the leading household role of the man, the legality of corporal punishments provided by Shari’a (stoning and decapitation). In conclusion, the Declaration does not keep the pace with international instruments and limits many freedoms. Later in 1994, these countries gathered in the Arab League adopted the Arab Charter of Human Rights, which grants rights and freedoms, such as trade union rights, denied a few years earlier as long as they may hurt public order and national security.

Those who advocate a regional supra-national framework on asylum in Arab countries would achieve greater and more comprehensive results if they focused their attention on chances provided by the state level, by adopting a culturally and historically sensitive approach, since asylum system and refugee protection may quietly rely on Islamic principles and history. This, undoubtedly, would minimize the possibility for states to have a high-handed attitude and infringe upon basic rights of refugees, as Islamic tradition is filled with tales of forced migration and the relative teachings on the value of aiding asylum seekers.

THE PROPHET AND HIJRAH: THE IMPORTANCE OF AMĀN

Biographies on Muhammad tell about when he, in 615 AD, urged his closest followers to flee from the harsh persecutions perpetrated by the Medina’s leading tribe of Qur’aysh. Prophet’s message was so revolutionary in the ideas he propelled, that the leaders of Quray’sh felt being challenged by the threat Islam could pose to their properties, privileges and the tribal system as a whole. Feeling themselves jeopardized, they started a campaign of harassment and abuse against the early Muslims. After the death of Abu Talib, the Prophet lost the security he had enjoyed when his uncle was still alive. Shoukri describes the Prophet and early Muslims’ conditions in Mecca saying: “He became vulnerable and subject to torture and harassment by the non-believers in Mecca, [...] The suffering of the Prophet and of the Muslims was unprecedented and the Prophet named it “the years of sadness”, as al-Halabi transmits (1979, vol.3 p.498).” Those who withstood and did not hide their faith suffered imprisonment, torture and martyrdom. Despite the persecution the early Muslims kept grieving, Muhammad did not refrain from getting the message of Islam across Arab tribes. At that time, the following verses were revealed by Allah to Muhammad, thus giving Muslims the permission to flee and look for a safe place:

16:41 – وَالَّذِينَ هَاجَرُوا فِي اللَّهِ مِنْ بَعْدِ مَا ظَلَمُوا لَنُبَوِّئَنَّهُمْ فِي الدُّنْيَا حَسَنَةً ۗ وَلَا جُزْءَ الْآخِرَةِ أَكْبَرَ ۚ لَوْ كَانُوا يَعْلَمُونَ

“And those who emigrated for [the cause of] Allah after they had been wronged – We will surely settle them in this world in a good place; but the reward of the Hereafter is greater, if only they could know.”

As polytheists’ persecutions against Muslims mounted in number and became increasingly serious, Muhammad urged them to look for some relief in Abyssinia. Ja’farian (1985, p 343) stresses that Muhammad feared that, in the long term, Meccan leadership’s harassment policy could successfully reach the expected outcomes, that is to lead Muslims to renounce Allah and be wiped out. “If you were to go to Abyssinia, you will find a king with whom nobody is oppressed, and it is a land of truth, [stay there] until God grants an ease for you” (Ibn Hisham, 1990, vol. 2 p. 164). The Christian King Negus, whose name was al-Najashi, after reading Muhammad’s letter, granted them protection, and recognized freedom of worship the right to live a life sheltered from harassment pain and intimidation. The Prophet set out to

Muhammad witnessed and fell victim of the tightening of harsh and oppressive means.

His vulnerable status as an orphan constantly struggling to seek a safe haven in order to spread the word of Allah, with no doubt underpinned his natural stance to pity and to be safe harbour for victims of persecution. Hijrah to Abyssinia was the first migration in Islam's history when at last Muslims could practice their faith freely and openly. Muhammad and some of them still living in Mecca kept not yielding to the Quray'sh elite's blackmailing and violence. And fortunately, the pilgrimage of new converts from Medina, the Khazraj and al-Aws tribes, who came in Mecca to meet the Prophet, ended up swearing their allegiance to him. The new alliance boosted his low morale and pushed him to keep moving forward. The oath was called bay'at al-nisa', the allegiance of women, as it would exempt them from fighting, and was followed by one of his closest companions' dispatch to Medina with the task of teaching the Qur'an and keeping Islam spread across the tribes.

Such a successful missionary work led some high profile members of Medina to Mecca to swear their loyalty as well, which was supposed to mean adherence to monotheism and Islamic holy rites. This second oath of allegiance, the bya'at al-'Aqaba al-thaniya, paved the way for the Prophet's hijrah to Medina, since he replied to them (Ibn Hisham, 1990, vol. 2 p.291): "I accept your allegiance [on the condition that] you protect me from what you protect your women and children." The jihar deal was struck, proving that such a custom, deeply rooted in the Arab tribes during the jahiliyya, was now totally accepted and performed also by the Islamic community. Yet Medinan citizens' reasons for jihar now differed from the previous ones: giving jihar was expected to pay off after the death with the promise of getting into heaven. From then on, jihar became part to Islam, but it had nothing to do with fame and reputation, though, this time.

Even if hijrah to Medina was not the first journey Muslim community was on, as the flight to Abyssinia was earlier than eight years, it was the place where Muslims, free from fear, fleshed out the Islamic state and started spreading their new religion outward. Once again, as Quray'sh stepped up violence against those Muslims still staying in Mecca in spite of their dreadful living conditions, God allowed them to make hijrah to Yathrib, as Medina was known during the jahiliyya, by revealing Himself to the Prophet, who thus said to his Companions: "God, Exalted is He, has made for you brothers and a home where you should be safe." (Ibn Hisham, 1990, vol. 2 p. 314). Mass migration of Muslims to Medina led Quray'sh to make a bold decision and realize it had come a time to finally settle the issue, by taking him out. However, Allah rescued Muhammad just as Quray'sh surrounded his home, and in September 622 AD also the Prophet, after getting the permission from God, did undergo his hijrah with Abu Bakr. That year was a watershed in history as it marked the Islamic era's beginning, the age of hijrah.

The Muslim community now settled in Medina envisaged the first steps to be taken to lay the foundations of the Islamic state. Led by Muhammad, the Ummah started constructing the Mosque, which acted not just as a house of worship, but, as Watt points out, it "provided an economic, social, and political system. Of this system, religion was an integral part; it may be called the ideological aspect of the system." At once, the traditional Arab organization with its tribal bonds and loyalties was softened and replaced by new relationship based on al-mu'akha (brotherhood) between the Muhajirun (emigrants) and the Ansar, the citizens of Yathrib. New allegiances based on religion, getting through and beyond the typical ethnic or social identities of the Arab tribes before the advent of Islam, were weaved.

In exchange for jihar, Muhammad promised the Ansar rewards in the Hereafter because of their hospitality and

poets wrote verses of thanks praising the citizens of Yathrib for granting them jihar. In spite of some lasting opposition in the city and persistence of tribal attitude, Muslims were able not just to become integral part to Medinan society, but also to rule the new society by cooperation and peaceful means. The new relation, al-mu'akha, provided the essential ingredients to keep the new state, made up of indigenous people and migrants, together and made it strong enough to resist challenges the state would face soon thereafter.

From seeking jihar of the non-Muslims and thus being Mustajir, Muslims in Medina turned into the host community for the oppressed, the mujir, the ones who grant jihar. Shoukri describes the term by stating that originally 'jihar could in essence be defined as a contract between two parties where one asks for protection and the other grants it to him or her' (Shoukri, 2011, p. 4). Providing the Mustajir with shelter, protection and raising him to the same position as a tribe member was a source of pride for the tribe in the jahiliyya and ensured nobody could harm him. The psychological condition of the mustajir was a matter of concern for the tribe as well, which saw to it that he did not feel as a stranger, uprooted from his family and city, as the poet Qays Ibn Asim al-Minqari wrote:

لا يفطنون لعيب جارهم
وهم لحسن حديثه فطن

“They do not sense the fault of their mustajir
and they are in observing his protection, alert.”

Even if the term hijrah generally means emigration of Muslims fleeing Mecca to some different places, over time it became the specific term referring to the Prophet and Ansar's final journey to Medina. The term and its derivatives are quoted 31 in 27 verses in 17 suras. Zaat also notes that additional 650 ahadiths enrich Islamic statements on the matter (Zaat, 2007, pp. 6-7). Generally, verses in Qur'an praise those who fled their homes for the cause of God, as in the case of the praiseworthy verses written for the Muhajirun and the Ansar, who warmly welcomed and hosted the former, while urging those who had still been staying in Mecca to migrate (Shoukri, 2011, p. 52). Verses such as the 8:74 are worth mentioning as it goes to show how jihar had become a founding value in the Islamic community:

وَالَّذِينَ آمَنُوا وَهَاجَرُوا وَجَاهَدُوا فِي سَبِيلِ اللَّهِ وَالَّذِينَ آوَا وَنَصَرُوا أُولَئِكَ هُمُ الْمُؤْمِنُونَ حَقًّا لَهُمْ مَغْفِرَةٌ وَرِزْقٌ كَرِيمٌ

“But those who have believed and emigrated and fought in the cause of Allah and those who gave shelter and aided – it is they who are the believers, truly. For them is forgiveness and noble provision.”

While the Quara'n chooses the derivative of hijrah, muhajir, to describe specifically the Muslim emigrants, and mustajir, to refer to Muslims and non-Muslims alike, several Islamic scholars, starting from the sixth century, have concluded that the Holy Book speaks about non-Muslim migrants looking for shelter in dar al-Islam by employing the terms aman and musta'min. The Hanafi jurist al-Kasani, in the sixth century, wrote that the musta'min's migration and call for access to Islamic land may be prompted by any reason, thus including refugees and asylum seekers. The migrant must be admitted, but, as a non-believer, his stay in dar al-Islam had a specific deadline, a term long enough to carry out the mission the musta'min had to fulfill as he entered dar al-Islam. Non-believer's transitional residence period in dar al-Islam may be extended whenever he converted to Islam or payed the jizya, thus turning himself into a dhimmī. The contract of dhimma addressed, as scholars agree (Ibn Qudama, Al-Mirdawi), only the “people of the book”: the jizya

such a deal with Muslims, that is “Jews, Christians and those who agree with them in believing in the Torah and the Gospel like the Samirites and Romans” (Al-Mirdawi, vol. 4, p. 217).

Sura At-Tawbah (the ninth one) deals with disbelievers and, in the first five verses, requires Muslims to fight against them if the latter do not respect the terms of a treaty signed with or constantly wage war against the Ummah. Also, disbelievers are not given the permission to get into the Mosques in dar al-Islam, because otherwise they would be at risk of being killed.

As far as asylum is concerned, Verse 9:6 excludes non-believers who came to dar al-Islam seeking amān from the application of the previous five verses.

9:6 – وَإِنْ أَحَدٌ مِّنَ الْمُشْرِكِينَ اسْتَجَارَكَ فَأَجِرْهُ حَتَّىٰ يَسْمَعَ كَلَامَ اللَّهِ ثُمَّ أَبْلِغْهُ مَأْمَنَهُ ۚ ذَٰلِكَ بِأَنَّهُمْ قَوْمٌ لَا يَعْلَمُونَ

“And if any one of the polytheists seeks your protection, then grant him protection so that he may hear the word of Allah.

Then deliver him to his place of safety, that is because they are people who do not know.”

Arafat Shoukri has analyzed how interpretation of the sura has varied over centuries, since the first two centuries AH (Anno Hegirae), and whether modern interpretation has evolved with respect to earlier scholars’ opinion: “Due to its (sura 9:6) great importance in this regard 54 books of exegesis written by different scholars from the Sunni, the Shi’ites, Ibadi and Zaydi schools have been examined chronologically to spot any changes that have occurred during the course of time.” Shoukri addresses issues that classical and modern scholars, over the centuries, had been interpreted in relation to asylum and refugees as embedded in Shari’a: the religion of who is entitled to ask for amān, the reasons for seeking protection, the purposes of the Ummah for granting refuge in dar al-Islam, which meaning should be attributed to the word *hatta*. However, it should be noted that, as far as modern scholars are concerned, Shoukri quotes and reviews commentaries of authors, such as Sayyid Qutb, al-Tabataba’I, Tantawi and As’ad Hawmid, who followed the hardest-line madhhab, the Hanbali school of thought, which sought to bring Islam to the pure origins of the early Muslim community.

Shoukri concluded that the religion of the asylum seeker should not be a matter of concern for Muslims granting protection and the reasons for his flight from his own home and his request for protection are not mentioned in the verse 9:6. As he showed, the opinion held by some scholars, including Abu Hayyan, Abu al-Su’ud and al-Qummi, who argued that the *mustajir* asking for entry in dar al-Islam is driven by the desire to listen to the God’s words clashes with Arabic language’s grammatical and linguistic rules. On the other hand, he points out that the Qura’n speaks about granting amān as both a duty believers have to fulfil on account of their being Muslims, and an act of mercy, when he states: “[...] and the greatest manifestation of this mercy is giving shelter and protection to those fleeing oppression and persecution” (Shoukri, 2011, p. 82).

Shoukri, reviewing Islamic scholars living in different phases, concludes that interpretation of the verse 9:6 should be the following: the adverb *hatta* should not be read as if the legal obligation of granting amān lasted only for a specific period of time and implied expiry clauses. Since the *mustajir* may ask protection for reasons other than listening to the words of Allah, the amān he is enjoying is not defined by the end of his religious learning: thus the adverb *hatta* should

fearing that his life is at risk, timing-limits on his stay and the decision to end amān after he completes to hear the words of God, do not at all make sense. Indeed, the reasons threatening his survival and his physical integrity in his home country might still exist and his fears might still be well-grounded. The provision of amān by the Muslim community is thus not contingent upon any particular reason, be it harassment, deprivation, repressive means used by the government or a particular group at home. The verse 9:6 lays down a duty for Muslims, “regardless of the reasons that drove him to seek it” (Shoukri, 2011, 82). At the same time, hearing the words of God may be seen as a chance learning Islamic principles for non-believers while enjoying the protection of the Muslim community.

As far as the cessation of amān, the status of the musta'min expires either when the reasons compelling his flight are over and thus he has to abandon dar al-Islam or his status as musta'min turns into dhimmi, in which case he is entitled to permanent protection by paying the jizya. Indeed, the Qura'n makes it quite clear in the words “make him attain his place of safety” that the refugee's own well-being and security can in no way be undermined or damaged, even if he has to be thrown out of the dar al-Islam. Before expelling him, Muslims must protect the musta'min until he gets somewhere safe, whether his country of origin or another place where he can live a sheltered life, free from fear: the musta'min cannot be returned from where he came if he would not find safety there. In this sense, Islamic dictates capture the principle of non-refoulement, enshrined in Article 33 of the 1951 Geneva Convention Relating to the Status of Refugee.

According to the Islamic practice, the musta'min should have access to the same rights nationals are entitled to (Elmadmad, 2008, p.54), just as the Constitution of Medina granted equal protection for migrants and indigenous alike. They are the rights due to a musta'min, stemming from the right to protection, the right to non-refoulement, the right to have their physical needs met, the right to freedom of belief, the right to do business and have their wealth protected, the right to marry and raise children, and the right of family reunification (Munir 2011, p. 14; 'Abd al-Rahim, 2008, p.21; Abou al-Wafa, 2009, p.143). As regards to exclusion from refugee protection in the Islamic practice, the chance of refusal is limited to a few of events and persons, such as those who have committed non-political crimes at home and now seek refuge in dar al-Islam to get out of punishment, combatants who still hold their status, if a treaty signed with the home country of the asylum seeker prevents from granting asylum.

Though this detailed analysis is to trace the bases on which an *Islamic asylum* may be built, in recent times, mostly after the advent of nation states, even those countries calling themselves “Islamic states” adhered to the mainstream rules required by the international community. In the light of that, those who are seeking asylum are refugees and the rules for it draw on domestic laws of the nation state. Therefore, while the Qura'n requires each Muslim to grant asylum as an Islamic duty, the nation state is entitled to deny the right of asylum, since ‘asylum is right of the State and not of the individual’ (Elmadmad, 1991, p. 473), making impossible the Qura'n duty upon each believer to grant asylum.

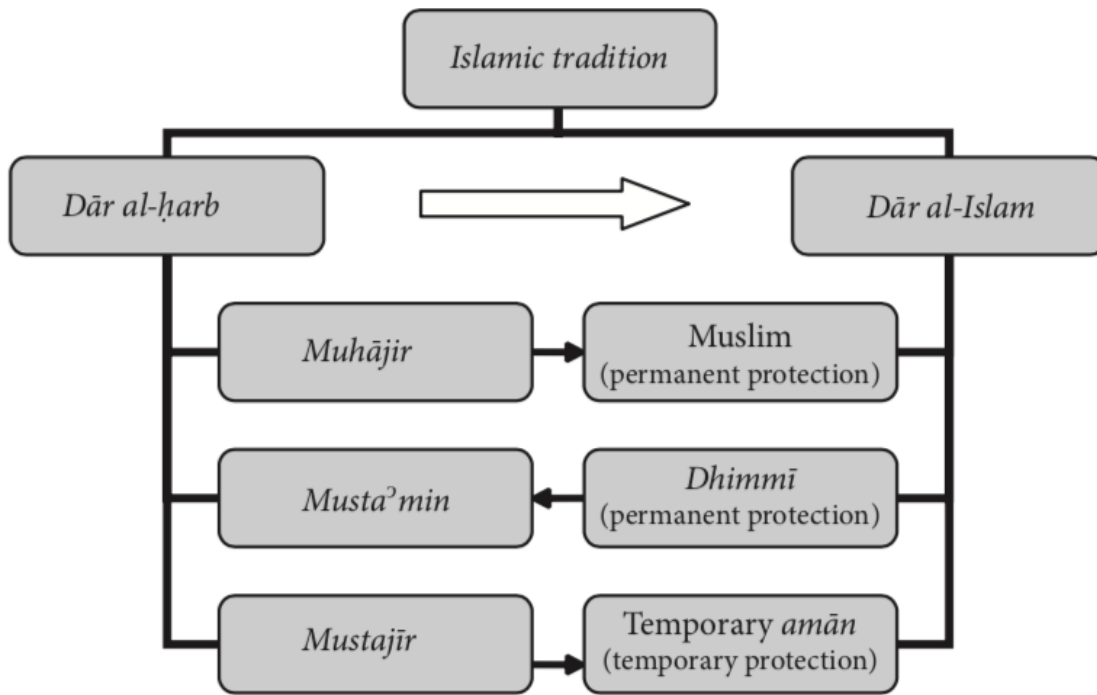


Figure 3.1 The position of the *mustajir*, *musta'min* and *muhājir* in the Islamic tradition

AL-MAHDI AND HIJRAH: THE IMPORTANCE OF AMĀN

As far as Sudan is concerned, the importance hijrah and amān played in Islamic societies may be traced back to the rule of al-Mahdi. In 1881, the miserable Turco-Egyptian rule got kicked out of the country by a motley population united under the nationalist flag of Muhammad Ahmad, the leader of the Sammaniyya Sufi order. He came out as al-Mahdi, the guided one, and imposing loyalty to him above tribal membership, was able to gather different ethnic groups and keep them together to wage jihad against the infidel Turks. In the attempt to embrace popular beliefs of the masses, strict Islamic orthodoxy mentions a final Messiah (Sura 43:61, “He shall be a sign of the Last Hour”), yet it does not go much further than referring to Prophet ‘Isa. Trimingham (Trimingham, 1990, p.) uses the description made by Ibn Khaldun in the Muqadama, when he said that widely-spread popular belief in the coming of a saviour is based on the idea about the arrival of a man descending from the Prophet’s family to strengthen faith on earth by ensuring justice at the end of time, which is much more different from the simple faith in Prophet ‘Isa. Furthermore, the steady interweaving of religion and politics in Islam has historically led to the religious reformers’ claim to use political tools and invoke jihad, with the aim being ultimately to lay the basis of a state (Trimingham, 1950, p. 149). It was religion, Islam, with its handsome ability of sinking in indigenous features while holding on to “its own inner will to power, organic unity, and world outlook”, to bring together Sudanese groups against foreign despotic rule and build an ideal order. Most importantly, al Mahdi did not renege on his Sufi background and its messianic mission relied upon the Sudanese holy men. Despite the Mahdist revolution’s loyalty to Sufi mysticism with its traditional “divinely guided” leader, some scholars, including Wingate (Wingate, 1968, pp. 5-6) and Bermann (Bermann, 1932, pp. 73-74), have pointed out to some elements, whose roots may be tracked back to the Shi’a tradition with its waiting for the Hidden Imam. Such proto-nationalist revolt developed following a stand-alone path, though. Indeed, as John Voll shows (see Chapter 1 and 2), “it is clear that the distinction between the Sunni and Shi’a concepts of the Mahdi must be kept in mind in analysing the Sudanese Mahdiyya and the

Facing quite tough conditions, draught, famine and harsh foreign domination, the Mahdist revolt successfully rallied Sudanese tribes and, once acquired the features of a nation-wide strife, committed itself to build the earthly paradise. Through mystical journeys, asceticism, dreams and visions, al-Mahdi aimed at cleaning the believer out of earthly concerns and steering him toward the Hereafter, while also setting the Islamic faith along the right path on Earth. Indeed, the Mahdist state was to be the rule of God on the Earth and its organization was to mirror the Prophetic state and the early community of Muhammad. “Whatever their motives for joining Mahdiyya, it had at first an extraordinarily unifying effect; tribal loyalties were abolished, Baqqara and black slaves fought under one banner and the slave could rise to the highest positions in the state. There was equality between rich and poor” (Trimingham, 1950, p. 154). This claim was strong enough to take over traditionally well-established Sudanese ethnic bonds and tribal membership. He went so much further that dervish sects, with their vertical hierarchy and the following allegiance to the sheikhs, as well as the four madhhab, were banned to stress his mission of building a new world order. The darawish, al Mahdi’s followers, were now Ansār, just as Prophet Muhammad was used to call his companions (Wingate, 1891, pp. 47-8).

Yet just five months after Khartoum was taken over (January 1885), al-Mahdi passed away and ‘Abdallahi al-Ta’ayshi, one of the four designated Khalifas, succeeded him, just the way the Prophet’s Ummah and state were set up. However, the changeover to the new Khalifa’s arrangements and his strategy of divide-and-rule spelt the end of the Mahdist state, which had instead succeeded to achieve cohesion and unity in the ethnically heterogeneous and tribally-based state. His despotic rule was able, in a few months, to reverse al-Mahdi’s successful achievements: the Ansār’s allegiance melted away, population passively bowed down to him and got back to its tribal ties. Mahdist fanaticism started to dwindle from his tyranny, followers’ enthusiasm and faith made away for old religious and tribal loyalty. “The nomad tribes were reconstituted, the riverain and the Jezira cultivators renewed their loyalty to their religious tribal shaikhs, the heads of orders such as the Mirghaniyya won back their followers, and the pagan tribes relapsed into paganism” (Trimingham, 1950, p. 158)

Especially as far as the main concern of this chapter, that is the importance of the hijrah in the Islamic tradition, the Khalifat al-Siddiq and al-Mahdi before him, invited the “ashraf” (the Prophet’s kinsmen) to flee Khartoum and settle down in Omdurman, which by late 1886 was designated as the Mahdist capital. When he was certain of his own grasp on power, he started ordering Sudanese tribes’ sheikhs strewn across the Mahdist-controlled territory, to migrate (hajara) to the capital in order to swear an oath of faithfulness (bay’a) not to his political rule, but to al-Mahdi himself. Though actually it was an undeclared and unofficial policy, it was to conjure up the early Ummah’s emigration to flee persecutions committed by the Meccan elite, and it blended in well with the African practice of seeking asylum and looking for protection from oppression with a holy man. The hijrah policy ushered a deep change in Sudanese identity. The hijrah policy was part of a broader program designed to call on Sudanese people to pursue an ascetic life and join him in his struggle, jihad, against the infidels. Tribal leaders who fulfilled their religious obligation, the hijrah, were identified as Ansar, muhajirun and muhajidun, titles given to remember the early Muslim community’s emigration experience and implying certain privileges and protection. Not only did such radical changes affect identities, but Islam practice as well. The Arkān (rukṅ), the five pillars of Islam, underwent some adjustments to the new conditions, including the hajj duty, the annual Islamic pilgrimage, gave way to the jihad, even though the Sunni practice never did accept jihad as a *rukṅ*, a pillar of faith. Indeed, the pilgrimage to Mecca, now deemed as unnecessary (Trimingham, 1950, p. 156), was outlawed and Omdurman’s economic and religious importance switched it out. Since then, a new

striving very hard to overhaul and replace Sudanese habits and customs.

In 1885, the Khalifa's plead for hijrah did not fall on deaf ears and was enthusiastically welcomed, since the Ansar had now come to find that refusal was like disobedience to Allah. Mahdist fanaticism turned out to be sensible enough to mitigate some of its strictest requirements and accommodate Sudanese context. The Baqqara, the western shepherds, were urged to resettle to Omdurman both to take part to the military struggle and allow the Khalifa to keep a lid on an "unreliable" group. Farmers from the Jezira region were allowed to get a break from the jihad and grow crops. Merchants were given the chance to scale down their engagement and others were able to pay in exchange for exemption. In other cases, the hijrah played a part in the state's organization, since prominent religious leaders were called to teach in Omdurman's schools, high skilled employees, trained under the Turco-Egyptian regime, were gathered to work in the capital, criminals were forced to serve the sentence and rehabilitate, and finally, acting as a protection for vulnerable elements of the society, hijrah led lone women and widows to be moved from other Sudanese regions and be relocated close to their ethnic and tribal members. Ultimately, though its main goal was to wage the jihad against the unbelievers, the hijrah policy did fulfil social, political, economic purposes as well.

PROTECTION ENVIRONMENT IN SUDAN: DOMESTIC LEGISLATION AND THE ARAB/ISLAMIC NOTION.

Predominantly Muslim countries such as Afghanistan, Pakistan, Iraq, Sudan, Syria are the greatest sources of refugees worldwide. At the same time, western developed countries or the so-called 'global north' is destination for a smaller share of asylum seekers and refugees than the 'global south', where most of the world refugee population ended up to stay, whether intentionally or forcibly (African Development Bank Group, 2017). With more than 7,600 kilometres of land borders and 853 kilometres of shoreline, Sudan has, over the years, served as a natural stop-off along the East African route, trodden by "economic migrants" and refugees to Europe.

Indeed, since the 1960s, the country came to be a safe place of asylum for those fleeing man-made and natural hazards in the continent. Trying to get into details and practice and bearing in mind the importance of hijrah and asylum play in the Islamic tradition, this part will attempt to provide a brief insight into successive flows of refugees Sudan hosted over the decades, followed by an account of Sudanese refugee law and government policy as resulting from both international obligations the country has undertaken and the Arab/Islamic conception of asylum rooted in the Shari'a. Just to remind some relevant events that marked Sudanese political developments, Sudan and its successive post-independence governments, mostly those ruling from 1983 onwards, have been adopting the Islamic Law as one of the sources for national legislation. Its pervasive nature made it able to penetrate the state, until 1989, when finally, the new military rule declared Shari'a as the main source to the legal authority for judicial decisions and legislation. With this purpose, this work will give an analysis of the legal framework over asylum system the country has formally adopted over the years.

HISTORY OF REFUGEE FLOWS TO SUDAN: from independence to Nimeyri.

This paragraph will try to give an historical overview of successive refugees' flows with the aim of highlighting the

nationality. The relation between political allegiance of Sudanese governments, their sympathy toward or hostility against and diplomatic relations with refugee-sourcing neighbouring regimes affect their asylum policies. However, the reader should keep in his mind that the above mentioned factors are not the only one with adverse and negative impacts on refugees. Indeed, Sudan is a country lying in the middle of the “global south” with all the consequences it entails: lack of economic and political infrastructures, institutions’ capacity and effectivity in implementing reception.

For the first time, in 1965, Sudan became home for 6,000 “liberation fighters” from Congo. The term “refugee” was adopted in 1967 firstly to mean the de-politicization of the ideologically-driven exiles. The Congo, formerly Zaire, seized its independence in 1960 and a time-sequence of revolts and political transitions led those who had sparked the Simba revolt to seek safety in the southern region of Sudan, bringing with them sacked gold and arms, some of which ended up in the hands of the Southerner Anyanya rebels who would then use them against the northern-based-government in Khartoum. At that time, the Simba rebels were welcomed, since the Sudan was witnessing the Abboud regime’s overthrow by the popular uprising of the October Revolution in 1964 and the following transitional government, led by the Communist Party and intellectuals, keen to bargain a peaceful solution with the Sudanese southern region.

Things changed when in June 1965 traditional Sudanese political parties, the Umma and the Unionists, in their turn respectively backed by rival northern Muslim sects, the Mahdiyya and the Khatmiyya, won elections and linked Sudan’s diplomatic relations with Eritrean and Ethiopian displaced population with the government movements and political calculations in the South (Karadawi, 1999, p. 5). As traditional parties, they lacked a strong popular basis and were unable to set up a stable majority. Fragile coalition governments, which pooled very different parties together to survive, tried to cope with the increasingly costly and ruinous civil war in the south.

The southern border, however, was not the only one through which refugees had been seeking sanctuary into the country, since eastern Sudan was witnessing the failure of Eritrea’s incorporation into Ethiopia. Soon after, federal incorporation had started eroding and Emperor Selassie had laid down a strong centralized and personalized power against which the Eritrean Liberation Front (ELF) lashed out in 1962. What started as a trickle had become a steady flow and reached 45,000 refugees by 1970.

Meanwhile in Sudan, the struggle for the survival was abruptly interrupted by a military intervention in May 1969. Despite the bloodbath his regime (1969-1983) had been guilty, Nimeyri adopted a pro-Ethiopian stance which allowed him, supported by the Ethiopian Haile Selassie Emperor, to strike a deal with the southern rebels in 1972 in Addis Ababa (Karadawi, 1999), with which the south awarded regional self-government, a constitutional guarantee of its territorial integrity and the promise of being exempted from Islamic laws’ application. The peace agreement, however, did not bring stability with itself and Nimeyri tried to come up with a few more trees to bark up.

Still the Ethiopian revolution had to achieve its peak: in 1974, when the Emperor was pulled down, fighting intensified and took the shape of a typical proxy war as part of the Cold War stage. Such events triggered a new surge in refugees to Sudan, but cross-border cooperation was declining. The Ethiopian Army, aided by the Soviet Union, inflicted severe losses to the Eritrean rebels (now Eritrean People’s Liberation Front) at the end of the 1970s. The conflict was further compounded by tension and violence in the southern side of Eritrea, the Tigray region, where the Tigrayan People’s

refugees fled to Sudan by the mid-1980s.

The most porous border was still the southern one: in the 1960s, during the first Sudanese civil war, many Sudanese had found refuge in Uganda until when, in 1979, the flow took the opposite direction. Following the collapse of Idi Amin's regime, a long-lasting ally of the southern Sudan, 200,000 refugees fleeing the so-called "Obote II" leaked into Sudan (Harrell-Bond, 1986). His men found shelter in Sudan and he played some role in the renewal of fighting in the Sudanese southern region in the 1980s. Nor had the western border been shielded from the refugee flows: Chad was suffering from an evolving violent struggle. In the 1970s, it was a conflict of northern and eastern rebel factions which sought to take hold of the southern settlement of President Tombalbaye. After they succeeded in carrying the mission out, the two northern leaders staged a violent confrontation and finally Hussein Habre put his grip on power and held it throughout the 1980s. Decades of war, with its ups and downs in leaders' success and losses, led Chadians to cross borders and seek asylum in Sudan.

Indeed, in July 1976, the National Front, a Sudanese opposition movement, trained in Lybia and Ethiopia, sought to overthrow his rule. In other words, 'both Sudan and Ethiopia tried to use opposition groups and refugees to augment their bargaining power', as showed by the Nimeyri's attempt to push Dergue to quit its support to the National Front: "The presence of 100,000 Eritrean and 40,000 Abyssinian refugees in Sudan is not a secret. Such a number is capable of causing endless trouble for the ruling military regime in Ethiopia" (SUNA, quoted in Karadawi, 1999:60).

The "national reconciliation" of 1977 with his former enemies, the sectarian political parties, and cooperation with the Muslim Brotherhood, once Nimeyri dramatically changed course, paved the way for Islamist elements to soak in Sudanese politics. He took position in the Cold War order and suddenly switched to the Western bloc, while Ethiopia kept its links with the Soviet Union. His strategy, aimed at stemming the Muslim Brothers from gaining further support by adopting the September Laws in 1983, did not prove to be a successful path. Indeed, in 1983, a second civil war broke out between Khartoum and the southern region: grievances against the government's imposition of Islamic laws which would make southern population second-class citizens in their own country. Also, Sudan was charged by the Derg military regime of aiding rebels in northern Ethiopia while hampering the revolution. At that point the SPLM/A began a recipient of Ethiopian financial and military funds as a means to topple the Nimeyri regime, which, between 1983 and 1985 refusing to recognize the existence of a famine in the areas of Kordofan, Darfur and the Red Sea Hills, collapsed in April 1985.

As explained above, as political governments unfolded, they built up external relations changing over time, including those with neighbouring states and their respective rival rebel groups, sources of refugee flows, as in the case of the Sudan's friendship with, among others, the Simbas and Eritreans. The latter's faith and ethnic origins positively affected their reception in the country. In general, they were perceived as people struggling together with the wider Islamic/Arab world to curb Ethiopia. Additionally, eastern Sudanese shared common links with the region, their belonging to the Khatmiyya tribe order, a Sufi order able to take up positions in the parliamentary government through its political branch, the Democratic Unionist Party. Although the Sudanese government had declared its commitment to respect the OAU obligations about refugees, thus a neutral asylum policy, not set down by political relations with one or the other faction, Sudanese-Ethiopian relations were by then jeopardized. The OAU norms seem to be aware that refugees, during their exile, developed political consciousness and become able to affect home country's politics. If hosting countries

recommend displaced persons not to be involved in subversive acts while in exile, since it could drive the host government to be involuntarily implicated.

HISTORY OF REFUGEE FLOWS TO SUDAN: FROM AL-BASHIR UP TO THE PRESENT DAY.

Backed by the Muslim Brotherhood and the National Islamic Front, Al-Bashir's junta took power by bearing the Islamism's flag. His regime put an end to the democratically elected government of Al-Sadiq (see Chapter 1-2) and pursued an official policy of Arabization and Islamization, through a military regime which still today leads the country. The South was facing new challenges: the SPLA, the military branch of the Southerner rebels, lost supply lines and military bases in south-western Ethiopia after the Eritrean rebels and the Tigre People's Liberation Front, led by Meles Zenawi, took over the Ethiopian government in 1991 and Ethiopian President Mengitsu Haile Miriam was forced to flee Addis Ababa. He left a dangerous political vacuum, throwing Ethiopia into turmoil. Such a extremely risky political hole in the region was filled by the Muslim Oromo Liberation Front (OLF), a movement based in Sudan and used to launch attacks against the SPLA from the Upper Nile and Blue Nile.

Armed by the Sudanese Revolutionary Command Council (RCC), led by Al-Bashir, the OLF struck Gambela and Asosa's refugee camps, where southern Sudanese had hidden and found shelter. A mass flow of Southerner displaced persons, including the SPLA leadership, was unlawfully returned to the southern regions of Sudan and some of them, unable and unwilling to avail themselves of the protection of the Sudanese government, preferred to seek refuge in Kenya and Uganda. At Nasir, though UN agencies and international humanitarian organizations' workers were struggling to provide help to thousands of Sudanese starving to death, the RCC's air force nuked its southern population which had fled Ethiopian refugee camps as a result of the newly established Ethiopian regime (Burr & Collins, 2003, p. 53).

The SPLA's loss of the Ethiopian soil as a safe place (where it had established its office in Addis Ababa and moved its clandestine radio at Laris) rebounded on its internal cohesion. Its leadership suffered from an internal split along ethnic lines, triggering polarization and militarization of the two largest ethnic groups of the south, the Nuer and the Dinka. Three leaders from the Nuer and Shilluk tribes, including Riak Machar who was the SPLA chief in the Upper Nile and deputy to Garang, Gordon Kong Chol and Lam Akol, decided to issue the "Nasir Declaration", a document calling for South's self-determination and publicly speaking out against his authoritarianism and human rights violations. The newly-born splinter sought to get Sudanese government's weapons and financial support. Once cashed, the Nuer and Shilluk militia allowed the Sudan's People's Armed Forces to re-gain SPLA successful military conquests and definitively halt SPLA's onward march. The RCC had caught glimpses to end the eight-year long civil war in the South and finally make the Islamic Sudan like a dream come true. The short-run and immediately apparent outcome of such a strategy were a civil war within a civil war, which had generated further 270,000 displaced southerners by January 1992, and an ongoing internecine conflict along tribal lines in the South (Burr, Collins, 2003: 53-54).

Lying in the middle, between the Khartoum government's igniting policy and the ongoing civil war, the refugee issue in Sudan was further exacerbated when the Bahr el-Ghazal region in the South was disrupted by the 1998 famine, responsible for the death of 60,000 people. Corruption, nepotism, privatization campaigns in favour of Islamist elements and civil war (now told as jihad) have kept being steady features of al-Bashir regime's strategy in the south until the

kept unstable relation with their neighbouring country, also because of the Sudan's Islamist campaign and the perception of the country as a potential spot for Islamist radicalism to spread across the Horn of Africa. Evidences of foreign influences and Islamist radicalism's rootedness in the country may be found, for example, in the construction of the International University of African in Khartoum, funded by Al-Da'awa al-Islamiyya, an organization founded by Muammar Gheddafi with the aim of proselytizing through the establishment of offices in forty Muslim nations and missions in a score of African states. Colonel Gheddafi laid the foundations for a Sudanese branch in 1980: since then, the Da'awa has been involved in the creation of the Islamic African Relief Agency (IARA) to assist Ethiopian and Eritrean refugees in Sudan, a smart way of conducting secret intelligence operations, dressed up like a humanitarian organization, in order to aid Muslim revolutionary groups in the Horn of Africa (Burr, Collins, 2003: 15).

As Ahmed Karadawi, Assistant Commissioner for Refugees in the Sudanese COR, pointed out, a key factor in drawing and leading asylum policy is the state machinery (Karadawi, 1999). The Office of the Commissioner for Refugees was devised as body of the Ministry of the Interior and decision making process in Sudan has never been clear-cut as well as the civil service, including the top positions of the COR, was (as still now) politicized. Subject to many allegations about Sudan's use of refugees as pawns in its machinations and its ambiguous asylum policy, over the decade the country had to deal with the consequences of its geographical position, the region's instability and its tragic history.

THE 1974 REGULATION OF ASYLUM ACT

As Zaat, former Head of Office of the UNOCHA in Kuwait, highlights, the Muslim states have established systems of protection for refugees which combine national social-welfare protection mechanisms with formal modes of protection devised by international treaties and soft law agreements to fill the gaps the domestic legal instruments (Zaat, 2007). Since 1974, two years after the Addis Ababa Agreement ending the first civil war with the south, Sudan has been part to the 1951 Geneva Convention Relating to the Status of Refugees and its Additional Protocol of 1967. The main declared goal of the Geneva Convention is to lead and help countries develop domestic asylum mechanisms ensuring refugees' rights be fully respected as well as displaced persons enjoy relief and durable solutions. This is the reason why, just after ratifying the universal legal instrument, Sudan elaborated its own national legislation, the 1974 Regulation of Asylum Act.

The Regulation of Asylum Act of 1974 was one of the most comprehensive and thorough asylum legislation in the continent and could be a useful model for countries experiencing such large inflows as Sudan. The former Sudanese national regulation supplemented by the 1951 Convention was able to provide displaced people with a high level of protection and assistance. Moving on to present the main provisions, the refugee status is not as defined as in the 1951 Convention, since the individual recognition of the refugee status is not at all a feasible way in developing African countries, where flows are huge and individual screening and registration procedures would be endless. That is why the 1974 Act embraced the Article 2 of the OAU Refugee Convention and integrated objective criteria, such as *events seriously disturbing the public order*: "every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country or origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or

procedure group determination or *prima facie*. Detailed procedures on how asylum seekers were to be registered did not exist. Cases, since 1974, are handled by the Commission for Refugees at the Ministry of Interior, while previously, during the 1960s, Eritrean and Zairean cases were analysed by the Council of Ministers.

The main limits of the Regulation include the failure to fully entrench the non-refoulement principle as a customary norm of the international legal system in the 1974 Act; refugees' stay on the Sudanese territory was on a temporary basis, hence the lack of tools to favour refugees' integration on the Sudanese soil; refugees, moreover, were prevented from owning land or immovable properties, as stated in Article 9; finally, as a result of Sudan's reservation to Article 26 of the 1951 Convention, which states: "Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances", people finding relief on the Sudanese soil, had to obtain the authorities' permission before leaving the habitual residence place, since otherwise they would encounter the risk of imprisonment until one year if founded outside the camps. Such a provision, article 10 of the 1974 Act, limiting their freedom of movement and residence was aimed at preventing refugees from integrating into the community and finding a durable solution into the asylum country. Gaim Kibreab, Research Professor and Course Director of the MSc Refugee Studies at London South Bank University, explains the Sudan's strategy by stating: "The reason why the government labelled the Eritreans as refugees was also to prevent their integration into the host society by putting them in spatially segregated sites with minimum opportunity for social and cultural integration. Self-settlement of refugees in general and in the urban centres in particular have, therefore, been discouraged by the various state governments." (Kibreab, 1996, pp. 131-178).

Overall, refugee laws and policies pursued by the government have brought about a generous open-border policy which acted as a magnet for neighbouring countries' nationals. But, in 1988, to reverse the upward path and thus to contain the endless wave, the government started designing an alternative strategy to curb the ongoing arrivals and sudden surges by issuing a new policy: refugees' reception now had to include social and national security considerations, Sudanese decisions about their acceptance must stop being affected by neighbouring countries, the international community had to start playing a larger role in terms of financial resources and being held responsible as main donor, while the Country would act as mere executor but would stop bearing any additional economic burdens.

Looking at government and authorities' practice, however, as Karadawi (Karadawi, 1999) explains, since the 1980s Sudan has pursued an unclear and incoherent asylum policy which was contingent on domestic political equilibria and external alliances in the area. Indeed, although asylum policy in Sudan was legally defined by the Regulation of Asylum Act, during the 1970s and the 1980s, the country's attitude toward Eritrean and Ethiopian was not smooth and well-defined. With no doubts, it may be explained by the Government's economic constraints and the further burden arising from new arrivals. Yet its ambiguous approach was also the outcome of political will and calculations: political and diplomatic considerations came into play in the unstable relations typical of the Horn of Africa. At a time of improved relations and increased stability in the area between 1990 and 1994, Eritrean and Ethiopian refugees' living standards in Sudan raised: restrictions on their freedom of movements were lifted with Ethiopian and Eritreans being allowed to leave their camps and relocate to find a job in urban centres. To better explain the proportional relationship between stability and refugees' treatment, it must be highlighted that Eritrean and Ethiopian nationals' stay in Sudan got worse once again when the two countries, in 1995, charged Sudan of plotting the death of the Egyptian President. As a result,

THE 2014 ASYLUM ORGANIZATION ACT

Over 2014, the country has embarked on a path of legislative regulation of migration phenomenon, by issuing a set of laws aimed at giving a structured response to refugees and migrants' flows toward Sudan. including. An extremely intense legislative activity which includes the Asylum (Organization) Act and the Combating of Human Trafficking Act, followed by the Passport and Immigration Act the following year, and is the direct result of its participation to the Rome Declaration of November 2014, where officials and representatives of the European Union and African Union pointed out the need "to undertake concrete actions to prevent and tackle the challenges of human trafficking and smuggling of migrants between the Horn of Africa and Europe" (Khartoum Process, 2015). As a member of the Steering Committee, the Sudan works at the core of the Khartoum Process, a platform of inter-continental cooperation among countries along the migration route between the Horn of Africa and Europe, with the aim of preventing and fighting international crimes such as human beings' trafficking and smuggling. As noted by the UNHCR Assistant Representative for Protection in Sudan, the country lacks constitutional guarantees on refugees and asylum seekers' rights, but its asylum policy is today regulated by the 2014 Asylum Organization Act, drafted by the Sudanese government with the UNHCR support and guide. Despite Sudan's development of its own rules and principles for coping with both refugees and IDPs' issues, the country left out to devise detailed policies and strategies (Karadawi, 1999). The 2014 Asylum Organization Act's articles legally translate (perhaps not in perfect terms) and enshrine international principles of the 1951 Convention, the 1967 Protocol relating to the Status of Refugees, and the 1969 OAU Convention governing specific aspects of refugee problems in Africa (Ron Mponda, 2018). The Office of the Commissioner for Refugees (COR) is responsible for administering asylum policy in the country (Asylum Regulation Act, 2014, Article 25.2: "The Commission shall be responsible for all matters relating to refugees in Sudan.") and the COR is in charge of determining refugee status and issuing refugee identity documents, while the UNHCR has sought to preserve custody of Convention Travel Documents.

Under Chapter Three, Section 18, of the Asylum Act, the refugee is allowed to work but only after the competent labour office issues a work permit and the UNHCR has often made it clear that "realistic arrangements which comply with the Convention obligations need to be agreed with the Ministry of Labour." Furthermore, the second sentence of Chapter Six, Section 32, relating to detention, shows to be inconsistent with the first one: "Any competent authority whenever it detains any refugee or asylum seeker shall notify the Commission immediately of such detention and the reasons thereof for the purpose of cognizance and follow up. No information concerning the detention shall be disclosed unless consultation and coordination are being made with these competent authorities." If detained, transparency need to be applied and modalities of information disclosure need to be adopted. As the US Department of State clearly reports, asylum seekers and refugees are likely to be arbitrarily arrested and harassed out of camps, because they are not often issued with documents attesting their status while waiting for authorities' recognition procedures. Such illegal events are recorded as the current practice in urban areas as well, if they move from the designated camps without owning the authorization. Each month, Sudanese authorities keep detaining about 150-200 refugees and asylum seekers in Khartoum (Sudan 2017 Human Rights Report). Authorities claim that the country grants refugees the freedom of movement, not adding the requirements needed to exercise this freedom: to be registered and issued with travel permits before leaving. This procedure, according to officials, would help their personal security. Finally, Chapter Seven, Section 35, includes a discriminatory provision on contraventions and crimes. Indeed, refugees and asylum seekers

than the Asylum Bill providing for specific penalties targeting only refugees. The US State Department confirms they ended up to be sanctioned with administrative fines once they come back to the designated camp.

However, law enforcement and judicial authorities did not consistently follow the provisions. Also, in Sudan, the universal asylum system, as laid down in domestic legislation with the 2014 Act, is just only one side of a dual mechanism. Keeping faith to Islamic and Arab values, the Sudanese Government added the Arab/Islamic notion of asylum with its definition “brothers and sisters” to cover Yemeni, Syrian and South Sudanese refugees. Though this latter approach falls outside any legal framework of refugees’ protection, many have highlighted it reflects the Sudanese government’s good faith since it, facing several economic and financial challenges, still seeks to show “brothers and sisters” solidarity and provide them with temporary accommodation and hospitality. The Sudanese government, embracing pan-Arabism and pan-Islamism ideologies, has held an open door policy: the Islamic notion of *amān* enables Yemeni, Syrian and South Sudanese people seeking asylum in Sudan to freely remain in the country with no visa required for entry. In details, Sudan has received about 100,000 Syrian refugees who are settled in Khartoum because of an already existing Syrian community, and are granted access to health and education services (Humanitarian Bulletin Sudan). As Mr. Ron Mponda stressed, the broad set of Arabic terms to mean “refuge”, “seeking refuge” or “seeking protection” highlights, on the one hand, how the right of asylum is a compulsory social practice, an inherent feature of Arabs and Muslims thus paving the way for an immediate and smooth assimilation of refugees into society. Yet the richness in synonyms has, on the other one, left the issue not tightly defined in legal terms.

Although the government has never officially stated and legally adopted this policy, the definition was attached for the first time to Somali and Iraqi nationals who sought refuge in Sudan in the 1990s. Being in the middle, between the perks associated with solidarity’s manifestation and legislation governing their real life in Sudan, refugees fleeing Yemen, Syria and South Sudan have been experiencing a challenging daily life in Sudan, also because they have frequently been charged of putting strains on public budget and being a potential threat to national security. Indeed, acting in good faith (Ron Mponda, 2018), the government struggles to ensure this category be adequately treated and given the same services as if they were under international protection. Even though no contradiction between the Arab/Islamic notion and the international definition can be traced, thus theoretically not foreclosing the government to define them as refugees, the government is being misled and does not deal with them as refugees.

The Arab/Islamic system, applied by the Sudanese government according to convention and principles of Shari’a, gives rise to just one inconsistency with article 1.E of the 1951 Convention: “This Convention shall not apply to a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.” Indeed, unlike Gulf Arab countries, the government, being constrained by heavy economic and financial conditions, is not able to ensure “brothers and sisters” with an equal and full treatment. Yet it remains stubbornly to adopt the Arab/Islamic notion towards them, but at the same time it also demands the undue UNHCR’s intervention for their reception and assistance. The consequences resulting from the government’s misunderstanding are weighing heavily on unrecognized refugees’ shoulders: they are neither issued with a Refugee Identity Card nor they are not entitled to call upon the durable solution of resettlement. In particular, Syrian nationals are being issued with an Assistance Card only and Yemeni citizens, though registered by the UNHCR, are not being given any identity document.

refugee has to meet certain legal conditions before he could hope to be fully assimilated and locally integrated, the Arab/Islamic notion of asylum aims at treating them as citizens thus involving an immediate and easy social assimilation. Barbara Harrell-Bond, founder of the Refugee Studies Centre at Oxford University, in her book *Imposing Aid: Emergency Assistance to Refugees* strongly argued that people should be allowed if possible to settle amongst the local population and be assisted in the host community to find a means of gaining a livelihood. Similarly, though the Act makes naturalization possible for refugees (Chapter Four, section 23) practically the legal provision is not fully implemented. Though making refugee status' recognition meaningless, the Arab/Islamic notion does not amount to recognize and grant asylum, but just to temporarily host the "brothers and sisters". If placed under this latter label, refugees enjoy freedom of movement, the right to work, access to social and other services (free education and medical care), and the right to choose where to stay, the latter freedom being denied to legally recognized refugees who must abide by the encampment policy, as a result of Sudan's choice to make a reservation on Article 26 (freedom of movement) of the 1951 Convention, driven by the social perception of refugees-related issues as being a security problem.

As Mr. Mponda argues, UNHCR Assistant Representative (Protection) in Khartoum, in the Arab world, generally, political reasons drive governments decision not to define refugees as such: the resettlement as durable solution would endanger the Umma's cohesion and would empty the Arab world of its citizens. While at the same time, as Professor Idris Salim Al-Hassan, Dean of the Faculty of Arts of the International University of Africa, explains, naturalization has its own economic implications: though in Eastern Sudan, refugee settlements are home to three successive generations of refugees, who do not speak their mother tongue and are not accustomed to their country of origin's way of living and culture, Sudan is unwilling to make them citizens (Interview ElHassan, 2018). Once naturalized, government coffers should take on an additional economic burden. Durable solutions for refugees in Sudan are not implemented, causing protracted displacement of many communities. By 2015, Sudan had 74,000 protracted refugees in Eastern Sudan's camps, 58% of which were born in Sudan (EuroTrends, 2015).

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CHAPTER 4

INTRODUCTION

This chapter has been designed with the intention of proving that, as showed by the outbreak of new fighting in South Sudan even after seizing independence, Islam and imposition of Shari'a as the law of the land over the whole country by successive Sudanese governments over decades, cannot ultimately be regarded neither as the true factors triggering the longest civil war in the history of the African continent or even the key variable explaining Sudanese government attitude toward South Sudanese refugees, whether warmly welcomed or not. On the contrary, religious rhetoric has over time been deployed opportunistically as a powerful weapon inside a conflict which is primarily a political and economic one.

Nevertheless, this narrative, so much invoked by both sides' political elites, has entered public opinion language and minds. In other words, the root causes of the civil war are being constantly reduced to a stereotype involving religious identity: a conflict between the Muslim North and the Christian South. This pretty simplistic and reductive approach, where religion symbolises the reason why the civil war is being fought, turns a quite complex local conflict into an issue which may be easily translated in such basic universal binary terms as Muslim-Christian, Arab-African, and north-south. Manipulation of religion by both the northern and southern political elites has been instrumental to mobilize military and ideological public support inside Sudan and win foreign alliances and aid abroad.

While Sudanese state, "seen as a function of how people identify themselves and are identified in race, ethnicity, culture, language, and religion and how such identification determines or influences their participation in the political, economic, social, and cultural life of their country" (Deng, 1995, p. 13), has been built on a presumed Arab-Islamic identity, the non-Arab population, both in the north and the south, still represents the majority. Yet a marginalized and oppressed majority. Some analogies from past policy in South Africa, where non-White population is excluded, may be drawn. Over the decades, the Khartoum government has pursued an apartheid policy both by discriminating those who stood firm against Arabization and Islamization, and by seeking their assimilation. Claiming their authenticity as pure and genuine Muslim Arabs directly descending from the early followers of Muhammad coming from the Arabian Peninsula, they have not recognized legal equality to those who have preferred to bow down to Arabization and Islamization. They still lack full-fledged Arab and Muslim identity.

SHARI'A AND REFUGEES: WHAT HAPPENDE AFTER SECESSION?

In Sudan, the relation between religion and state has developed over the years as the key element of hostility. Religion's central role in shaping individuals' relations with the state means that faith opens or closes the access doors to the state's system and services. In the Sudanese context, religion has become entangled with racial identity, "since Islam in the Sudan is closely connected with Arabism as a racial, ethnic, and cultural phenomenon" (Deng, 1995, p.16).

Identities and their employment by elite's rhetoric in Khartoum have also affected the way regimes, above all the al-Bashir government, have handled the issue of South Sudanese refugees after secession in 2011. Shifting identity from foreigners and migrants to refugees and brothers, from stateless to Sudanese citizens is a heavily constraining feature of

institutions is the product not only of the political context in the South, but also of social and political relations between the two Sudanese neighbouring countries. Over the years, continuous changes have thus determined their living conditions and the degree of openness of social services they are entitled to access.

NEITHER SUDANESE NOR SOUTH SUDANESE

In this sense, the asylum system in Sudan, on the one hand, has grounded its legal existence on Shari'a and the countless precepts the Sunnah lays down and the Muslims are proud of, and, on the other, has granted access to services by religiously-based discriminatory means.

On July 9th, in application of the striking majority of the yes vote, the Southern region achieved its independence. Immediately after, Sudan made legal adjustments to its Nationality Act: the Sudan, as the pre-existing international actor, was able to impose that people coming from the South would be stripped of their Sudanese citizenship, without setting up either provisions for appealing against such discriminatory policies or legal amendments for changing their civil status. In particular, the amendment to the Nationality Act reads: "Sudanese nationality shall automatically be revoked if the person has acquired, de jure or de facto, the nationality of South Sudan". Any seeming link with South Sudan was used as justification for depriving people of their Sudanese nationality. And as, Sanderson explains, "Their combined effect is to strip those individuals with ethnic or familial connections to South Sudan of their Sudanese nationality. Those individuals who are subsequently unable to confirm their citizenship of South Sudan will be rendered de jure stateless while the many who lack effective state protection and remain stranded outside South Sudan are left as de facto stateless" (Sanderson, 2014, p. 243). The government, driven by anger and hatred for the outcome, held on to the supposed yes-vote in favour of secession as a pretext for making people stateless and repatriate them: "It was reported by the Sudanese authorities that Sudanese nationality would be revoked for those who voted for separation and registered for leaving Sudan. Those who selected unity would retain theirs. Over 90% of the voters chose separation" (ElHassan, 2016). At that time, about 500,000 former Sudanese citizens living in Khartoum and coming from the south were potentially at risk of statelessness (UNHCR Global Report 2011). This legal gap in their identity was further exacerbated by disagreement between the two states over territorial claims and contested resources at their mutual border. Issues in the relationship between Khartoum and Juba, like the River Nile waters, environmental, oil and mineral resources, and agreed boundary lines, were not completely settled by the several agreements signed in Addis Ababa on September 27th. Among the nine deals, the Four Freedoms Agreement aims to deal with obstacles refugees, internally displaced persons and returnees, mostly from the South, had to face in the wake of secession.

NO PEACE FOR THE SOUTH

When new clashes exploded once again in late 2011 in Juba, the Sudanese President of the Republic, Omar Al Bashir, warmly welcomed asylum seekers and refugees from the South: they would be hosted as individuals who enjoyed the same legal status as Sudanese citizens'. In application of the principles and mechanisms provided by the Framework Agreement on the status of Nationals of the other state and Related Matters between the Republic of the Sudan and the Republic of South Sudan of September 13th 2012, aimed at laying down favourable principles for the treatment by one state of the other's nationals, South Sudanese enjoy the same treatment as their former nationals inside the Sudanese territory, in respect of residence, movement, economic activity and the right to acquire and dispose of property.

In December 2013, the barely three-year newly born South Sudan fell back to renewed widespread violence. On the evening of December 15th, a political showdown that pitted the two main ethnic groups, Dinka and Nuer, against each other within the country's leadership, reached its height. A third tribe, the Shilluk, became involved in the war. That night many Nuer were killed in Juba and many Dinka were murdered in Greater Upper Nile unleashing a country-wide conflict. The group associated with the Vice President Machar fled Juba and formed the SPLM-IO (In Opposition) in Jonglei State.

The sought-after independence of the South was not enough to quell dissent and satisfy South Sudanese claims. Another civil war broke out in the South in December 2013, but this time the key actors which were involved in the new fighting were the major tribes of the newly born South Sudan, with Khartoum once again pursuing a divide-and-rule strategy. As the war raged, civilians were the main victims as usual: children, women and old men experiencing killings, burning, raping and the destruction of properties by the rival fighting groups. In January 2014, fresh waves of refugees started coming to Sudan from the Republic of South Sudan.

ASSESSMENT ON THE SOUTH SUDANESE REFUGEES

As of July 2018, 2.5 million South Sudanese refugees scattered over the Eastern and Central African countries. The UNHCR's 2018 Regional Refugee Response Plan estimates that, as of November 2017, since the outbreak of the civil war in the South, Sudan has become home to 805,000 South Sudanese refugees, and has hosted the second-largest share of South Sudanese refugees in the region. Such an amount includes 352,400 South Sudanese refugees (who have been recently included in the South Sudanese refugee population) who were already living in Sudan before the civil war's outbreak (UNHCR 2018 South Sudan RRRP). It also foresaw during 2018 a potential increase of around 20% in the South Sudanese refugee population to just over 1 million refugees. If the conflict should continue, Sudan would be the second country only after Uganda as safe haven for South Sudanese refugees (2018 South Sudan RRRP).

The first flow, poured into Sudan in 2013, headed toward the White Nile State and its two camps, Kilo Number and Alagaya, where Dinka and Shilluk tribes are hosted, are located close to the border with the South Sudan. Hostility between the Nuer and the Dinka has prevented the former from being settled in those camps at the border. South Sudanese who have continued to flow over the years, with the majority settling also in East and South Darfur, Kordofan and Khartoum, are driven by food insecurity (with malnutrition rates above the emergency levels) (UNHCR, Final Evaluation Report 2018) and ongoing violence in the new born state (South Sudan RRRP 2018). 78% of South Sudanese refugees reside outside the official camps, while the White Nile State's situation may be deemed as atypical since the majority of them has been encamped.

UNSTABLE AND CHANGING IDENTITY UNDER THE SUDANESE LEGAL SYSTEM.

As already stated, Sudan lacks a coherent asylum policy and, as it will soon be showed, it has much to do with different ministries' overlapping, if not inconsistent, actions, responsibilities, statements and practices. Before September 2016,

not legally defined and thus officially recognized as refugees, they fell outside the COR (Commission for Refugees)'s responsibility. As a result, the Government's response was carried out, up to September 2016, by the Humanitarian Aid Commission (HAC) rather than the historical UNHCR's Sudanese counterpart. A clear strategy of taking the reception and management of South Sudanese refugees' away from the COR's tasks was brought forward. The government's aim was to confer the job to the HAC, which is an institutional body with no experience at all with refugees as its mandate concerns IDPs, and therefore keep the UNHCR out of South Sudanese refugees' assistance as well. Given the HAC's poor skills in dealing with refugees, the Commission increasingly delegated their protection and the relative administrative procedures (registration, reception and camps' management) to the Sudan Red Crescent (SRC). Thus, up to September 2016 when they fell under the Arab/Islamic conception, the UNHCR's role in handling South Sudanese arrivals' protection was not clear.

However, this opaque allocation of responsibilities and South Sudanese unrecognized status as refugees, did not preclude the international community from holding the government responsible for violations of the universally recognized minimum standard of refugees' treatment and the UNHCR from filing complaints against it and resorting to the Universal Periodic Reporting Mechanism (also as a result of the government donors' protests and pressures) against the government's breaches of non-refoulement and unlawful detention of refugees.

Former Sudanese citizens in the South fleeing from their collapsing yet newly-born state embarked upon far from being a smooth path of recognition of their refugee status and a troubled reconfiguration of their identity in the Sudan state. The Quadripartite Memorandum of Understanding of December 15th 2014 referred to them as "displaced persons from South Sudan", whereas just six days after, on December 21st, the Tripartite MOU on the registration of South Sudanese in Sudan between the UNHCR, the COR and Directorate General of Passports and Immigration, adopted the Arab/Islamic definition. Under the limb of the latter conception of asylum, people enjoy greater privileges than freedoms and rights refugees are entitled to under the universal definition of the 1951 Geneva Convention. Among them, the most significant achievement concerns the recognition of the freedom of movement and residence to a population that until a few years before was Sudanese and thus was totally integrated into the local economic and social structure.

As stated by President al-Bashir, "The beginning of the registration and documentation of South Sudanese is an important step to ensure they will enjoy the same level of rights as Sudanese citizens." Such procedures would provide them with identity cards and make them entitled to stay, work, freely move across the Sudanese territory and to other public services, as already agreed in the Four Freedom Agreement of September 2012 between the Sudanese government and the Southern counterpart. In other words, from 2013, when the mass influx of South Sudanese began pouring in, Al-Bashir and his government held the "brothers and sisters" definition as synonym of the term "refugee". According to Mr. Mponda (see in Appendix 2), he was actually acting in good faith and meant to say: "We are going to treat you as full-fledged citizens".

A new surge in the amount of arrivals was recorded in February 2015 in the wake of renewed hostilities and violence in Upper Nile State. In August 2016, a Cabinet Directive issued that South Sudanese would no longer be defined as "brothers and sisters", but as "foreigners", thus urging adjustment and regularization of their legal status and residence in Sudan. Such a new striking definition was also acknowledged by the Decisions of August 15th of the "Higher Council for Migration and Control of Foreigners Presence in Sudan" and the COR's letter of August 28th (COR letter 2016;

South Sudanese who entered Sudan's territory after July 1st 2016 would be recognized as "refugees" (Dinka), as legally distinguished from those who were already living in the Open Areas and the White Nile State territory, who were instead supposed to regularize their presence in the country.

This U-turn and confusing decision was made just as in Juba new bloody clashes exploded. This choice, about to be discriminatory, was publicly announced during the President's visit to the Darfuri region. Campaigning for the yes vote in the referendum, during his stump speech, he strongly argued that his government would oppose the settlement of Dinka population in Darfur as a way of preventing it from blending with Nuer and Shylluk refugees "who were being killed by the Government in Juba."

The decision's cut-off date would seem to belie Mr. Mponda's previous statement. Segregation would meet allegedly security concerns and therefore stem from the need to physically separate the new arrivals of Dinka ethnicity, which is the ruling elite in South Sudan, from the Nuer and Shylluk. The latter, the most long-settled tribes in Sudan, are those affiliated with the opposition group of Machar. The practical result was that "refugees", made up mostly of Dinka tribe, would be subject to the encampment policy and the consequences it entails, while "foreigners" would enjoy the four freedoms guaranteed to South Sudanese refugees.

The Sudanese government decided to cope with issues allegedly concerning national security by manipulating the asylum system and instrumentally using rights and freedoms in an ethnically-based discriminatory way. The Sudanese government committed itself to the policy of Taawali, what American scholars call "blowback". In other words, Al-Bashir was not prepared to treat with a new understanding of a dismembered Sudan and had to deal with its unwanted side-effects. When, during the stump speech, Al-Bashir was asked why "are we Dinka people not allowed to freely move like the other South Sudanese refugees?", he answered that he will not allow them to go to Khartoum or wherever they liked, having the chance of killing their tribal rivals on the Sudanese territory. Even though the secessionist event was result of a long elite-driven process, its adverse effects were mostly borne by civilian population, which were unaware of continuing evolving relations between the two states. Since they fell under the Arab/Islamic umbrella, the Nuer and Shylluk were allowed to freely move in the White Nile State and Khartoum, whereas the Dinka were not permitted to. Then other things, such as the ambiguous role of the UNHCR in dealing with them, came to make the things even worse as a result of this statement.

Finally, on September 1st 2016, the Khartoum Government, through the Memorandum of Understanding between the UNHCR and the COR, defined all South Sudanese population living in Sudan as "refugees", without either making any qualification, or employing geographic or time limitations, and clarified the COR's main role in supporting the humanitarian response on behalf of the Sudanese government. As Mponda immediately clarifies in his "Legal Opinion" (Mponda, 2016), the MOU of September 1st is thought to be a definitive document finally breaking the ongoing deadlock and settling the issue over the South Sudanese refugees' constantly changing legal identity. Yet it falls short of what it was supposed to be. Wondering why Sudanese authorities have, over time, relied on "piece-meal Agreements" that deal with the unresolved problem of South Sudanese refugees, Mr. Mponda (Mponda, 2016) concludes that they do not nothing but to prove widespread confusion, on the one hand, of state's institutions and officials who do not grasp the significance of the status of "brothers and sisters" as part of the Arab/Islamic conception of asylum Sudan applies; but also on the UNHCR's side, which, however, in its defence, had the urgent need to ensure that South Sudanese refugees

the COR was not to be involved in dealing with South Sudanese refugees and that, as far as documentation, by virtue of the 2014 Tripartite MOU, the parties had agreed on the registration in Sudan.

Rectifying the just-issued MOU's position, the Minister of Interior, on September 20th, took a step back once again and deleted the MOU's general scope and application when he brought the cut-off date back on the table, using the definition "refugees" to label only South Sudanese arrivals, entering the country after July 1st 2016. The time and geographic limits, yet, lasted just few months, up to December 2016 when the Minister of Interior issued another directive conferring the COR the competence to handle South Sudanese refugees, wherever they lived. The last Government's decision date back to January 2017, according to which all South Sudanese refugees are to be subject to the encampment policy, implying that those who had been living in the Open Areas of Khartoum were to be relocated in the White Nile and Gedaref States' camps.

REFUGEES, IDPs, ARRIVALS OR "BROTHERS AND SISTERS"? THE CONSEQUENCES

The UNHCR Assistant Representative, Ron Mponda (see in Appendix 2) has recognized the UN Agency's mistakes in accepting the Sudan government's application of the Arab/Islamic notion: the misinformed and oblivious argument used by the UNHCR was that, since they were granted greater freedoms under the Arab/Islamic notion, South Sudanese can access services that officially recognized refugees are not usually entitled to. But such a justification ended up with the UNHCR supporting and working in a system where services were not fully available, sub-standardized, and where the supposed right to employment took the slavery and exploitation's shape (as in the case of South Sudanese working the whole day in the construction sector and being paid 10SDG per day). The UNHCR keeps advocating out-of-camps solutions for South Sudanese refugees, but the same people the Agency is advocating that policy on behalf, are starting to ask for camp-like situations where assistance and protection are available. This, admittedly to the UNHCR's credit, encampment strategies would undermine their self-sufficiency and further promote dependence of foreign aid. Further, since early 2017 when the government qualified South Sudanese population on the Sudanese territory as entitled to asylum recognition under the universal definition, it started calling for limits to be set on South Sudanese refugees' freedoms of movement and employment, despite the Four Freedoms Agreement of March 2012.

Doubts on whether South Sudanese refugees should be reserved the same treatment as all the other refugees', have raised. These concerns are borne out by statistics, as 70% of them are completely integrated in the host communities and the general encampment policy aimed at refugees is not the best suited to meet the South Sudanese population's needs and demands. Out-of-camp alternatives fit more effectively their living standards because of their particular status as former Sudanese citizens and their decades-long permanence in the Northern region. As Idris ElHassan explains (see in Appendix 3), many of the "arrivals," especially the Shilluk, were Sudanese citizens before the secession and were residing in the area as citizens, being endowed with houses and regular jobs, and speaking fluent Arabic. Some of them intermarried with Arabs and other Sudanese local populations. In fact, some of the so-called "arrivals" did not sell their houses and other forms of property when they left Sudan after the secession. As tensions burst in December 2013 and, deeply disappointed and frustrated, they returned to the country as foreigners entitled to asylum, places and peoples in Sudan were not strangers to them. However, they found out that: "...they are now no longer citizens, refugees, IDPs or stateless", as Idris ElHassan wrote in 2015 (ElHassan, 2016), with the only one modification being the lack of a legal identity. Historical, social and cultural links with Sudanese society were much more resilient than the newly established

in a legal limbo.

When in 1974, Sudan ratified the 1951 Geneva Convention, the government made a reservation on article 26 granting refugees' freedom of movement and the right to choose their place of residence, insisting that refugees crossing the borders in the east and the west were to be encamped, a claim made on the basis of security concerns. Even at that time, Sudan was receiving huge flows, above all from Eritrea and Ethiopia, where rebel movements made inroads with the southern opposition group and its military branch (SPLM/A): to be contained, they were to be encamped. Its national asylum policy, since then, as stated in its domestic legislation, adopts the encampment policy and ends up to penalize refugees who try to leave designated camps in eastern Sudan, mostly set to host Eritrean refugees. But recent estimates show that by early 2018, 78% of South Sudanese refugee population in Sudan is believed to be living out of camps and integrated with the host community in urban and rural areas in Southern and Western Kordofan, Eastern and Southern Darfur (UNHCR 2018 Evaluation Report). To make up for this practice, the Khartoum government has often, with pleas falling on deaf ears, threatened to move South Sudanese population by force and relocate it to designated refugee camps, if they should be found to be living out of Khartoum and White Nile States' camps. However, "by year's end the government had yet to relocate South Sudanese refugees to camps" (US 2017 Report, p. 31).

Despite the post-secession huge flows of South Sudanese arrivals asking shelter and a new surge in early 2017 (185,000 as of 31 October 2017) as a direct outcome of the Juba clashes in July 2016, the Government of Sudan has kept an open border policy, ensuring safe and unrestricted access to protection and safety within its territory, as frequently recognized by international institutions and foreign bodies. For example, the US Department of State acknowledges in its 2017 Report that 'the government generally maintained an open border with South Sudan. The government position on the status of South Sudanese in the country, however, changed on multiple occasions based on improvements or contentious points in the Sudan-South Sudan relationship' (ibid. p. 35).

Upsurge recorded in 2017 may be explained by a sharp increase in the new arrivals, but also by the decision of the Government to include South Sudanese arriving before 2013, mostly settled in Khartoum, under the label "refugees". Indeed, as reported by the UNHCR, as by December 2016, Sudan hosts today more than 793,700 refugees and asylum seekers (UNOCHA 2017 Overview) from South Sudan, while the national Commission for Refugees' estimations speak of as many as 1.3 million people, a gap explained by a lacking registration processes and a consistent number of South Sudanese at risk of statelessness. The picture below shows the South Sudanese arrivals' trend from 2014 to 2017 (UNHCR 2017a).

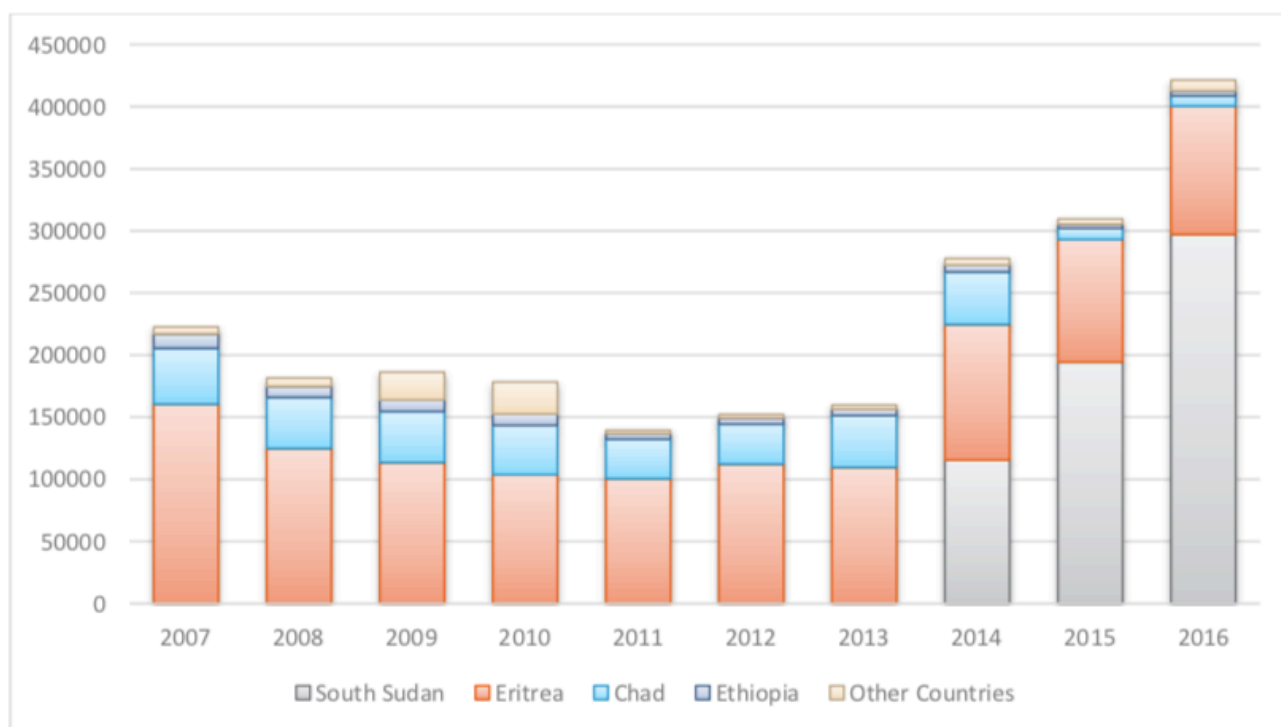
Figure 6: Arrival Trends of South Sudanese Refugees into Sudan, 2014-2017



Source: UNHCR, 2017a.

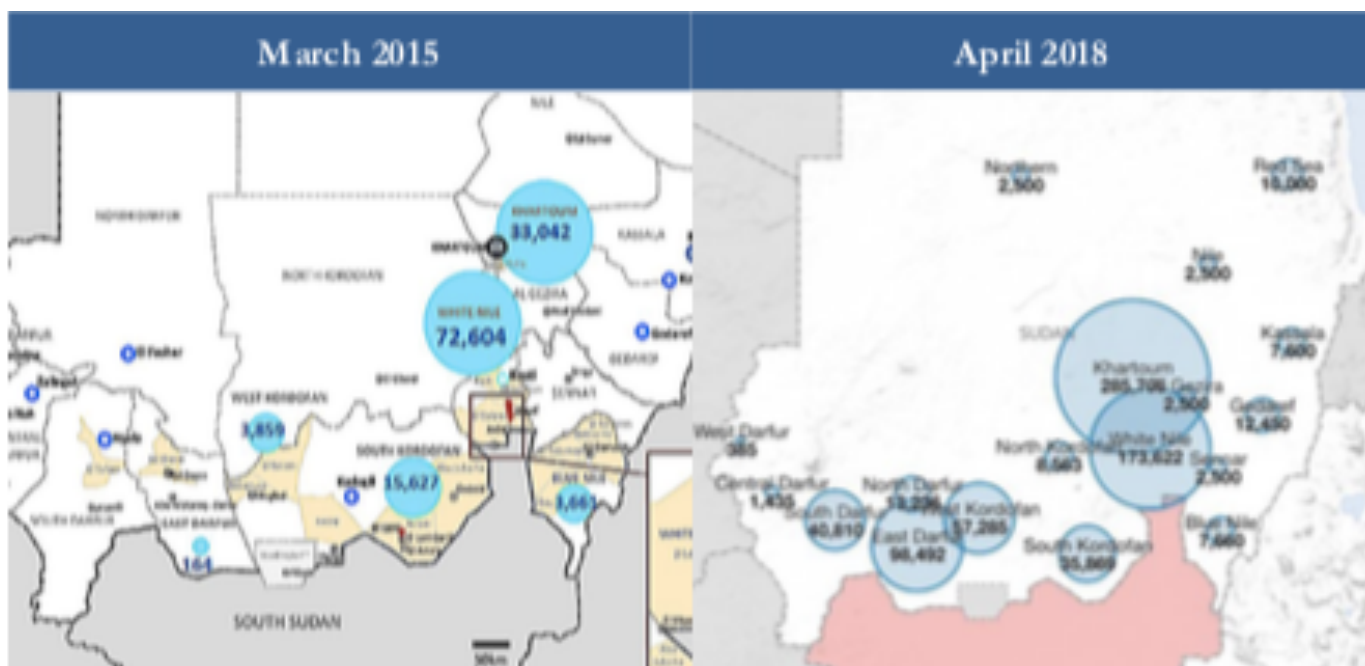
As of November 2017, according to the UNHCR, 853,258 South Sudanese refugees permanently live in Sudan, an amount including the 350,000 individuals who, even after secession, did not get back out on the road and did not move back to home, the newly independent South Sudan. As showed by the figure, Eritreans represented the largest refugee population residing in Sudan up to 2014, when South Sudanese refugees became the biggest piece of the cake (figure below, UNHCR 2017c). The 2018 South Sudan Regional Refugee Response Plan has foreseen that Sudan will be home to 1,007,000 South Sudanese individuals by December 2018 (2018 South Sudan RRRP).

Figure 5: Refugees residing in Sudan by nationality, 1980-2010



Following the 2011 referendum on the fate of the Southern region, 250,000 people of southern origins were residing in Khartoum State. Raising high expectations about their return to South Sudan, the secession led the Government to map out the so-called “waiting stations.” Such points were initially set up by the South Sudan Relief and Rehabilitation Commission and the Commissioner for Voluntary and Humanitarian Work with the aim of organizing South Sudanese displaced persons’ voluntary return. With resources being diverted to the referendum’s preparation, but also with the outbreak of the civil war in the newly independent country, these locations turned out to be the infamous Open Areas which surround Khartoum and are scattered over the region, where between 40 and 50 thousands of former Internally Displaced Persons (IDPs) are still experiencing serious humanitarian needs (poor health, WASH and shelter services). Following the Government’s Decision to resettle South Sudanese refugees living in the open areas surrounding Khartoum, the UNHCR diplomatically suggests to carefully take into account the vulnerabilities and strengths of this

become dependent on humanitarian handouts as a result of the cycle of displacement, just like it by now is the case of Eritrean refugees in Eastern Sudan: “While fully respecting the Government’s sovereign prerogative to devise and implement policies that affect refugees, it is advisable to manage the relocation from a consultative perspective rather than relying on enforcement measures only. It is important to bear in mind the background of this population; the factors that characterize the settlement pattern (in terms of social networks, including those forged with Sudanese nationals when the two countries were still one, as well as the uncertainties created due to the delayed return home since 2010), individual efforts exerted thus far to survive in the urban context, and the traumatic effect an uncoordinated non-consultative relocation would produce” (UNHCR Khartoum, Discussion Note, 2017).



The figure shows that, since March 2015, new arrivals gathered in the White Nile State and the numbers of South Sudanese people in the State kept increasing, while at the same they concentrated in Khartoum, Darfur and Kordofan, clearly avoiding to be encamped and seeking to blend in already settled South Sudanese population (COS, UNHCR & WFP, 2015, 2018).

The UN Agency has also recorded a policy of demolition and relocations in the Open Areas of Khartoum, where the Government has also hindered free access to the UNHCR and other NGOs. Though the Agreement ensuring freedom of movement, residence, work and property is still in force, continuous violations have been recorded and its implementation is uneven across the state: in East Darfur, for example, refugees enjoy more freedom to move around than those encamped in the White Nile State. Finally, as reported by the US Department of State (US 2017 Report), South Sudanese recently entered the country have been given the refugee status, according to international standards, thus allowing the UN Agency to support them more effectively. However, since they are no longer labelled as “brothers and sisters” and their stay in the country is now regulated by the 2014 Asylum Organization Act, the Four Freedoms Agreement's full implementation has been hardly justified and South Sudanese refugees’ freedoms under the agreement have been curtailed.

SHARI'A?!

If the general picture drawn by the UNHCR reports, together with the interview held with Ron Mponda, the Chairm of the Islamic Fiqh Academy of Sudan, the analysis of national legislation and domestic practice, already seems somewhat blurred, Professor Idris al-Hassan, Dean of the Faculty of Arts of the International University of Africa (IUA), makes it further opaque. Speaking in his office (see in Appendix), he was quick to make the point that the Sudan, despite being at the crossroads of East Africa and in spite of its following decades-long experience, has failed to lay down the basis for a unified and unequivocal policy towards refugees originating from its neighbouring countries. Rather, Sudan's political line has, over time, been driven by external factors: the European Union (EU)'s decisions about how to handle refugee flows and particular national interests of European countries, the lack of an up-to-date universal framework, the international organizations' strategies and the United Nations agencies' need to keep friendly diplomatic relations with Sudan, and finally the quickly evolving inter-state relations with neighbours. Furthermore, the Sudanese government's strategic line and authorities' behaviour would not be legally prescribed but it would be the direct offshoot of President Al-Bashir's statements.

Starting from the international level, he explains that the universal protection provided by the 1951 Geneva Convention, drafted at a time when the refugee issue was limited to the European continent and thus implying that its solution was a regional-based response, is nowadays badly suited to deal with the global phenomenon which affect millions of people in several continents.

For example, the UNHCR and the COR's attempt to effectively respond to the recent outbreak of half November 2018 at the crossing points bordering Ethiopia, has resulted in keeping Sudanese borders open to a sudden large exodus of Ethiopian nationals (440 in a day) who were fleeing violent ethnic clashes erupting in the Amhara region and were seeking shelter in Eastern Sudan. Taken aback and unprepared, they reacted by activating the emergency response: Ethiopian individuals were given refugee status on a group or *prima facie* basis.

Ineffective asylum strategies, both at the international and national levels, led the UNHCR to leave discretion and room for national governments' creative strategies, keeping expectations about their ability to cooperate and devise modern and coherent asylum policies. However, the result is disappointed, since, as he points out, European countries have pursued national interests and their policies mirror their particular strategies in the Horn of Africa region.

At the same time, two days before the interview being held, the Sudanese government carried out a "useless" restructuring of the Higher Council for Migration and Control of Foreigners Existence in Sudan, a body of the Cabinet of Ministers, as a supposed well-planned response to the asylum system's shortfalls, while whining about the UNHCR's dwindling resources allocated to support national management of refugee flows. Furthermore, the changing legal status recognized to groups seeking asylum in Sudan stems from the current political links the country keeps with the refugees' country of origin, suggesting an outright nationality-based discrimination in the implementing arrangements of the asylum policy by the government.

It should be noted that, although the interview was conducted in the buildings of the IAU, member of the Federation of the Universities of the Islamic World, Professor ElHassan (see in Appendix 3) has repeatedly and strongly stressed that the government's policy and state legislation cannot be told as being kids of the Shari'a, with the latter being the main

are supposed to have an asylum system coherent with Islamic values of solidarity, hospitality and protection (amān), but as you can see, in the 2014 Asylum (Organization) Act, no phrase can beam up either to Arab/Islamic principles or to the Holy Quran. Islam would require us to do so, but I cannot see hide nor hair of them in Sudanese legislation. Islam satisfies government's ideological purposes and meets with public consumption demands.”

Rather, inter-state relations, whether friendly or not, adversely affected and keeps harming refugees' treatment. For example, Sudan is currently playing an important role in the South Sudanese peace negotiations between the rival tribes, mainly Dinka, Nuer and Shilluk. On June 27th, South Sudanese President Salva Kiir and opposition leader Riek Machar signed a “permanent” ceasefire and Al-Bashir acted as the main broker during negotiations held in Khartoum. He had a significant leverage on the opposition leader and stood to gain a lot from peace in South Sudan (above all, resumption of oil production to save the country's economy). Over the last months, friendly diplomatic relations affected South Sudanese refugees' treatment in the country, as showed by their recognition by Sudanese authorities and institutional bodies as refugees in need of international protection and assistance. Eventually, political chaos, lacking bureaucracy and international relations are pouring on refugees' shoulders, the real victims, used instrumentally as a tool of political pressure.

CONCLUSION

Are reception and integration of refugees from neighbouring countries hindered because of economic and financial constraints of Sudan, because refugees actually threaten national security or because the country is committed to a political agenda? What are the reasons why the Government, despite its experience in the field, has not set up a comprehensive policy which complies with its international and regional obligations?

On the one hand, the Arab/Islamic notion of asylum (inferred from presidential declarations), with the far-reaching consequences it entails (definition of certain groups of refugees as “brothers and sisters” and the same lacking services meted out to Sudanese citizens), when applied to the Sudanese context where the government is hardly able to meet citizens’ needs, falls short of an equal and fair treatment, according to internationally recognized minimum standards. On the other hand, legal provisions of the 2014 Asylum (Regulation) Act, which are supposed to be derived from the Shari’a, have very little to do with Quranic surat and Sunnah principles protecting (amān) refugees. As stated in the previous chapter, national legislation may be defined as a translation of the protection framework devised at the international level after the Second World War and supplemented by the 1969 Convention Governing Specific Aspects of Refugee Problems in Africa.

The lacking asylum policy of the Sudan government stems, first of all, from the opaque decision-making system of top level authorities and declarations made by the Presidency, which cause a massive ripple effect over the bottom level of execution. Opaqueness and confusion get even worse with South Sudanese refugees above all. Al-Bashir’s publicly welcomed them as “diouf” (dear guests), “muatinun” (citizens) or “wafidun” (arrivals) (ElHassan, 2016, p. 7), terms that are nowhere to be found in written official documents and are easily misunderstood by officials who are supposed to implement administrative measures. Though Government’s good faith must not a priori be excluded and these terms could mean its willing to treat them as citizens, as Mr. Mponda argues (see in Appendix 2), South Sudanese in Sudan are actually not and they badly need to have access to services specifically targeted at refugees. At the same time, it should be noted than even officially recognized refugees face countless obstacles for getting documents, permits and their own rights being fully implemented by government authorities.

Country’s experience in the field (starting from 1965 with refugees from Zaire to Ethiopian and Eritrean inflows in the 1980s and the 1990s, up to now with the South Sudanese “brothers and sisters”) did not help Sudan develop an effective management strategy of refugee flows. Its national initiatives (e.g. Khartoum Process, Trust Fund, ecc.) are part of international organizations’ strategies, also as a direct result of the increasing need of the European Union’s countries to contain flows from the Horn of Africa.

Undoubtedly, security and political concerns came into play when Sudan faced massive influx from the eastern border in the last decades of the XX century and the southern one in the last years. The relations maintained between the Sudanese government and neighbouring countries, coupled with military support for foreign rebel groups and aid for this or the other faction, have adversely affected their respective refugee policies and strategies. Economic reasons have also influenced government’s calculations and made vulnerable persons the scapegoat for Sudan’s economic failure. As refugees increasingly represent an economic burden for the country, international organizations should take on a greater role. Moreover, the government tosses out integration as one of durable solutions for the refugee issue, while keeping

and new citizens would place further strain on the already stretched public budget. The third strategy, that of return to the home country, cannot be considered a viable option for South Sudanese refugees.

The UNHCR, as a non-political organization whose mandate does not provide for the duty to execute actual operations, but is limited to ensure, through supervision, evaluation and monitoring, that the projects and obligations are fulfilled, had to grapple with consequences deriving from the government's treatment of refugees as tools of political pressure. Each term used by President Al-Bashir affects its mandate and ability to intervene as far as South Sudanese refugees are concerned. And though each term has precise and different political overtones, the UNHCR should only be focused on humanitarian needs.

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Appendix 1

INTERVIEW WITH PROFESSOR ABDUL-RAHIM ALI MOHAMED, CHAIRMAN OF THE SUDAN'S ISLAMIC FIQH ACADEMY, NOVEMBER 9TH 2018, KHARTOUM

When Islam was first introduced by the Holy Men and Families (coming from Egypt) between the 15th and 16th century, how did it sink in and fit in local customs and customary law?

“Islamization is not the adequate term, because Islam has always been there, even though over the centuries it took different shapes. You may refer to Islamization of laws, a reforming process of sparked off from independence onwards. Sudanese culture is based on oral tradition and has transmitted orally. Although the process of Islamization had already taken place in the country and pursued by jurists, Sufi version of Islam sank in Sudanese society more deeply. And unlike other Islamic countries, where the quarrel involving the doctors of the law, the ‘Ulama, and the Sufis has been often reported, Sudan does not show many traces of this conflict since they were almost the same person: the Sufi doctors of law. As a result, an esoteric and spiritual approach underpins the ongoing reforming development inside the state’s structures also when it came to law as such.”

Which role did Sufi sects, such as the Mahdiyya (Ansar and Umma Party) and the Khatmiyya (Democratic Unionist Party) play in shaping the political landscape of Sudan after 1956, when the country achieved its independence? Following the implementation of Shari’a as the main source of law, how did Sudanese Constitutions and legislation change?

“Mahdi came to power as a reformer having two thoughts in mind: reviving and purifying the even then contaminated Islam and putting it at the core of power, but he later failed in achieving these two objectives. When the British established the Condominium, they replaced the local customary law with the Indian legal system in the field of family and penal law above all. Yet when Sudan, led by al-Mahdi, achieved its independence, ‘Ulama claimed the need for the state to an integral return to Islam, and by doing so, not to completely cut off relations with the former Arab colonizer, Egypt: they felt part of the Arab world and thus upheld the merger cause. Sudan, after decolonization, as many other African countries going through the same experience, was looking for an identity. But this claim had nothing to do with Islam and implementation of Shari’a. They were searching for a national identity: what did and does still today it mean being Sudanese?

After independence, in 1958, General Abbud established a military regime putting its grip on power until 1964. His regime was involved in a hot war with the Southern Anyanya rebels, but even then the roots of the conflict’s outbreak against southerners cannot be told as simply religious ones. The southern area of the Sudan had widely and traditionally been deemed as culturally, ethnically and religiously different from the rest of the country.

The debate thus concerned its very identity: should have it undergone Arabization and Islamization, or should have it been set free to absorb both Africanized and Arabized elements, or to stand as a united “Sudanized” nation, the outcome of combining diverse sub- and cross-cultures living side by side without marginalization of the southern region and one’s hegemony over the other?

But still the main dispute had to do with “Sudanization” as opposed to self-government and autonomy for the southern region. During the Round Table Conference, held in March 1965, following the October Revolution, when Abbud’s

religion was not on the table. What instead Southerners asserted was the right to self-determination and their right to use their own language against the Northerners' attempt to impose Arabic as the official language.

Only after 1965, the debate on Constitution opened and the question was whether Sudan should be an Islamic country. Yet shortly after, the debate temporarily stopped as Nimeiri took power in 1969. He established a secular and socialist regime, inspired by the Egyptian president Nasser. In 1971, Nimeiri, seeking a political solution with the south, established first contacts with the southern rebels for opening peace negotiations. Though he had gained country-wide popularity by striking the Addis Ababa Agreement with the South in 1972 and ending the first civil war in Southern Sudan, he had been starting losing prestige. Finally, in 1973, the Permanent Constitution came after the deal. The Northerners charged the peace agreement as a sell-out, since it included the issue of non-centralized governance, offered regional autonomy with separate legislature and treated the South as one unit. The southerners, instead, kept nurturing deep mistrust, further fuelled by the Permanent Constitution which came after the Peace Accords. Indeed, article 9 of the Constitution stated that Islamic Law and custom were sources of legislation, thus exacerbating the question of southern identity.

Since the so-called "national reconciliation" in 1979, Sudanese regimes had pursued association with and sought support of Islamist elements and the traditional political parties. Among them, the Ansar and their Umma party which had been the target of anti-sectarian policies of Nimeiri rule. Facing such a challenge, the southern leadership proved to be fragmented and a first split within the SPLM between the Dinka tribe and the Equatorians took place. Faced with instability and discontent in the South, Nimeiri was said to have given up to Equatorians' and northerners' pressure against Dinka by re-dividing the south in 3 regions and slowly dismantling the 1972 Addis Ababa Agreement's clauses about the Southern region's territorial integrity. This is the real reason underlying renewed fighting."

What results has its introduction in the legal system entailed for the non-Muslim population and their rights?

"A sudden shift relocated Sudan on the international stage: Nimeiri regime switched from the Soviet bloc and became a pro-Western regime. In 1979, he amended the Constitution which was greatly Islamicized and paved the way, in 1983, for the introduction of the Islamic hudood punishment as well as Islamization of all the others (September Laws).

He took a bold step by declaring Shari'a as the main source of law. Actually it was a long process taking 10 years and starting from the 1973 national reconciliation, when al-Sadiq and the Muslim Brotherhood came back home from exile and gradually had been drawing closer to Nimeri. Claiming the unfairness of the 1972 Agreement, the National Islamic Front was able to penetrate the government with al-Turabi as Attorney General and assert its position over relations with the South. These radical constitutional and legal changes have no doubts impacted on identity and equal citizenship issues.

Though he came to power determined to destroy sectarianism, Nimeiri ended up with reconciling with the one-time sectarian enemies. At once, he tried to conjure up Muhammad Ahmad's manifestation as Mahdi of 1881 by getting him appointed as Mahdi by Shaikh Abu Qurun, and by proclaiming himself as the Sudanese Imam, a title uncommon in Sunni Islam but which aimed at getting Sudan closer to Iran under Ayatollah Khomeini. Most interesting, the Shaikh held that mahdism was a bridge between Shi'a and Sunna.

The September Laws, undermining equal citizenship for the non-Muslim population, triggered the eruption of the second civil war in the South, but though the Naivasha Protocol and the 2005 CPA exempted the South from the Shari'a provisions enacted in the North and provided for ad hoc norms concerning the education field, the South nevertheless

Shari'a laws.”

The Quran mentions the term hijrah in 27 verses and many Islamic scholars hold Prophet Muhammad as the first refugee of the Islamic history. Can you explain the importance asylum and hijrah concepts play in the Quran?

“Sudanese society’s receptiveness to and hospitality toward refugees are values embedded in its cultural and religious identity while also in their social organization. The tribal system, which dates back to jahiliyya (era of ignorance), the pre-Islamic period, ensured security and hospitality through the practice of ijara. He holds that still today in many modern Arab states the tribal organization makes itself heard and that is why they still adhere and preserve this customary practice. Rather than recalling the verses of the Quran, the Sudanese Muslim would grant the asylum seeker protection and give him shelter by calling up his cultural and social references, the same that allowed the Prophet to flee the persecution of the Quraysh and find protection in Medina.”

Sura 9:6 states: “And if any one of the polytheists seeks your protection, then grant him protection so that he may hear the words of Allah. Then deliver him to his place of safety. That is because they are a people who do not know.”

“وَإِنْ أَحَدٌ مِّنَ الْمُشْرِكِينَ اسْتَجَارَكَ فَأَجِرْهُ حَتَّىٰ يَسْمَعَ كَلَامَ اللَّهِ ثُمَّ أَبْلِغْهُ مَأْمَنَهُ ۚ ذَٰلِكَ بِأَنَّهُمْ قَوْمٌ لَا يَعْلَمُونَ - 9:6”

According to your interpretation of the verse, have the Muslims the duty to grant the musta'min the aman he asks for? Is the aman either granted just to listen to Islam or for any compelling reason?

He applies a wide and extensive interpretation of the verse, stating that “the Quran lays down an obligation upon the believers to protect the musta'min for any compelling reason, without looking at his faith. The verse does not require to know about the reasons for asking protection thus religious belonging does not play any impact on whether the musta'min should be welcomed. Neither aman is granted with the aim at converting the musta'min.”

Appendix 2

INTERVIEW WITH MR. RON MPONDA, UNHCR ASSISTANT REPRESENTATIVE (INTERNATIONAL PROTECTION), NOVEMBER 26TH 2018, KHARTOUM

“The concern is that (of course I think that the Arab/Islamic notion is against refoulement and detaining someone into danger), in the modern nation state, there is no guarantee that there can be intra-state agreements to exchange undesirable individuals and that the principles of non-refoulment and prohibition against forcible detain can be breached if someone’s benefitting this notion. But I am convinced that in using the Holy Quran’s definition, they are acting in good faith, not to refoul or forcibly detain someone who is under this Arab/Islamic notion. Iraqi refugees fell under this notion in the 1990s, including Saddam Hussein’s brother in law who was resettled from Canada. The government of course at that time because of political dynamics said ‘no, we are not going to’ but the UNHCR should do that under its statute.

I know that, because of the religion’s ethics, people try to abide by the norm of non-refoulment, not to forcibly retain people when they feel in danger, the solution given by the Arab Islamic notion involves local assimilation, whether the universal system’s one the refugee has to meet certain legal conditions before he can be fully locally integrated and assimilated. The one relating to voluntary repatriation would automatically apply because it is at the behest of the individual himself once he thinks the reasons which prompted his flight do not longer exist. In the Arab world in general, for example the Jordan state which is overwhelmed, they do not, I think this is for political reasons, favour the durable solution of resettlement because they view it as an attempt to empty the Arab world of its citizens. Resettlement would be really exceptional, but this would be the only solution that could remain.

In context, in the case of the Sudan, if you are recognized under this limb of the A-I notion, you’ve greater freedoms: freedom of residing wherever you like, you are not subject to the encampment policy. Because Sudan made a reservation to article 26, freedom of movement, insisting that refugees arriving in the border in the east or in the west, have to stay in camps. Traditionally, the country receives huge numbers of refugees so you could understand the reservation about where they should reside. This number becomes of security concern. Traditionally Sudan looks at refugees as a potential security problem. To be contained they are encamped. Under this limb, like the Syrians and Yemenis, you’re not constrained like this, but you enjoy the freedom to live wherever you want.

I’ve never understood why the Government decided to apply a different regime to a particular group. In the 1990s, this regime as applied to Somali and Iraqis and the few Palestinians finding themselves outside the operational area of the UNRWA. From 2013, when the influx of south Sudanese refugees began, they applied this limb to South Sudanese. They called them “brothers and sisters”: we try to put this in perspective, my colleagues think that the President just woke up and stated that it was because once the Sudan was one, but the president’s statements confirm the adoption of the Arab/Islamic notion toward South Sudanese that they were made because the term is synonym as with the term refugee under the Arab/Islamic notion of asylum → so he was actually saying: “we’re going to treat you as citizens.” At the height of the conflict with the SPLM, these people were still Sudanese.

required that the ones who wanted to remain within the country, had to regularize their status with immigration. That coincided with the arrival from around that time of SS refugees of Dinka ethnicity who are affiliated with the current regime in South Sudanese. The Sudanese applied the policy American scholars called blowback or policy of taawali (Prunier). They were not prepared to treat with the compact understanding that Sudan will never be treated dismembered as happened with secession. The president was in the Darfuri region promoting the referendum. As soon as they arrived, they were told to stay in camps and they asked “why are we not allowed to freely move like the other SS refugees?” “Because it is your people who are killing these people and I’ll not allow you to go to Khartoum or wherever you like.” It was in the light of that the High Council for Foreigners made a decision on Monday 15 August 2016: those SS fleeing the country and arriving in Sudan AFTER July 1 2016, would be regarded as refugees without specifically seen to be discriminatory. Those arriving after the cut-off date would be dealt with as refugees, those before that cut-off date would be treated as foreigners and have to regularize their situation with the immigration. The Nuer and Shylluk were thus allowed to freely move in the White Nile State and Khartoum.

Other things came into play: before the MOU of September 1st, the COR, which is the body responsible for Refugees’ affairs to the exclusion of anybody else (Government and Ministry of Foreign Affairs), was not involved in such affairs. Because for example in the White Nile there is a MOU between the Hack, Coptic Christians, and the UNHCR, calling them as “arrivals” and externally displaced persons. Now they say “ah, now that the UNHCR is saying they are all refugees, they are subject to the same policies as others” Refugees should be subject to encampment, while 70% of SS refugees live in the host communities. The Open Areas of Khartoum, established when there was hope in 2011. But the referendum result provoked a lot of anger to the Sudanese intellectuals and politicians. Garang wanted greater independence in a federated state, not a completely separated state. When the yes vote won, they changed the nationality law: those with any seeming link with South Sudan were obliged to go to the open areas, established as staging zones for the voluntary repatriation. But then unfortunately, South Sudan came to a new civil war.

As relations between Islamic Shari’a and international refugee law, though Arab countries attempted to have a regional complement, the 1994 Arab convention, but never entered into force. The 2014 Act translated, maybe not in perfect terms, the obligations contained as such in the Convention which would not be readily available to courts, judges, police offices. The policy of the Sudanese government may be deduced from the practice the government has managed refugees: for example, refugees need a permit to work, but in the agricultural sector the COR can arrange for mass numbers. In the east, the refugees used to run the economy there. If you are of this nationality and work in this field, we will wave this stringent requirement and allow you to work. Whether when they decided to apply the Arab/Islamic notion, was it against the universal asylum regime as part of the government policy? I don’t think that this particular limb of the asylum notion was applied in a discriminatory manner on religious bases. You don’t need to be Arab or Muslim. They can be infidels, as demonstrated when they recognized SS refugees.

First of all, the way the international system works today unfortunately is outside the scope of chapter 7 of the Charter. The international organizations cannot correct states’ behaviour. To begin to understand the concerns raising, in the case of Sudan, when they applied this limb, they have not insisted, for example, there is no interview conducted, which means that people are recognized on a group basis or prima facie, as happening in the case of the SS. Of course, it does not preclude that in the case of any one of them, the commission, if there are reasons to believe that one of them has committed a non-political crime, can interview him separately.

For the UNHCR, it had been opposite: especially with the SS, they thought “ah, that’s cool! We struggle for the freedom of movement for Ethiopian and Somali refugees, but under this limb the South Sudanese enjoy the freedom of movement on the basis of the Four Freedoms Agreement. For them it is very important because they have been knowing the community where they decided to reside. And another argument of the UNHCR, an empty one actually, was that the South Sudanese’ Four Freedoms: they can access services, get employment. So they don’t need so much assistance as that provided by the UNHCR. An oblivious and misinformed argument since these services provided by the Sudanese government are often sub-standardized, not fully available, and that employment we are talking about resulted to be slavery: for example, in the construction sector, SS work all day for 10 pounds. It was a way for us of shifting responsibility: those four freedoms are meaningless in this context. The intention is good, but the capability is not there, like Saudi Arabia.

We insisted to encourage them to continue and allow SS to move freely: this was especially agreed, what we call out-of-camp alternatives, since about 70% of the SS live outside camps and inside the host communities. The assistance the UNHCR is giving is not enough: what is happening now is paradoxical, because we have advocated a certain type of policy for them, but the same people we are advocating that policy on behalf, are coming to the UNHCR and asking for, they want to move to camp-like situations where assistance is available. Cases were also reported of South Sudanese living in urban areas trying to register in the camps to benefit from assistance. As the influx continued and the population grew, the state government in WNS began to promote the concept of restricting employment and controlling movements using camp-based solutions. Goodness, but some shortfalls in terms of assistance. I don’t think there is anything we can complain against.

There are minimum international standards that define the rights of refugees, for example the protection against forcible retain or non-refoulement. If that happened and the UNHCR may lodge, make formal protest and intervene in the case of impermissible detention, it is a diplomatic action and protest to the COR or the Ministry Foreign Affairs and then we can also resolve to, in the case of the state’s behaviour, use influential governments that are friends with them, such as Italy, to prevail on them: the stick and the carrot. Human Rights enforcement mechanisms and universal periodic reporting mechanism, where states before the HRs council, can file complains against states. UPR mechanism is the major weapon to correct the way states behave.

The MOU of September 1st, 2016: you need the letter which came from the COR, attaching the decision of the Council and requesting that an MOU be drafted along the lines of that, which is not what the MOU did. So somebody in the UNHCR decided that it’s going to be drafted a general MOU and that the Sudanese would not read it. But they read it of course, because the MOU said that since all South Sudanese were now all refugees, they are all going to the camps, including those of the open areas. So this actually was to deal with the breach, academic dishonest on the part of some people in the UNHCR, because it talked about the cut-off date.

Can we consider verse 9:6 of the Qura’n as the principle informing the policy of the Sudanese government? Not predominantly, but on those occasions when they choose to apply the A-I notion to any given category of refugees. But it might also explain, this is where I speak about the inherent goodness of belief system, the general asylum policy: the Sudan is not a rich country with all the limitations, for example of movement, they have been generally generous and this is not me saying this. Harrell Bond, the most critics of the government, from Oxford University, in a Book

Ethiopia since the famine of 1924 has always been problematic, and the fight in Eritrea, the fact that Sudan had decided to receive refugees, the Congo, they have not relented in terms of receiving them.

“Arrivals”, definition used by Idris ElHassan (ElHassan, 2016): a manifestation of ambivalence, the doubting reception, that became the basis for displaying the previous, because when people went back to areas, the Sudanese opened their arms and embraced them as truly brothers and sisters. When they apply this regime (Arab/Islamic), because of a lack of understanding on the part of some government officials, they think that when they accorded the “brothers and sisters” definition to South Sudanese refugees, there is no conflict with the term refugee, the COR was excluded and the HAC, which is why it is part of the Tripartite MOU, was brought in and then they were described as externally displaced persons from the south.

I judge the Sudanese policy toward refugees, just like Harrell Bond does, as generous. There are shortfalls, explained by a general lack of resources, a kind of security concerns. In the 1990s, when Sudan was hosting refugees from Ethiopia, some of whom belonged to the organization of, when people were fighting against the Derg of the Mengistu government, that was a real security issue.

Political pressure using refugees: as the civil war in the south was raging, since the government was fighting against the SPLM, countries like Ethiopia supported the SPLM/A with substantial military and logistical support against Khartoum regime which hosted the opposition movements from Ethiopia. They brought about a deliberate policy about supporting each other's' rebels: the SPLA repaid the assistance from Ethiopia by fighting proxy wars for the Derg against the OLF and the GPLM. Similarly, the Sudan government used the Ethiopian opposition groups in fighting the SPLA in Gambella. Because of the blowback policy in the aftermath of the secessionist event, that policy was practically abandoned after Eritrea sized its independence, but you can see some slight resurgent when it comes to the south when they breached the compact. It is not a concerted policy nowadays.”

Appendix 3

INTERVIEW WITH IDRIS ELHASSAN, DEAN OF THE FACULTY OF ARTS AT THE INTERNATIONAL UNIVERSITY OF AFRICA

“There is no clear picture both at any level, within the national situation or at the UNHCR itself. Put simply, now we are faced with a new situation which is neither the UN, represented by the UNHCR, the government of Sudan or countries neighbouring affected by this phenomena, none of them have a clear idea or strategy to deal with this situation.

But a legislation exists: of course, legislation will come out of a clear strategy. If you see the EU, each of them come out with a different policy, up to now they will not come together. They meet, prepare some memoranda. But when they come to the actual implementation, every country fix on its own national interest. When you ask why Sudan has no a clear policy, I am trying to widen the point. There are several international actors and many solutions. Since the IIWW, the case of refugees was limited to the European case. After the destruction, there were masses of refugees, but they never anticipated that something similar of this magnitude will happen in other parts. Today it is a global problem.

Until now, the UNHCR has no a unified policy. So it encourages countries to give solutions. In the case of Italy, they have the Khartoum process. Germany gives a certain amount of money for establishing projects in Eastern Sudan, to give employment and devise agricultural projects, give facilities. To do what? First of all, the money is not enough. Also, they give equipment to patrol the border and check them not to enter. They want them to keep there. Secondly, for Sudan money and projects mean that refugee population sooner or later will become Sudanese citizens. If they are allowed to stay there forever then they have to be naturalized. But what are the implications of naturalization? The government have to take into consideration new dimensions: the economic situation of these people and the security concerns of its own citizens. There is 2 or three generations which are not accustomed to their country's habits. If you ask them to come back, they do not know people there and cannot speak their language. They are Sudanese. This is a real problem.

Two days ago, two things happened. Restructuring of the Higher Council and the Sudanese government complained against the amount of financial support it receives from the UN. It wants more money and training. But this does not address the problem.

The politicians cannot say anything. The president speaks and they get away with it. One day he says “they're all guests”, another day “they're brothers and sisters” and are free to do this. There is no real policy and the officials will just follow the statements. When you ask them, do you have any written direction about what to do? No. they have memoranda and agreements, and inside the COR they have their own internal understandings about definition and treatment of refugees. But this is just on paper. And we've different policies for different refugees. Yemenis are free to come, to stay. Syrians are allowed to work. No strict measures for those who overstayed. The SS depends on the political situation. Now in practice you'll find thousands of Southerners with no identity cards, they can go out of camps and go to Khartoum. There is a difference from practice (conventions) of the COR and the wider picture with no unified policy. They have the department for foreigners, the Higher Council, a special unit that deals with refugees.

The UNHCR itself cannot say “these are refugees”. It has to get with the local government. If the national government

the papers and they give them certain papers → procedures are there. In the WNS there representatives of the COR and the Red Crescent, of the UNHCR.

A couple of weeks ago, a large number of Ethiopians entered Sudan because of the conflict in the Amhara region. COR and the UNHCR were there and, as they arrived as a massive flow, they agreed to determine the status on prima facie basis, because of the emergency situation.

Shari'a is not applied at any level and institution in Sudan. We are muslims, we are supposed to welcome all these refugees with open arms, we have to provide them because of our religion. This is for public consumption. As muslims, we are to receive people kindly (42.00). But let's see how these good words are translated in practical policy: if you go to COR and want to see actual procedures, you won't find anything which says, because we follow Islamic directives, we have to act like this and like that.

This act translates the universal system, but practically the refugee policy depends on the relationships of the countries involved. If the relations between Sudan and South Sudan get worst, then the statements of the politicians, the asylum will change accordingly. For example, these days, because Sudan is playing an important role in the negotiations to solve the conflict between the different factions in SS, the borders are open and there are no strict measures against refugees. The goods from the Sudan, like onions, the prices in Khartoum is very high because it is exported to the South and they sell them in dollars. Good relations apply to everything: movement of people and goods as well. Relations reflect themselves in the treatment of refugees.

Dinka, Nuer and Shylluk are treated in the same way. Practically there are some internal decisions not to treat them equally. At different times, al-Bashir is nearer to Machar and the Nuer, then to Kiir. It is not a secret. The government helps and supports.

It is a mess everywhere.”

ABSTRACT

The first chapter raises and deals with a question about the factors at work that have affected the path Sudan even today keeps walking down. This question inevitably springs to mind when one sets foot in Sudan and usually is impressed with its extraordinarily motley ethnic make-up, but, at the same time, with learning that the Islamic Law (Shari'a) is the main source of legislation in the country. The chapter seeks to shed light on the historical events that, according to the literature on Sudan, deserve particular attention in order to well understand the crucial variables and critical dynamics that, from the Christian Kingdoms of the fifteenth century to the 1980s, have constantly constrained its social and economic development and have brought the country to currently stand on the edge of the abyss.

The first step is an analysis of the Islamization process as sparked off in Sudan with its own peculiarities. Peculiarities in its cultural and social structure that, when faced with Islam, were absorbed and integrated. The Sudan bumped into Islam in the 15th century, when Holy Families and Sufi Sheikhs from the Arabian Peninsula brought the religion with them, even though orthodox Islam had already seeped superficially over the country thanks to jurists' proselytism. Indeed, the seventh century saw, on the one hand, military expeditions into Nubia led by the Egyptian Muslim general 'Amr b. al-

of Arabia, the Prophet Muhammad.

The Nubian region was at that time ruled by two kingdoms, Nubia (Dongola) and 'Alwa (Soba), that in the sixth century had been Christianized by missionaries sent from Egypt. Christianity laid the basis for a community united by a common religious culture and, Searcy argues, this unifying element could explain the failure of Muslim military expeditions to conquer the Kingdoms. Egyptian governors' resolve ended with the signing of a treaty, the baqt, which paved the way for the establishment of trade relations between Egypt and Nubia, but imposed harsh terms on the Christian king, including acceptance of the Mosque Muslims had built in Dongola, provision of grain and 360 slaves annually. Most importantly, the baqt laid the first stone of Muslim missionary activity in Sudan. Gradual and slow cultural infiltration of Islam and Arab elements in the region, through inter-marriage, may have triggered the collapse of Dongola in 1320 and 'Alwa in 1504. Since then, the region has been ruled by an Arab-Islamic elite.

But Christians were not the only one who have been reigning and ruling kingdoms in the Sudan. In the early sixteenth century, the Funj Sultanate (Sennar) arose and survived as long as the Turco-Egyptian invasion set off its downfall. Though the Sultanate positively affected the process of Islamization since it promoted migration of Holy Men and Families from Hijaz (the north-western region of the Arabian Peninsula, today in Saudi Arabia), who were entitled to be given grants of land and privileges, the Islam of the Funj was fictitious and they had declared to be Muslims because of political opportunism (Trimingham, 1950, p. 100). Nonetheless, Sufi orders came out as a substantial power in the religious life of the Funj Sultanate (Niblock, 1987, p. 102). An additional contribution for Sudan's Islamization stemmed from the Mahas, a Nubian ethnic group, who claimed to be Arab Ansar. They migrated and settled in the Funj Confederation, where they started speaking Arabic and training in jurisprudence, adopted 'a mystical succession, and set up as miracle-working feki-families, deeply influencing the life of the indigenous tribes [...]' (Trimingham, 1950, p. 101). Thus Islamization of the country before the Mahdiyya state arose, was brought about by two states that practiced Islam as state religion.

It is worth noting that the Holy Families and Men coming from the Hijaz, as encouraged by Funj elite, were responsible for bringing religious orders, the Qadiriyya and Shadhiliyya, into the country. Their original shape varies from that acquired later: they were not centralized tariqa and religious authority lay in the hands of more than one teaching shaikh. In the words of Trimingham, "Sudanese Islam thus became 'cellular'", in the sense that Sufi convents and schools became the nucleus of Islamization in a heathen country such as Sudan, where saint-worship began exercising strong influence on the population, pagan rituals and local customs in place were absorbed and people were free to keep their animistic beliefs under Islamic forms.

In 1820, the Ottoman viceroy of Egypt, Muhammad 'Ali, got Sudanese inland and struck the dying Funj Sultanate and Darfur. Despite Fur people's bold and daring resistance, Darfur was subdued and became a region of the Turco-Egyptian Sudan from 1874 up to 1882. Muhammad 'Ali fleshed out the Egyptian plan to make Sudan its own pool of human, agricultural and mineral wealth. Most notably, Sudan turned into a crucial route for the slave trade of Egypt and the Ottoman Empire. Indeed, under Egyptian rule, this shameful trade became the main source of revenue in the country. Finally, in 1877, Egypt signed the Slave-Trade Convention with the Great Britain.

In 1881 Muhammad Ahmad declared himself to be al-Mahdi al-mutanazar, the awaited divinely guided one, and

rule, bringing back justice and equality, cleansing Islam of impure elements and breathing new life into the Muslim community. He thus became the leader of Sudanese nationalism, holding up his background and never reneging on his Sufi education. On the other hand, however, he embraced the traditional Sudanese religious pattern, that of the holy man, and he told of a vision of Sufi saints declaring their submission to his mission, thus using their reputation in order to lend his Mahdship legitimacy and authority.

He was able to gather different ethnic groups and people from various tribes to wage jihad against the infidels Turks under the Mahdiyya flag and he successfully kicked the Turco-Egyptian rule out of the Sudan. Its unifying effect, 'which was of crucial importance in a Sudan divided by tribal, ethnic, and regional differences', even resulted in the Baqqara (an Arab tribe) and black slaves fighting side by side under one banner. Also, those who until then had occupied the last layers of the Sudanese social class could strive for improving their social standing, since rich and poor enjoyed substantial equality in the Mahdist state. The policy of hijrah conjured up the early Muslim community's emigration under the Prophet's leadership and blended in well with the African practice of seeking asylum and protection with a holy man while fleeing from oppression. The end of the Mahdiyya state came in 1898 with the battle of Omdurman, when it was overthrown by the Anglo-Egyptian joint army.

The Condominium economic policy created a split between those who were and stayed out of the government schemes, and those who, by virtue of their privileged position, were able to extract a substantial income from the government plans and re-invest it in thriving business activities (Niblock, 1987, p. 49).

Despite its name entailing a fair burden and benefit sharing, it was British interests that were at stake in Sudan, connected with the cotton industry. The Condominium government launched plans for cotton growing in the country, but tight budget constraints heavily shaped the way cotton production was organized. Indeed, rather than exploiting the chances of seeking development by developing a national cotton industry and investing in the country's peripheries in the farmers' small-holdings, the plans provided for centrally-handled schemes (the most well-known is the Gezira scheme) and estates in a concentrated area to be more easily monitored. Obviously, such plans did nothing to improve small producers' lives living out of the state-owned schemes. They did nothing but to exacerbate regional disparities and peripheries' underdevelopment, as a direct outcome of the way land seize and lease contracts was managed by the government.

On the political and religious level, Sufi orders, never totally uprooted, dredged up in the aftermath of the Mahdist state's collapse in 1898, strongly benefited from the possibilities the foreign joint rule offered them to resurface stronger than ever. This was the case of the Khatmiyya order, whose leaders returned once the exile was over and the Anglo-Egyptian conquered the country, and benefited from the alignment with the foreign rulers. Instead the Ansar, the followers of the Mahdi, defeated by the new foreign invaders, were scrapped, but Abd al-Rahman the Sayyid, as Mahdi's son and Ansar's Imam, initiated the reconstruction of the tariqa in the early 1910s, by building the family mosque on the Aba Island, where he laid the ground for the political, economic and spiritual heart of the movement. Thanks to his pragmatism and opportunism, he drove Wingate, the British governor who was looking for Muslim friends against the Turks during the First World War, to lift the ban over the sect. Once again, whenever independence of the country was under threat, the Ansar had come to embody the national rescuer.

This happened in 1954, when they gathered to protest against the Egyptian proposal, backed by part of the Sudanese elite, to launch a process for merging the two countries in the aftermath of the Anglo-Egyptian condominium's

affect Sudanese politics by aligning themselves with this or the other movement in power over time. Also, in 1954 the country's political landscape witnessed the foundation of the Sudanese branch of the Muslim Brotherhood. Actually, members, mainly students, had already organized in Cairo, where they, however, could not openly carry on their political mission because of their affiliation with the illegal Egyptian Brotherhood. They came out in 1947, when they founded the Islamic Liberation Movement (ILM) at Gordon College, now the Khartoum University, and started garnering consensus among north Sudanese students from the riverain regions, inhabited mostly by Khatmiyya families.

The post-independence period in Sudan did not necessarily mean a radical shift in the distribution of political power from the earlier period, that of the Anglo-Egyptian Condominium. Indeed, those groups and forces which had strategically bartered to side with the foreign rulers kept benefiting from their lasting privileged position. The lack of statehood's basic attributes, coupled with the extraordinary heterogeneity of Sudan's society, intensified competition among rival groups and made Sudan a chronically unstable country and constantly dragged into conflict (de Waal, 2007, p. 9).

The period from the very year Sudan achieved its independence and 1969, the year of the Abbud's military coup, witnessed exacerbation of regional and social differences, since top political stakeholders held their economic interests in the status quo and had no interest in dismantling and laying the groundwork for a new more even order. Alliance and allegiance with tribal and religious leaders were the tools that ensured their social influence was used for swaying and mobilizing popular vote. But such dynamics, as time went by, were put under stress and faced increasing challenges from radical and regionalist groupings to their grip on Sudan. Repression and censure, reliance on the armed forces or rejection of traditionalism were the three main reactions to growing stress.

In 1959, after a three-period of democratic government, the newly independent African country was plunged once again into the depths of terror and oppression, when General 'Abbud, solicited by the then Umma Party Prime Minister, 'Abdallah Khalil, staged a coup on November 17th 1958.

It should be borne in mind that meanwhile the South's political situation was evolving as well, with a relevant part of the government's Arabization and Islamization policy being carried out during the 'Abbud regime that the south was going to be one of the main triggers that brought down the regime. If, immediately after independence, the southern political leaders rallied around federation as the best form of government to deal with the South's needs, the military regime gave them the impression it was a direct emanation of the northern political elite to arise barriers against their demands. Abbud's management of Southerners' requests for decentralization was to even out diversity and pursue homogenization.

The October Revolution of 1964, which is often recalled by many Sudanese as being the Arab Spring, was sparked off by massive popular demonstrations and a general strike mobilized by radical political forces, succeeded to overthrow the authoritarian military regime. A transitional government, led by al-Khalifa, run the country in the run-up to the April 1965 elections, held only in the North because of the conditions of insecurity in the south. The Revolution unleashed new forces in the Sudanese landscape, a young generation of enlightened politicians, not only SCP members, but also, for example, al-Turabi's brother in law, Sadiq al-Mahdi. Indeed, the main figures who unleashed revolutionary powers were doctors, teachers and lawyers. Rather than seeking outside support from tribal and religious leaders and influential merchants, went down to the streets and set to work on involving intermediate layers and urban workers. Their demands, including nationalization plans and state's management of exchange, were channelled into the platform of the Sudanese

the Muslim Borthers/Islamic Charter Front) took their own shape and came together under a common flag.

Unfortunately for the traditional sectarian parties, the proposals for new domestic and foreign policies put forward by the government, ended up with threatening the latter's status and unfolding the left-wing front's aim, that is to play a major and longer term role in Sudanese politics. Such higher ambitions waved by the workers and professionals' front were increasingly terrifying the opposite side, which spelled the radical experiment's end out by creating a new cabinet, without the radical component, leading the country up to the April 1965 elections, whose results highlight the dominance of the traditional forces.

This second period of democratic government saw a series of UP-led coalition governments headed by three different cabinets, which followed each other (Mahjub, Sadiq and Mahjub once again up to the May 1969 coup). Though on the grounds of its western education, al-Sadiq was expected to run a progressive government, he soon unveiled his preferences over Sudan as an Islamic Republic rooted on Shari'a and aligned his vision about the country's future with the Islamic Charter Front (ICF)'s. The creation of the Constitutional Commission in 1966 was to provide Sudan with a modern formulation of the shari'a which, according to al-Sadiq, can easily meets the needs and adapt to the features of a modern state. The Commission was in charge of reviewing the domestic legislation in light of the Qura'n, the Sunna, the four madhhab, other legal systems and those issues currently faced by society. As one might expect, only the Mahdist ideology met both Sudanese society's calls, according to al-Sadiq, who also provides five explanatory causes for fanaticism inside Islam which relate to Muslim worlds' lagging behind the rich north in political and socio-economic terms and have given someone the chance "to clothe violence in a religious garb" (Warburg, p. 223).

With the seizure of power of Numeiri with the May Revolution in 1969, state's autonomy from the traditional elite's influence over the political system, so craved by some segments of the Sudanese society, was relatively accomplished. The centralizing footprint engraved on the state structure was aimed at improving Sudan's development and handing out gains more evenly across the society. However, the new military regime proved itself to be unable and, in the end, it got caught up too in the traditional dynamics affecting Sudan. At first it could have been able to successfully empower the country's economic and social forces necessary to accomplish its non-capitalist goals. He fully enjoyed the Sudanese Communist Party which mobilized its electoral basis to lend him support, but their relations, after the 1971 failed coup attempt led by his fellow communist army officers, suffered from a severe setback which finally culminated in suppression.

But immediately after the failed coup in 1971, Nimeiri toned down his reforms, for example by setting aside the Five Year Plan and replacing it with the Interim Program of 1972 to boost production with large-scale mechanized agriculture for exports, and his long-felt hostility toward the MB dampened. The reformist phase of 1969-70 was set aside and substituted by a focus on national unity and economic development, but the new economic lines driving economic policy harmed the labour movement and the secular professional middle class. Although Numeiri had seized power with the help of secularist and leftist forces and he allowed the Sudan Socialist Union as 'the sole political organization' devised along the lines of other revolutionary-centralizing parties, his hajj to Mecca in late 1971, where he discussed with King Faysal about the potential Sudan offered for an Islamist phase, and met in Jidda with a Sudanese Muslim Brother in exile, stressed the substantial change in his trajectory.

the so-called technocratic neutrals. Such a reshuffle in government position paved the way for the shift in Sudan's foreign policy, since the new elements aimed at restoring diplomatic links with the United States. Washington Consensus reforms made their entrance onto the Sudanese in dire straits with its plan for privatization of state-owned activities, enterprises and services, phasing out subsidies, enhancement of Sudan's competitiveness in the wake liberalization of foreign trade through a sharp devaluation of its pound, financial austerity and cutting back on public spending to deal the budget deficit and bring down inflation.

High expectations tuned into pervasive disappointment. Foreign exchange did not provide the government with enough income from exports to fund agricultural and industrial production, the outcome of which should have been exported. "The balance of payments became critically unbalanced; inflation rose in the early 1980s to an effective rate of about 60 per cent per annum; the Sudanese pound steadily lost its value; and standards of living declined severely" (Niblock, 1987, p. 283). Numeiri was compelled to embrace the Islamist pattern which could provide his government and failing economic and development policies a base of legitimacy, which, however, broke up the 1972 Addis Ababa Agreement into little pieces and set the civil war in the South on fire once again in early 1983. With little room for manoeuvre, constrained by the massive debt, massive strikes by social sectors (such as the judiciary) usually reluctant to protest, his commitment to Islamization and intrusion in the South and the following outbreak of civil war in 1983, his downfall came in April 1985.

The axis of the Northern Sudanese opposition against the Numeiri regime, represented by the Muslim Brothers, the Sadiq's wing (Ansar) of the UP and the Khatmiyya's political party, the DUP, coalesced into the 1972 National Front (Warburg, 1985). Both side were becoming increasingly aware about the low chances each side could have to defeat the other one. Such considerations laid the groundwork for the 1977 National Reconciliation with the former sworn enemy, Sadiq al-Mahdi, and his partner in the National Front, al-Turabi. If one bears in mind how his regime had begun and how it had been evolving, may be impressed by how easily he now sought rapprochement with the sectarian enemies of the May 1969 Revolution and declared his commitment to pursue the "Islamic revival".

But, as Warburg argues, it was not a case. First of all, one should focus on the period of general revival Islam was going through across the Muslim world (among others Iran) and the higher status now enjoyed by the Muslim Brotherhood in the northern neighbour thanks to President al-Sadat. Economic considerations came into play. Miserably failing with his economic plans and facing a situation of extraordinary widespread poverty in the country, he calculated such a shift could smooth his rough uphill race, thanks to a little help from his new friends, Muslim and Arab oil-rich countries, above all Saudi Arabia, which turned into an essential partner for Sudanese exported goods (sorghum and livestock), in exchange for wheat and petroleum. In the early 1980s, rising oil prices and growing debt forced Numeiri to introduce austerity policies, as required by the IMF, and "In the face of widespread discontent, Numeiri found the alliance with the Islamists to be useful in suppressing left-oriented trade unions and secular professional groups. After a series of strikes by trade unions, in which even the judiciary for the first time went on strike, Numeiri found it expedient to use Islamic laws to contain the protests" (Sørbø and Ahmed, 2013, p. 30).

Islam was finally brought within the state and made a main pillar for its legislation in 1977 with the *lajnat uraja'tal-qawaninli'tatamashama'a al-shari'a*, a special committee "for the revision of the laws so that they are in line with the shari'a", which was immediately monopolized by the MB and led by al-Turabi, who at that time had also been appointed

(riba), gambling. Draft texts were sketched for giving the hudud (pl. of had, literally ‘limits’, ‘boundaries’) effectiveness, namely the Qur’anic punishments (ranging from cutting off of the hands, stoning and flogging) reserved to those responsible for such crimes as murder, theft, adultery, but above all, one of the draft proposals related to the sources to use for judicial decisions. The cherry on the top, the peak of his Islamic revival as the basis for walking down the Islamic path, was the masterpiece of 1983, the September Laws. They included the Sources of Judicial Decisions Acts, which enforced Shari’a, and the Code of Criminal Procedure the Civil Procedure Act, the Civil Transaction Act, whose main function was to ensure a “just and fast execution” of the hudud.

However, his objective of socio-economic development and national unity, despite the alteration it went through at some point from the original plans to adjust themselves to new external factors and changed domestic conditions, miserably failed. Islam did not turn out to be enough to legitimize his government and winded up with oppression and economic depletion. In early 1985, soaring prices in essential goods (bread and sugar) coupled with the upsurge by 75 percent in oil prices unleashed powerful social forces. Broad segments of the society took to the streets and the armed forces declared their willingness to stand by the people and meet their demands by stripping Numeiri of the power and hand it over to the people after a transitional period (Radio Omdurman, on April 6th 1985).

This thesis did not forget about the South region of Sudan, today the internationally recognized South Sudan, though. Yes, it was July 2011 when the three southern states’ population exercised their right to self-determination. Southerners casted ballots in all twenty-five Sudanese states and other eight countries and closely unanimously expressed for independence. Therefore, it has set foot on the international stage as the newest state in the world. But that area has been the place where a five-decade-long armed struggle, culminated in two bloody civil wars (one between 1955 and 1972, the second from 1983 up to 2005) between the Government of Khartoum and the southern rebels, had been carrying out. It is therefore the region, and its relation with the centre, that mostly shaped the fate of the whole country.

Rather, the ways successive Sudanese governments dealt with Sudan’s cultural, ethnic and religious diversity, and coped with economic and political marginalization of the peripheries, have set the path toward independence and have made a dysfunctional state in “perpetual turbulence” (Lesch 1998, Elnur 2009; de Wall 2007). Its endless territory, being the largest African country before 2011, hosted one of the most multifaceted ethnic and linguistic landscape in the world and could have kept being the bridge between religions and culture, between the peoples of sub-Sahara and those of the Maghreb and Mashreq in spite of deep divisions. The second chapter, in the first part, maps out the meaningful post-independence historical events of the relation between the North and the South, and seeks to explain the role played by religion in the early political developments, from the pre-Condominium period to the late 1980s. Then, it accounts for the period from the fall of the Numeiri regime in April 1985 to our days, a time span of thirty years entirely monopolized by ‘Umar al-Bashir and his National Congress Party.

Since the intention of this work is to show how damaging and hurting the instrumental political use of religion and ethnicity, in the Sudanese case of Islam and Arab identity, could be to a country’s nation-state building process leading eventually to painful divisions, triggering bloody civil wars, claiming thousand deaths and causing massive displacement, the second paragraph starts dealing with the still-alive al-Bashir government, which made Islamization and Arabization a banner for its policies, feeding hatred, anger and mistrust among different ethnic and religious identities to serve its interests. Finally, the last part gives a brief sum of the conditions leading to conclude the

and-rule strategy did not completely run out of its effects, even after the secessionist process, with the Sudan being trapped into a disastrous economic situation and every-day civil protest calling for President's resignation while met with repression, and with the South Sudan being unable to escape from its ethnic rivalries and competition over resources which led to a three-year civil war just two years after independence. The North of the country or, more generally, the "Global North" did not leave an enviable legacy to the South.

Seeking asylum calls for special attention in Islam: its development and spread owe a great deal to hospitality and acceptance of Muslims' cry for help by Abyssinia and Yathrib populations, since "the Muslims moved from a position of subjugation to a position of control; from a period of developing inner strength to a period of outward expansion; and from a religious community to a religious state" (Yakoob, Aimen, 2001). The hijrah of Prophet Muhammad and the Ansar was not only a way of fleeing persecution and torture they had been suffering from in Mecca, but also a journey that unveiled the Muslim Ummah, that is "a new Muslim community based on Islam, the universal divine message that calls for morality and human rights" (Weiss, Minear, 1991). As Yakoob notes, refugee protection in Muslim countries may easily build on Islamic values, since the Qur'an and Sunnah address the issue of persecution and oppression suffering with a very empathic response, mostly when such pain is perpetrated for religious beliefs. Also, Islamic jurisprudence is indeed awash of migration and persecution stories. While many obstacles, such as the historical context and the post-Cold War international order based on nation states, makes it impossible classic Islamic protection's direct application, the underpinning Islamic values may serve as relevant principles. Islamic and Arab countries have positively reacted to universal conventions and declarations on human right by adopting legal tools drawn on rules and principles from Islam.

However, regionalization process across Arab and Muslim countries has not implied homogenous positions over definition and protection of human rights. Conservative and radical tendencies in Saudi Arabia and Sudan have paved the way for a shari'a-based social organization, whereas more progressive elites in Tunisia and Morocco have widened their cultural references and adopted normative principles belonging to legal systems inspired by different traditions (Piccinini, 2007, p.7). Generally, when Arab and Muslim countries have sat next to each other and successfully come to an agreement, rights proclaimed by these documents are not a voluntary political decision. Rather their recognition stems from God, who himself lends human dignity. The first document that proclaims human rights in Islam is the 1981 Universal Islamic Declaration, adopted by the Islamic Council of Europe (ICE), in the Preamble of which one can read: "WHEREAS Allah (God) has given mankind through His revelations in the Holy Qur'an and the Sunnah of His Blessed Prophet Muhammad an abiding legal and moral framework within which to establish and regulate human institutions and relationships" (ICE, 1981).

With more than 7,600 kilometres of land borders and 853 kilometres of shoreline, Sudan has, over the years, served as a natural stop-off along the East African route, trodden by "economic migrants" and refugees to Europe. Indeed, since the 1960s, the country came to be a safe place of asylum for those fleeing man-made and natural hazards in the continent. Trying to get into details and practice and bearing in mind the importance of hijrah and asylum play in the Islamic tradition, in the third chapter I attempt to provide a brief insight into successive flows of refugees Sudan hosted over the decades, followed by an account of Sudanese refugee law and government policy as resulting from both international obligations the country has undertaken and the Arab/Islamic conception of asylum rooted in the Shari'a. With this purpose, this work gives an analysis of the legal framework over asylum system the country has formally adopted over

The last chapter has been designed with the intention of proving that, as showed by the outbreak of new fighting in South Sudan even after seizing independence, Islam and imposition of Shari'a as the law of the land over the whole country by successive Sudanese governments over decades, cannot ultimately be regarded neither as the true factors triggering the longest civil war in the history of the African continent or even the key variable explaining Sudanese government attitude toward South Sudanese refugees, whether warmly welcomed or not. On the contrary, religious rhetoric has over time been deployed opportunistically as a powerful weapon inside a conflict which is primarily a political and economic one. Nevertheless, this narrative, so much invoked by both sides' political elites, has entered public opinion language and minds. In other words, the root causes of the civil war are being constantly reduced to a stereotype involving religious identity: a conflict between the Muslim North and the Christian South. This pretty simplistic and reductive approach, where religion symbolises the reason why the civil war is being fought, turns a quite complex local conflict into an issue which may be easily translated in such basic universal binary terms as Muslim-Christian, Arab-African, and north-south. Manipulation of religion by both the northern and southern political elites has been instrumental to mobilize military and ideological public support inside Sudan and win foreign alliances and aid abroad.