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A High Devolution Region (HDR): A Community Based Political Solution for Darfur

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I. Introduction:

The war in Darfur has been one of the most humanitarian disasters in this century. Hundreds of villages have been burnt down, hundreds of thousands of people have died, and millions have been displaced, as a direct result of the conflict.\(^1\) The violence is said to have amounted to “a demographic catastrophe”.\(^2\)

The crisis in Darfur has created much of international attention and response at different levels throughout the years of the war. The United Nations has described what is happening in Darfur as “the world's worst humanitarian disaster” and the United States has condemned it as “genocide”.\(^3\) The Secretary General of the United Nations has made Darfur crisis a priority in the UN agenda. A huge coalition of humanitarian organizations, named Save Darfur, has emerged and spread all over the United States of America. Similar coalitions and organizations have developed in Europe, Canada, and Australia. The conflict now entered its seventh year and civilians continue to suffer from the effect of the war.

Yet, the peace process has been a difficult one. In January 2009, JEM has declared its agreement to the initiative brokered by Qatar to host peace talks to solve Darfur crisis. Other smaller factions followed. However, the SLM of Abdul Wahid Nour has not yet agreed to negotiate. In February 23 2010, the government of Sudan and the Justice Equality Movement (JEM) signed a Framework Agreement in Doha, Qatar. The agreement contained a ceasefire agreement, which started immediately.

First, to find a final solution to the crisis in Darfur, it is imperative to understand the complexities behind it, because any solution is dependent on this understanding. Therefore, the paper highlights on the communal facts and related aspects contributing to Darfur crisis. Second, the paper explores the Darfur factions and the problem of factionalism. Third, the paper details and explains the failed peace efforts that tried to solve the problem, and demonstrates the status of the negotiations between the warring parties taking place in Doha, Qatar. This section also focuses on analyzing the power-

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\(^3\) Julie Flint & Alex de Waal, Darfur: A Short History of A Long War, xii, 2005, in Katherine Pounds Taber, Bringing Peace to Darfur: Lessons of the Darfur Peace Agreement, Houston Journal of International Law, Fall 2008.
sharing clause embedded in the DPA and identifies the lessons that can be learnt to reach a better power-sharing deal for Darfur in the future. Finally, the paper plans first, to create power in Darfur; and second, put forward a formula to share it between the parties to the conflict and communities in Darfur. Particularly, this paper intends to introduce the High Devolution Region (HDR) formula as the best option and possibly the only viable solution to the conflict in Darfur.

II. A Necessary Background:

A- The Region’s Geography and History in Brief:

Darfur is the westernmost region of Sudan. It borders Libya, Chad and the Central African Republic. It is as large as France (c. 114,000 square miles).

Historically, Darfur region was divided into three main ‘Dars’: Dar Zaghawa in the north, Dar Fur in the middle, and Dar Rezigat in the south. The dry northern zone is the home of a number of Arab and non-Arab camel nomad groups, an area now badly affected by drought and desertification. In the central zone, north of 10 degrees latitude, farming communities, largely-non-Arab, cultivate varieties of millet, using slash and burn farming techniques. From about 10 degree latitude southwards, the third zone is the home of largely Arab cattle-keeping nomads. Fundamental is the fact that each of the three zones is dependent on the others.

Darfur was an independent sultanate from about 1600 until 1916, when it was incorporated into the Anglo-Egyptian Sudan. In an earlier era Darfur had been one of Egypt’s main trading partners, its sultan exchanged letters with Napoleon in 1798. Under the British, Darfur was a backwater ruled by a few colonial officers, who delegated most of their powers to tribal chiefs. This “Indirect Rule” applied to both nomads and farmers, where the “Omda”, village sheikh, and the tribal chief “Nazir for Arab” retain an important administrative and sometimes judicial role.

The British control of the region was minimal, there was no development, and the people were left to their own devices. Ironically, the same reality and fate continued after the
Sudan had its independence in 1956 where all national governments neglected Darfur in all aspects of development and political participation.

There was some political agitation in the early 1960s, and new political movements emerged among the Fur such as SONI and “Red Flame”. In 1966, the Darfur Development Front/Movement (DDF/M) was formed; it comprised the small group of Western-educated Darfurians and students at the University of Khartoum who, in effect, acted or tried to act as intermediaries between Khartoum and the political groupings there and the traditional leadership in Darfur. Another important event took place in 1991 when Daud Yahya Bolad, an Islamic Fur activist, defected from the current Islamic government and led a rebellion in Darfur. The government forces crushed this attempt and Bolad was captured and executed.

In 1971 President Numayri abolished the “Indirect Rule” which led to the breakdown of trust between the tribal leadership and the university-educated Darfurians. In the early 1970s, the province was divided into Northern and Southern Darfur, with the province capitals at al-Fashir and Nyala respectively. In 1994, a further sub-division was made; Darfur now comprises three states (wilaya), Northern Darfur State (capital, al-Fashir), Western Darfur State (capital, al-Jinayna) and Southern Darfur State (capital, Nyala). Each state has an assembly and a governor appointed by central government. Darfurians today use the term Darfur Al-Kubra “Greater Darfur” to refer to the region as a whole.

B- Darfur Population: Sociological and Communal Facts:

The estimated population of Darfur is around 6 million, approximately 60% of whom are subsistence farmers. Two main ethnic groups live in Darfur, one claiming Arab identity and the other are claiming African one. Both groups are Muslim. The people of Darfur live off the land, cultivating during the rainy season (June-September) and herding animals.

Darfur is an ethnic mosaic. There are 30-odd non-Arab groups living in Darfur, including the Fur, Masalit, and Zaghawa, who retain their own languages while speaking Arabic as a lingua franca. Most are farmers, but some have a strong tradition of nomadic pastoralism. The other group is referred to as the “Arabs,” which consists of

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12 Ofahey, Supra note 4
13 Id.
14 Id.
15 Id.
16 http://www.globalsecurity.org/military/world/para/darfur.htm
17 Alex De Waal, 2005
18 Alex DeWaal, Supra note 5
19 Michael Kevane, Prepared for UnderstandingSudan.org, understandingsudan.org/Darfur/DarfurResources/Fact%20Sheet%20on%20Darfur.doc
20 Alex de Waal, Supra note 5.
21 Id.
those of Arab descent. There is crossing of ethnic boundaries, multiple ethnic identities for the same person and group, and changing alliances among leaders of ethnic groups and their followers.

The largest ethnic group in Darfur is the Fur, which has given the region its name (Darfur means Home of the Fur). The Fur is an African people that together with two other African ethnic groups, the Zaghawa and the Masalit, are the most important components of the rebellion that emerged in 2003.

The Fur, largely peasant farmers, occupies the central belt of the region, including the Jebel Marra massif. Also in this central zone are the non-Arab Masalit, Berti, Bargu, Bergid, Tama and Tunjur peoples, who are all sedentary farmers. The northernmost zone is Dar Zaghawa, part of the Libyan Sahara, and inhabited by camel nomads: principally the Zaghawa and Bedeyat, who are non-Arab in origin, and the Arab Mahariya, Irayqat, Mahamid and Beni Hussein. Cattle rather than camels are herded by the Arab nomads of the eastern and southern zone of Darfur, who comprise the Rezeigat, Habbaniya, Beni Halba, Taisha and Maaliyya. The Masalit, Fur and Zaghawa communities are some of the most predominant ethnic groups of West Darfur, and have been the principal victims of the government's military campaign. Darfur also has been a region of high admission of West African migrants, especially from Chad and the rest of West Africa.

About a third of Darfur's population are descended from Arabs who migrated across the Sahara from the 14th to the 18th centuries, intermarrying with locals so much that most are physically indistinguishable from their non-Arab neighbors. Cattle-herding Baggara Arabs predominate in southern Darfur, and camel-herding Abbala Arabs live in the north, seasonally migrating with their herds from the desert pastures to the central savannahs. The Arab nomadic and semi nomadic herding tribes include the Taaysha, the Habaneya, the Beni Helba, and the Mahamid.

Darfur tribes had shared long history of cooperation, relatively peaceful coexistence, and ethnic barriers were at low levels. Darfurian communities are characterized by flexibility, fluidity of social relations, and freedom of movement, and because of that many mixed communities emerged. Despite this, conflicts between different ethnic groups have been part of life in Darfur for the last century.

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22 Nadia A. Deans, Tragedy of Humanity: The Issue of Intervention in the Darfur Crisis, 19 Emory Int’l L. Rev. 1653, Fall 2005
23 Alex de Waal, Supra note 5.
25 http://www.sudanupdate.org/REPORTS/PEOPLES/Darf.htm
26 Id.
27 Id.
28 Leiliani, Supra note 9
29 Alex de Waal, Supra note 5.
30 Id.
31 Alex de Waal, http://conconflicts.ssrc.org/hornofafrica/dewaal/
The drought and famine of 1984-85 in Darfur led to a succession of local conflicts, in which the farmers were pitted against the nomadic herders over diminishing resources.\textsuperscript{32} The extended periods of drought, competition for scarce resources, and the lack of a proper governing authority have made these conflicts increasingly bloody and politicized over the years.\textsuperscript{33}

III. The Conflict: Origin and Causes:

On April 25, 2003, the Sudanese Liberation Movement/ Army (SLM/A), previously known as the Darfur Liberation Army, and the Justice Equality Movement (JEM) attacked and briefly occupied a military base, police stations, and the airport in El Fasher, the capital of the state of North Darfur. The rebel killed many soldiers and destroyed several military aircrafts. The government responded to the insurgency by arming, training, and unleashing ethically-based militias known as Janjaweed. The government targeted specific ethnic groups—the Fur, Zaghawa, and Massaleit. \textsuperscript{34} The Sudan Liberation Army/Movement (SLA/M) and the Justice and Equality Movement (JEM) turned against the government, which had continued the British colonial administration's policy of neglecting the region.\textsuperscript{35}

Scholars and Analysts have proclaimed and cited different reasons and causes that lead to the conflict in Darfur. The crisis in Darfur has its roots in interlinked, parallel, conflicts consisting of communal conflicts, centre-periphery conflicts, and conflicts between different local elites.\textsuperscript{36} Those layers of conflicts interact and reinforce each other. A solution requires awareness of these different conflicts.\textsuperscript{37} These differing but entangled conflicts (and the lack of understanding of the complexity of the situation) constitute one factor that makes a solution on the Darfur crisis so elusive.\textsuperscript{38}

To be able to deal with these issues more suitably it is important to elaborate on them by distinguishing between communal conflicts, centre-periphery conflict and conflicts between different local elites. These three layers are determinant to any solution to the crisis in Darfur.

(A) Communal Conflicts:

Communal conflicts have been ongoing in Darfur for long time prior and during the current rebellions. Conflicts between different ethnic groups have been part of Darfurian society for at least 75 years.\textsuperscript{39} These have mainly been conflicts over grazing and water

\textsuperscript{32} Nadia, Supra note 22.
\textsuperscript{33} Id.
\textsuperscript{36} Joan Broche, Supra Note 24..
\textsuperscript{37} Id.
\textsuperscript{38} Id.
\textsuperscript{39} Id.
rights but also over local politics and administrative boundaries.\textsuperscript{40} These conflicts have largely been a function of resource competition, relative deprivation and dwindling subsistence opportunities in the face of rapid population growth.\textsuperscript{41} Most of these conflicts have pitched nomads against farmers but there exist several exceptions to this broad generalization.\textsuperscript{42} A critical factor that increased the severity of these conflicts was the environmental degradation that began in Darfur in the 1970s and became acute in the 1980s.\textsuperscript{43} During these severe droughts, Darfur experienced a significant tribal migration within the region. Simultaneously, it has received an influx of migrants from neighboring countries mainly Chad. These population movements have created competition over the diminishing resources, which increased the level of fighting.

The nomadic herders have always had their own military organization to defend against intruders.\textsuperscript{44} The Nomadic Abbala “camel herders” historically have no land ownership and this fact has increased their hunger for land today, exacerbated by drought and desertification. The farmers, however, understood Darfur as their “God-given homeland” and considered the nomadic herders intruders.\textsuperscript{45} The farmers eventually had to arm themselves because of skirmishes with the nomadic herders.\textsuperscript{46} In 1983-1987 the nomadic Zaghawa and Arab group of Mahariya who moved southwards into the central Fur region of Jebel Marra encountered hostility from the Fur farmers- who realized that the move might this time be permanent- and from the government forces who accused them of camel rustling.\textsuperscript{47} The Fur elite in local government resisted the nomads’ intrusion rather than seek accommodation.\textsuperscript{48} Police and army burned down numerous Zaghawa settlements and extra-judicially executed local Zaghawa leaders.

Communal conflicts between Fur and Arabs, as well as between Zaghawa and Arabs, have been one of the root causes of the current situation.\textsuperscript{49} The Fur-Arab war which was one of the resource competition; as drought and corresponding famine sent the largely Arab pastoralists of North Darfur southwards in search of greener pastures, competition with Fur and other farmers was inevitable.\textsuperscript{50} During the Arab-Fur war of 1987-1989 several raids against villages took place in Darfur and the word Janjaweed appeared for the first time in Darfur.\textsuperscript{51} In this intensified war thousands of Fur were killed, tens of thousands more were displaced, and over 40,000 homes were destroyed.\textsuperscript{52}

\textsuperscript{40} Id.
\textsuperscript{41} Scott Edwards, Social breakdown in Darfur, www.fmreview.org
\textsuperscript{42} Joan Broche, Supra Note 24.
\textsuperscript{43} Id.
\textsuperscript{44} Nadia Dean, Supra Note 22.
\textsuperscript{45} Id.
\textsuperscript{46} Id.
\textsuperscript{47} Sudanupdate, Supra note 25.
\textsuperscript{48} Id.
\textsuperscript{49} Ofahuy, Supra note 4.
\textsuperscript{50} Scott Edwards, Supra note 41.
\textsuperscript{51} Joan Broche, Supra note 24.
\textsuperscript{52} Human Rights Watch, Darfur Destroyed: Ethnic Cleansing By Government and Militia Force in Western Sudan 16, No.6(A), (May 2004)
The fight between Awlad Zeid Arab nomads and Zaghawa had continuously taken place in Darfur since 1980s. In the 1990s the Awlad Zeid raids increased on Zaghawa and in 1997 several Zaghawa tribal leaders were killed by the Awlad Zeid Arabs. In turn the Zaghawa mobilized their defense forces and launched attacks on Awlad Zeid. In 2001 a massacre that killed 70 Zaghawa was carried out by Awlad Zeid Arabs, but with clear governmental involvement. This attack took place over an important water source used by both Zaghawa and Arabs.

In the 1990's, hostilities resumed in West Darfur (among other places), particularly in 1998, when Arab nomads prematurely moved their flocks into land predominantly populated by Masalit farmers. During the 1998 conflict, more than sixty Masalit villages were destroyed, an Arab village was burned, both Masalit and Arabs were killed and more than five thousand Masalit were displaced. Despite a resolution of the conflict being reached, hostilities again broke out in 1999, with more than 125 Masalit villages partially or totally destroyed and hundreds killed, including local Arab tribal chiefs.

In some occasions, Arabs have fought other Arabs in Darfur. The conflict between Arab Terjam and Arab Rizeigat groups was the Darfur conflict that killed most people in 2007. The fighting was mostly a battle for control over land that had been abandoned by displaced persons. In 2007, the Terjem and the Mahria, heavily armed Arab tribes that United Nations officials said raped and pillaged together as part of the region’s notorious janjaweed militias, have squared off in South Darfur, fighting from pickup trucks and the backs of camels. They raided each other’s villages, and scattered Arab tribesmen into the same kinds of displacement camps that still house some of their earlier victims.

In the past, competition for scarce resources and tribal tensions were controlled and mediated by traditional conflict’s resolution mechanisms laid out by the Native Administration laws and tribal norms. The underlying cause of the present disaster in Darfur is the failure of traditional systems for the allocation of land and water resources and the mediation of conflict. Some scholars argued that the dismantling of the Native Administration by the central government in the 1970s was a direct cause of lawlessness and conflict in Darfur.

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53 Joan Broche, Supra note 24.
54 Id.
55 Id.
56 Id.
57 Id.
58 Leiliani, Supra note 9.
59 Id.
60 Id.
61 Joan Broche, Supra note 24.
63 Jeffrey Gettleman, Chaos in Darfur Rises as Arabs Fight With Arabs, New York Times, 09/03/2007
64 Abdullahi Ahmed An-Naim, causes and solutions for Darfur, The San Diego Union- Tribune (03/07/2008)
The attempts of successive governments to achieve peace have been alternately ineffectual and heavy-handed.\textsuperscript{65} Arms were channeled into Darfur by the central government under Prime Minister Sadiq Al Mahdi (1986-89), which armed the southern Baggara Arabs as a militia to fight against the SPLA (at that time threatening insurgency in the region), and also armed the northern Arab tribes, who were loyal to the Ansar of the Prime Minister’s Umma Party.\textsuperscript{66}

Darfur was swamped with arms long before the present conflict erupted. Chad-Darfur linkages have always been obvious. Darfur has always been a battleground for foreign wars. The Libyan-Chadian war over the Aouzou strip in 1987 had flooded the region with weapons and stirred the ideology of both Arabism and Africanism. Armed militia whether Chadians or supported by Chad or Libya had been fighting in Darfur lands. Those foreign wars had contributed to the seeds for the formation of the armed militias and militarization in Darfur. The formation of the Arab Gathering in 1987, an alliance of Arab tribes that promoted Arab supremacy in Darfur, supported by Libya and successive Sudanese governments, have inflamed the region and sparked new communal conflicts.

(B) Marginalization:

Sudan has experienced conflicts to different extent in the South, West, Nuba Mountains, Blue Niles, the East, and the North. Respectively, the Darfur Development Front and SONI, Nuba Population General Federation, Injissena Union, the Beja Congress, were formed in the 1960s as popular uprising movements demanding equal development, wealth and power sharing. The common problem to those entire regions is the economic and political marginalization that reflects structural imbalance in the Sudan. Old tensions between the Arabs of the Nile River valley, who have held power for a century, and marginalized groups on the country’s periphery are turning into a national crisis.\textsuperscript{67}

These conflicts exemplify a centre-periphery conflict between Khartoum and the marginalized areas. Successive national governments ignored their demands and refused to address the injustices, unequal development, and political marginalization. As a result, several movements turned militant and violent. The Nuba Mountains and the Blue Nile joined the Sudan People’s Liberation Movement/Army (SPLM/A) in mid 1980s in taking up arms against the central government.

The late Dr. John Garang the founder of the SPLM was the main exponent of the concept of marginalization and unequal distribution of power and wealth between the centre and peripheries as the main cause of wars in Sudan. His views, which are new to Sudanese politics, succeeded to catalyze activists and intellectuals in the marginalized regions.

One essential factor for understanding the current crisis in Darfur is the constant marginalization of the region since the time of independence. In the course of the past

\textsuperscript{65} Sudanupdate, supra note 25.
\textsuperscript{66} Id.
\textsuperscript{67} Andrew Natsios, Beyond Darfur, Foreign Affairs Magazine: www.foreignaffairs.org/articles/63399/andrew-s-natsios/beyond-darfur (03/30/2009)
120 years, the people of Darfur have received precious little from successive central
governments in Khartoum—often only grief and suffering. Neglect by the centre, both in
colonial times and national democratic or military governments have led to rebellions.

Resistance movements such as Darfur Development Front in the sixties led protests
against the lack of political representation of Darfur in the central government and the
imbalance development, which increased the awareness of marginalization among the
Darfurian activists. Other movements such as Sooni and the Red Flame sought to change
the situation in Darfur by force. The Black Book, which was authored and published by
Darfurians dissident Islamists in 2000 and preceded the rebellion, documented the
domination of central governments by the northern elites.

The political manifesto of both major rebels’ movements, the SLM and JEM, calls for a
revolution to end the injustices, marginalization, racial discrimination, divisiveness, and
inequality in the sharing of wealth and power in Sudan. Darfur rebels strongly believe
that there exist deliberate and consistent marginalization policies by administrative,
military, and commercial elites to exploit the regions. The failed peace agreement, which
was signed in 2006, tried to correct these injustices by embodying two protocols of power
sharing and wealth sharing.

(C) Conflict between Local Elites:

Another explanation of the current war in Darfur is the power struggle between local
political elites. There are major forces that are competing over dominance and political
prominence in Darfur: the Sudanese Armed Forces “SAF” and its allied Janjaweed
militias, the rebels, and tribal chiefs. This rivalry is reflected in many attempts to control
cities, towns, and communities.

The government was shocked by the El Fashir operation in April 2003, and responded
severely and brutally. The government feared that its forces and power would be
vulnerable to attacks and challenges from the rising factions. This led the government to
seek support from other sources and communities by mobilizing the Janjaweed militias.
This mobilization and the struggle between the government and the factions over political
power and legitimacy in Darfur has led to intensify the war and increased ethnic tension.

The Sudanese government and the Janjaweed militias, an Arab supremacists movement,
have been carrying out a horrifying campaign of ethnic cleansing against African tribes.
Some 2.700 villages have been destroyed, and as a result of the violence and the related
starvation and diseases, some 250,000 Sudanese have died, most in 2003 and 2004, and
another two million have fled to refugee camps. The Bush administration has called
these atrocities genocide.

68 Sudanarchive.net/cgi-bin/sudan?a=d&d=Dunepd257.6&raw=1 (5/16/2008)
69 Andrew Natsios , Supra Note 67.
70 Id.
71 Id.
On the other hand, Darfur rebel movements continued their attack against the government’s posts in Darfur and outside the region as well. In its first year, the SLM achieved a series of stunning military victories. In addition to El Fashir and Jebel Marra operations, the SLM briefly seized the North Darfur towns of Mellit, Tina, Kornoy, and Um Buru. The SLM also attacked Buram in South Darfur, and Kutum.

On May 10, 2008, JEM mounted an attack on Omdurman, a major city of the triangle capital of Khartoum. On September 29, 2008, the AU base in Haskanita was attacked and destroyed, killing 10 peacekeepers. Rebels were suspected of being behind the attack on the AU base. In the following days, while the government controlled Haskanita the former rebel-held town was burned to the ground and thousands of residents were sent fleeing. 105 people killed when the government forces and allied militia razed the town.

The current phase of the war is significantly different from the war started in 2003 and 2004. Rebels’ movements have also involved in intense fighting among themselves over military positions in order to strengthen their political power in Darfur. The power-struggle between the three major movements: the Sudanese Liberation Movement (SLM) of Minawi, the Sudanese Liberation Movement (SLM) of Abdul Wahid Nur, and the Justice Equality Movement (JEM) has intensified in Darfur since 2005, which polarized ethnic groups in the region and increased the insecurity.

The situation in Darfur has deteriorated with worst fighting in the Southern East part of the region in early 2009. In January 2009, the JEM troops captured the town of Muhajiria, formerly controlled by the SLM forces. JEM also has taken over other SLM strongholds. The government responded by launching an intensive aerial bombardment over the town. UNAMID reported 30 civilians were killed and 30,000 displaced in the January clashes. The goal behind this operation is to undermine the SLA of Minawi, and create a de facto situation on the ground that would make JEM the sole group represented at Doha, Qatar peace talks.

In response, the Sudanese government armed forces (SAF) launched a continuous attack for two weeks using warplanes in an attempt to retake the town of Muhajiria from JEM, which also hosts some offices of UNAMID peacekeepers. The UN Secretary General Ban Ki Moon and the US administration urged the JEM rebels to give up Muhajiria.

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73 Id.
74 www.swissinfo.org/eng/international/ticker/detail/Sudan_army_attacks_Darfur_par.
75 Id.
76 Id.
77 SudanWatch-blogspot.com/2009
78 Id.
79 Id.
81 Id.
82 www.news.xinluanet.com/english/2009-02/04/content_10758924.htm
83 Id.
According to Reuters, the Sudanese army assault killed at least 45 people in the town, bodies littered the street, and buildings were burned down.

Along the years of the war in Darfur, the ethnic division among the movements became apparent. The movements split along tribal lines and each one sought sanctuary and support from its community. The fragmentation of armed groups is making the situation even more complex, and more difficult for civilians as well as for humanitarians trying to help them. The recent rounds of clashes between the splintering groups have claimed many lives.

The conflict between rebel leaders and traditional chiefs overlaps with other tensions. There is a deep mistrust between the new rebel leaders and their communities’ traditional chiefs. The rise of the rebel groups had already weakened the traditional role of the tribal sheikhs and the Native Administration.

IV. The Factions and the Problem of Factionalism:

There are three main rebel groups emerged in Darfur: the Sudan Liberation Movement/Army (SLM/A) of Mini Minawi (from Zaghawa), the Sudan Liberation Movement (SLM) of Abdel Wahid al Nur, (a Fur), and the Justice and Equality Movement (JEM) led by Khalil Ibrahim (from a Kobe clan of Zaghawa). The African tribes of Fur, Zaghawa and the Massalit, of Darfur are the main recruits and dominant members of these movements.

The movements’ reasons for rebellion are centered on unequal development and political marginalization of Darfur and its people. Each movement has a national agenda for a united democratic Sudan. They demanded equality in sharing of power and wealth in the Sudan and greater political autonomy for their region. Their political demands enjoyed widespread support across the region, and they were seen as fighting for a just cause.

The SLM, formerly known as the Darfur Liberation Front, founded in mid 2002 and launched its first attack on army outpost in Jebel Marra and El Fasher in early 2003. The SLM benefited from the tribal organized self-defense units that were already established in 2001. In March 2003 the movement changed its name to the Sudanese Liberation Movement/Army (SLM/A). At that time the SLM was led by Abdel Wahid al Nur (a Fur) as a Chairman, and Mini Arkoi Minawi, (a Zaghawa), as a chief of staff. This joint leadership reflected great expectation for unity between these victimized tribes.

Despite the aspiration to create a multi-ethnic resistance movement the ethnic divisions soon became apparent. The SLM/A subsequently split along tribal lines. The first and

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84 Jeffery Gettlman, Supra Note 63.
85 Victor Tanner and Jerome Tubiana, Supra note 72.
86 Alex de Waal, Whither the Darfur Mediation? (II) Making Sense of Darfur, Peace Process, Politics: (blog)
87 Joan Broche, Supra note 24.
88 Id.
the most important split occurred in November 2005 when Minni Minawi took over the chairmanship of the movement.\textsuperscript{89} The power-struggle between Abdul Wahid and Minni Minawi led to fighting between the two factions of the SLM/A during the spring of 2006.\textsuperscript{90} Subsequently, the SLM suffered further cracks in the aftermath of the Darfur Peace Agreement of 2006, which was signed by Minawi alone.\textsuperscript{91}

The SLM of Abdul Wahid is the only rebel movement known to all people in Darfur, especially those who live in the camps. Despite the fact, that Abdul Wahid still lives in France and his military capacity has diminished significantly, he still has some fighters in Jebel Marra, and enjoys the support of the IDPs in Darfur.

The Justice and Equality Movement (JEM) was founded in March 2003 mainly by Darfurian Islamists who defected from the central government. The JEM based its agenda on the “Black Book,” which documented the disparities in the political portfolios’ distribution in the country in which Darfur is consistently marginalized. The JEM calls for comprehensive constitutional reforms that would guarantee the regions their rights in ruling the country. The JEM appears to have received support from Chad. The JEM is the strongest most ambitious and most organized of Darfur’s increasingly disorganized rebel groups.\textsuperscript{92}

The JEM also suffered several splits in 2004 after N’djamena ceasefire agreement. The splinting groups have been fighting each other since late 2005. Several members from both sides have been killed. The most important split happened in October 2007 a new group defected JEM leadership and formed the Justice and Equality Movement-Collective Leadership.

To add to the confusion and the level of violence in the region, all rebel movements and their splinters have gone through a non-stop split and fractionalization. New groups have continued emerging. Some clans and sub-clans started their own rebel movement.\textsuperscript{93} This trend of fragmentation continued and the number of known movements now reached 16. All unification processes failed including the processes conducted under the supervision of the SPLM in Juba, Southern Sudan, Eritrea, Ethiopia, Libya, and Egypt. Qatar, however, succeeded to unify ten rebel movements into a new umbrella called “The Liberation Movement for Justice”. The factions are still battling over who should represent the people of Darfur in the peace talks, which added more obstacles to the conflict resolution.

V. The Failed Peace Efforts:

Since the fight started in early 2003, several truces and ceasefire agreements were signed between the government and the rebels’ movements, in Chad, Nigeria, and Libya, but all

\textsuperscript{89} Id.
\textsuperscript{90} Id.
\textsuperscript{91} Id.
\textsuperscript{92} Jeffrey Gettleman, Regional Shift Helps Darfur, Amid Doubts, NY Times, 02/24/2010.
\textsuperscript{93} Joan Broche, Supra Note 24.
of them have fallen through. On April 2004, the government and both rebels signed a 
Humanitarian Cease Fire Agreement on the Darfur Conflict and a Protocol on the 
Establishment of Humanitarian Assistance in Darfur.\footnote{94} The deal included an agreement to 
release prisoners of war and other detainees arrested in relation to the conflict. The 
African Union agreed to send monitoring teams to follow up implementation of cease-fire 
agreement.\footnote{95} On June 2004, the African Union established a headquarters in al Fashir.\footnote{96} Both sides violated the cease-fire agreement making the task of the African Union 
Mission in Sudan (AMIS) impossible.

The United Nations Security Council intervened in the situation in Darfur in 2004, by 
authorizing and creating a Commission of Inquiry to “investigate violations of 
international humanitarian and human rights law in Darfur by all parties ...”.\footnote{97} In light of 
the findings of the Commission of Inquiry,\footnote{98} the Security Council adopted Resolution 
1593 in March 2005, for the first time and referred the Darfur situation to the 
International Criminal Court ICC.\footnote{99} Accordingly, the ICC indicted and issued warrants 
of arrest for three Sudanese leaders including President Omar Al Bashir, State Minister 
Ahmad Harun, and militia leader Ali Kushayb for committing war crimes and crimes 
against humanity. As the time of writing this paper, none of the arrest warrant has been 
executed.

In the aftermath of the ICC warrant of arrest against President El Bashir, the government 
of Sudan expelled 13 international organizations that have been providing shelters, food 
and water, and medical assistance to people in Darfur. The decision endangered more 
than 1.5 million of internally displaced people and added to the atrocities in the region. 
International efforts failed to convince the Khartoum government to let them back to help 
the needy people in Darfur.

In the late 2005, the seventh round of the Inter-Sudanese Peace Talks on the Conflict in 
Darfur commenced in Abuja, Nigeria, under the auspices of an African Union (AU) 
mediation team.\footnote{100} The mediation was supported by the UN, the UK, the US and other 
international partners. The purpose of the talks was to broker a comprehensive peace 
agreement between the Government of Sudan and the main rebel movements in Darfur, 
the Sudan Liberation Movement/Army (SLM) and the Justice and Equality Movement 
(JEM).\footnote{101}

On 5 May 2006 the Darfur Peace Agreement (DPA) was signed by the Government and 
by Minni Minawi, the leader of one of the two SLM factions, but was rejected by JEM

\footnote{94} David Hoile, Supra Note 2, pp 39.
\footnote{95} Id. Pp 39
\footnote{96} Id. Pp 40
\footnote{98} See the Independent International Commission of Inquiry on Darfur Report (ICID)
\footnote{100} Laurie Nathan, No Ownership, No Peace: the Darfur Peace Agreement, working paper no. 5, Crisis 
States Center, London.
\footnote{101} Id.
and Abdel Wahid al Nur, the leader of the other SLM faction.\textsuperscript{102} Abdel Wahid did not sign the agreement because he believes more direct SLA/M participation is required for the effective implementation of security arrangements.\textsuperscript{103} Further, Abdel Wahid believes that the DPA does not provide enough political representation or adequately provide for a victim's relief fund.\textsuperscript{104} The JEM refused to sign the DPA because they believe the agreement's protocols on power and wealth sharing do not adequately address root causes of the conflict.\textsuperscript{105}

Thereafter, the DPA was endorsed by the United Nations with the adoption of U.N. Resolution 1679.\textsuperscript{106} The United Nations insisted that the parties to the agreement respect the commitments they made and implement the agreement immediately.\textsuperscript{107} The United Nations also urged those parties that had refused to sign the agreement to reconsider and not to obstruct the implementation of the agreement in any way.\textsuperscript{108}

The DPA contains provisions on power-sharing and political representation; wealth sharing and compensation for the victims of the conflict; ceasefire arrangements and long-term security issues; and Darfur-Darfur Dialogue and Consultation designed to facilitate local dialogue and reconciliation.\textsuperscript{109}

The Agreement failed to achieve peace in the region and the violence remained unabated. A number of analysts had criticized the DPA. The agreement did not win the hearts of people in Darfur and exposed the hypocrisy and bad faith of Khartoum government. The DPA reflected lack of interest from the part of the government to address the underlying causes of the crisis.\textsuperscript{110} When negotiations dragged for a long time, the international community lacked patience and was therefore pushing for any deal that would stop the war in Darfur.\textsuperscript{111} Instead of solving the problem, the agreement created other serious problems chief of which is the rift between the different armed groups.\textsuperscript{112} The DPA accelerated the break-up of the insurgency into smaller blocs along loose ethnic lines.\textsuperscript{113}

The DPA failed to create powers so to share it in Darfur. Therefore, the power sharing protocol failed to address the imbalance in the political representation of Darfur in the central government and the region. Mini Minawi was given a Presidential advisory post but without portfolio. He has not gained any authority over Darfur three states. The Transitional Darfur Regional Authority (TDRA), which was responsible for

\textsuperscript{102} Id.
\textsuperscript{103} Katherine Pounds Taber, Bringing Peace to Darfur: Lessons of The Darfur Peace Agreement, 31 Houston Journal of International Law,171, Fall 2008. Hous. J. Int’l L. 171)
\textsuperscript{104} Id.
\textsuperscript{105} Id.
\textsuperscript{106} Id.
\textsuperscript{107} Id.
\textsuperscript{108} Id.
\textsuperscript{109} Id.
\textsuperscript{110} Munzoul A. M Assal, Locating Responsibilities: National and International Responses to the Crisis in Darfur, University of Khartoum, Sudan.
\textsuperscript{111} Id.
\textsuperscript{112} Id.
\textsuperscript{113} International Crisis Group, Darfur Fragile Peace Agreement, p1.
implementation of the DPA, was established a year later in 2007, and already plagued by
ethic divisions. The protocol on wealth sharing also failed to compensate the victims
and the affected areas of Darfur. Millions continue to live in camps run by NGOs, and no
one returned home. In the current circumstance, the Darfur- Darfur Dialogue is not likely
to be held in 2010 as intended in the DPA. Land ownership issues have yet to be solved
and still required a long-term solution. Four years since the agreement was signed, Darfur
still at war and unstable, and the implementation is very slow and meaningless. The DPA
turned out to be another proof of political marginalization and that there was no power to
share in Darfur.

VI. The Current Negotiations in Doha:

Qatar has been trying to mediate talks between the warring parties in Darfur since the
conflict erupted in 2003. The Arab league and the African Union agreed in September
2008, to work together in order to end the Darfur conflict which has continued for more
than six years. They both agreed on Doha as a host venue. Together with the AU-UN
Chief Mediator, Djibril Bassolé, Qatar has been involved heavily in the negotiations by
hosting the Mediation. Many of the rebel groups have been wary and skeptical of Arab
mediation, seeing it mainly as a way to protect Sudanese President Omar Hassan al-
Bashir from the possibility of indictment for war crimes by the International Criminal
Court.

Since then, the Qatari Minister of State for Foreign Affairs, Abdullah Al-Mahmood has
been vigorously engaging in meeting with the parties; Sudan government, the Justice and
Equality Movement (JEM), the governments of Chad and Kenya, to facilitate the peace
process. Doha also succeeded in convening different summits for Arab and African
ministers, mediators, special envoys to Sudan, and international partners, to decide on the
next steps in mediating a peace agreement for Darfur. Doha has also hosted many
capacity-building workshops for Darfurian activists.

In January 2009, JEM has declared its agreement to the initiative brokered by Qatar to
host peace talks to solve Darfur crisis. Other smaller factions followed. However, the
SLM of Abdul Wahid Nur rejected the negotiations. In February 17, 2009, the
government of Sudan and the Justice Equality Movement (JEM) signed the Goodwill
Agreement (GWA) in Doha. However, the two parties failed to work out a ceasefire deal.

The GWA was designed as a declaration of good intentions and considered the first step
to further peace talks on Darfur. The two parties agreed to accord strategic priority to the
peace process, address the roots causes of the problem, exchange prisoners of war, and
establish a durable peace in the country. The parties also promised to work on concluding
a framework that would result in an agreement for halt of hostilities and set bases for
talks on the detailed issues.

115 The Goodwill Agreement, Doha, 2/17/2009
The UN, AU, Arab League, and the international community welcomed the Goodwill Agreement. The United Nations hailed the agreement as a deal on confidence-building measures reached by Sudan and a key Darfur rebel group.\(^{116}\) UN Secretary General Ban Ki-moon said in a statement “the Doha agreement of goodwill and confidence-building ... represents a constructive step in the ongoing efforts to negotiate a peaceful conclusion to this long-running conflict.”\(^{117}\) The US described it as “a tangible first step forward toward an inclusive framework for the resolution of the Darfur conflict”.\(^{118}\)

A year later, after interruptive negotiations, the government of Sudan and the Justice Equality Movement (JEM) signed a Framework Agreement in Doha, Qatar in February 23, 2010. Abdel Wahid Nur immediately refused to join the process calling it a “ceremonial peace.” The signing ceremony was attended by the Emir of Qatar Sheikh Hamad bin Khalifa Al Thani, Sudanese President Omar Al-Bashir, President Idriss Deby of neighboring Chad, African Union Chairman Jean Ping, the JEM leader Dr. Khalil Ibrahim, and U.S. special envoy.

The international community immediately welcomed the agreement and described it as a major breakthrough. The Secretary-General Ban Ki-moon hailed the agreement as “an important step towards an inclusive and comprehensive peace agreement” for Darfur, and called on all parties in the deadly conflict in Sudan’s Darfur region to agree on a definitive political settlement.\(^{119}\) The head of the joint AU-UN peacekeeping mission in Darfur (UNAMID) commended both parties on their efforts.\(^{120}\)

The agreement’s key provisions include an immediate ceasefire, clemency for JEM prisoners in Khartoum, release of all war prisoners, security arrangements, position and train JEM forces in order to absorb them in the national forces. It also sets a framework to negotiate issues such as; power sharing and JEM transformation to a political party; wealth sharing; the region’s status; the return of refugees and displaced persons, and compensation for victims of war in Darfur.\(^{121}\)

After signing of this preliminary agreement, the situation at the Darfur peace talks in Doha has changed rapidly. The Doha Mediation has also hosted parallel efforts to unite other Darfur rebel groups. Two rebel coalitions consist of ten separate groups known as the Addis and Tripoli Groups have united into one movement called the Liberation and Justice Movement. Tijani Seise, a Fur and a former governor of Darfur was chosen as the new movement leader. The Mediation is pushing for the Liberation and Justice Movement to negotiate with the Government of Sudan on a parallel track to JEM, with a plan to bring the two tracks together toward the end of talks.\(^{122}\) Tensions clearly remain between JEM and these other groups, and the ability to reconcile these tensions will

\(^{116}\) Reuters, Supra note 114
\(^{117}\) Id.
\(^{118}\) Gordon Duguid, Acting Deputy Department of State Spokesman, Washington, DC 2/18/2009
\(^{119}\) UN News Center, 23 February 2010.
\(^{120}\) Ibrahim Gambari, UN News Center 2/23/2010.
\(^{121}\) The Doha Framework Agreement, 2/23/2010
\(^{122}\) The Enough Project Team, A Peace Process Play -by- Play, 2/25/2010
likely determine if the agreements of the last several days are a genuine breakthrough or yet one more series of broken promises.\footnote{123}{Id.}

Despite the progress achieved in Doha, the peace process seems to have incurred some sudden hurdles and obstacles. The U.S. special envoy to Sudan Gen. J. Scott Gration warned that efforts to bring peace to the country's troubled Darfur region could become less of a priority for the Obama administration if a full-fledged peace agreement is not reached before Sudanese elections scheduled for mid-April.\footnote{124}{Sudarsan Raghavan, U.S. focus on Darfur may hinge on peace accord, Washington post 03/11/2010} The U.S. special envoy also affirmed that the focus would be on reaching agreements and enacting other measures ahead of a January 2011 referendum in which South Sudan will vote on whether to secede.\footnote{125}{Id.} The possibility that Darfur -- a top U.S. priority since the Bush administration declared in 2004 that a genocide was unfolding there -- could be placed on the back burner reflects Sudan's tenuous state as the country enters one of its most decisive periods since achieving independence in 1956.\footnote{126}{Id.} In fact, the fear that Darfur would overshadow the implementation of the North-South peace agreement was also expressed by the former U.S. special envoy, Andrew Natsios.\footnote{127}{Andrew Nastios, speech at Mortara Center for International Studies, Georgetown University.} Thus, the Darfur peace talks are going to be frozen and kept hostage for another peace process in the South. The irony is that, by undermining the Darfur peace talk, the U.S administration may be contributing to the very instability it intends to avert in Darfur and the whole Sudan.

VII. The Plan: A High Devolution Region (HDR)

This section of the paper introduces a specific approach and a community based political plan for Darfur. This section first intends to create power in Darfur region and its three states, and then set forth a formula to share it among communities. Particularly, I intend to introduce the High Devolution Region (HDR) formula as the best option and possibly the only viable solution to the conflict in Darfur.

A: Create Power in Darfur:

As we have discussed above, the main root causes of the current conflict lies in both communal conflicts and the imbalance of power between the centre and peripheries. Therefore, the power-sharing formula is still the most effective prescription for communal conflicts and for redressing the years of political marginalization experienced by the people of Darfur.

During the peace talks in Doha, the rebels asked for political representation for Darfur’s people, at both the federal and state levels of government, proportionate with the region's population. They also demanded a government for Darfur as one region. This demand comes at cross road and contrary to the current federation in the country, which divides Sudan to 26 federal states, three of which are in Darfur region.

\footnote{123}{Id.}
\footnote{124}{Sudarsan Raghavan, U.S. focus on Darfur may hinge on peace accord, Washington post 03/11/2010}
\footnote{125}{Id.}
\footnote{126}{Id.}
\footnote{127}{Andrew Nastios, speech at Mortara Center for International Studies, Georgetown University.}
The government would prefer to absorb the three states of Darfur region within its current form of the United Federal Rule, a form of a federated republic. The imprecise division of power between the centre and peripheries and the latter’s inability to exercise exclusive competence or jurisdiction in any policy area are some of the significant shortcomings of the current federal government. The states governments have no fiscal powers and are completely dependent on finances from the central government. They have no power to nullification of the central government legislations. None of the states has adopted a constitution through a democratic process, and none of them can legislate on otherwise federal laws. In addition, the central government can dismiss the state’s government, fire the governors, appoint new ones, and even create more states.

This kind of federalism did not work for Darfur during Numeri regime in the eighties, has not worked during the current regime, and will not work in the future. There is no surprise that despite the so-called federal government that has been implemented since 1994, the Sudan remains a centralized country. This fact has made all Darfur previous regional and states governments dysfunctional from the beginning. The Darfurians have not ruled themselves since 1994, nor have they shared the central government. Darfur’s people must not accept the current model of federation. Rather, they should look for a model that suits their circumstances better.

To share power, one must have it first. Allocating a number of Cabinet’s, Ministerial, state or Presidential post would not solve the intractable problem of Darfur. Sharing power should not be about the existing powers mandated by the current “federalism” implemented in Sudan, rather it should be about creating a new real power for Darfur region that secures self-governance, and reflects on the aspiration of the Darfurians to address their needs to participate in the central government of the country as well.

Therefore, to create power, I suggest a High Devolution Region (HDR) formula, which is an advanced form of a federation, as the best viable solution for Darfur. The HDR is less than a confederal and more than a federal system. The HDR would work for Darfur because it can more easily accommodate the region’s multitude of ethnic and tribal factions better than a typical federation would. It would reduce the incentives for tribal armed conflicts, and provide a setting for security arrangements.

The HDR sets the conditions under which most of the work for formatting a new Darfur can be carried out by the main communities in the region such as Fur, Rezeigat, Zaghawa, and Mssalit and other tribal communities. The HDR entails granting a high-level autonomy for Darfur region. It disperses power to Darfur’s three states. The three states would combine to form the regional government of Darfur united by ethnicity and tribal links. Each state should be left to work out this combination on its own.

The HDR would allow rapid withdrawal of all foreign troops, peacekeepers deployed in the region as the regional government and each state local government, would contribute to security of the internal boarders. An independent commission for security should be established to keep peace and security on the ground. The national government primary remaining role would be securing the regional and national boarders.
B: Communitarian Approach:

Authoritarian regional governments during Nuemeri in the eighties were made possible by the hatred and distrust among the various ethnic groups and their inability to work together in a unified political arrangement. The NCP also exploited these ethnic divisions to retain control over the region. Although President Bashir was able to divide and rule, he failed to “conquer” the peoples of Darfur by imposing a homogeneous political culture on them.

In Darfur today’s conflict, people on both sides found comfort within their ethnic affiliation. As a result, many viewed the conflict as ethnic strife. The current crisis has led to a high degree of ethnic awareness and politicization of ethnicity in Darfur. The war also reflects intense loyalty to ethnic communities and tribes over the nation.

The DPA demonstrated that there were no powers to share in Darfur and that why it failed. This cosmetic power sharing of the DPA did not give the rebel movements the political power they needed neither in the national executive branch nor in Darfur region. The protocol on power sharing neglected to deal with the various communities and their divisions that composed Darfur population. The SLM and the government have not been able to achieve peace in the region because the essence and spirit of power sharing have been largely ignored by the parties to the DPA.

Consequently, the mediators should put forward an alternative plan to the shortcomings of the protocol on power sharing in the DPA, one which incorporates elements of true federalism and genuine autonomy for ethnic and marginalized groups over issues directly related to themselves. It is necessary to address the aspirations of marginalized regions and ethnic groups by giving them adequate power to rule themselves.

As part of letting Darfurians develop the government that suits their sociological structure, and one that can command their loyalty, Darfurians should best be allowed a very high level of latitude in governing themselves in their respective states. This approach would seek to tailor regional institutions to fit the sociological reality in the region, rather than to try to force the sociological reality of Darfur to suit an imported model.

To do so, the mediators need an effective communitarian approach to deal with the crisis and reach an agreement that is consociational with elements of confederation and federation. A consociational agreement is a political arrangement that meets all of the criteria laid down by Arend Lijphart: (i) cross-community executive power-sharing; (ii) proportionality rules applied throughout the relevant government and public sectors; (iii) community self-government (or autonomy) and equality in cultural life; and (iv) veto rights for minorities.

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129 Arend Lijphart, Democracy in Plural Societies, New Haven, Yale University Press, 1977, in Brendon O’Leary (Supra Note 128)
Consociational arrangements can facilitate cooperation and compromise among political elites in the region that have deep ethnic and tribal divisions by promoting peaceful coexistence. Each identity should be recognized and treated equally by the new system and given an opportunity to exercise power.

C: Cross-Community Executive Power-Sharing:

The executive power sharing is an essential part of any communal arrangements. In such arrangement, all main communal players should be members of a permanent coalition government that rule Darfur. As Lijphart puts it, “power-sharing means the participation of the representatives of all significant groups in political decision-making, especially at the executive level.”

Power sharing should not only be between the rebels and the central government, but should also be among the people of Darfur’s three states as well. Darfur’s communities had never been united politically, had no feeling of collective nationality, and contained many different ethnic groups subdivided by tribal loyalties. In the absence of a conventional process and agreement allowing for cross-community shared powers, a civil war among the armed groups might erupt as they all fight to gain political dominance.

The forthcoming agreement should establish a regional Executive Council (E.C) headed by two gubernatorial figures in a devolved Darfur region: the Governor, and his Deputy. The E.C shall have full executive powers and competence on issues such as economic development, education, health, social services, culture, agriculture, livestock, lands, environment, taxes, and local security. Cross-community consensus is required for decisions on issues related to all communities.

The Governor and his Deputy shall have identical symbolic and external representation power. They must be elected together in a joint ticket, directly by votes of the people of Darfur or indirectly by the Regional Assembly of Darfur, by cross-community consent procedure. Once elected, no one can depose them. Neither the Sudan’s President, nor the Regional Assembly could depose them or voted them out of the office, except through impeachment. They both preside over a coalition of at least twelve-member Executive Council of Ministers and work in coordination. However, the regional constitution shall determine the number of Ministers to be appointed to the E.C. More Ministers in the E.C. reflect more proportional representation of parties in the executive power.

The Governor or his Deputy should not appoint the Regional Ministers (R.M). Rather, R.M should be appointed from parties in proportion to their strength in the Regional Assembly. This would ensure a proportional and inclusive Executive Council. Under this model, the largest party/votes would have an entitlement to the First choice of ministerial portfolios and get their preferred ministries. The second largest votes will get the second choice of ministerial portfolio, and so on.

Neither the Regional Assembly nor the parties can depose or vote Regional Ministers down. Regional Ministers can only be deposed by cross-community rules. Each Regional Minister looses his or her post, can be replaced by a member from his/her party. Parties have the right to decline to participate in the E.C.

Proportionality at the three states of Darfur level guarantees cross-community participation in the executive power of the region, the elections of the Regional Assembly, and the public posts. This also suggests that the Executive Council should not be only cross-community in character, but also cross-state in combination. Each state of the three states of Darfur region should be ruled by an elected Commissioner. The same above rules of cross-community and parallel consent should be followed in the elections of the Commissioners and the three commissions members.

It would be symbolically appropriate to distribute the head of the offices of the executive, legislature, and courts, ministries, and civil administrations in different states and cities of the region. Darfurians should deepen and extend their own evolving democratic institutions and agree on a bill of rights, and provide guarantees to cultural rights to all Darfur’s communities.

D: Self-Communal Autonomy:

Autonomy or “self-rule” is defined as “the granting of internal self-government to a region or group of persons, thus recognizing a partial independence from the influence of national or central government.” As defined by Lijphart, “group autonomy means that these groups have authority to run their own internal affairs, especially in the areas of education and culture.”

Darfur should be ruled as one high-devolved region. In fact, one of the major demand on which most of the rebels agree on is that Darfur must stay and ruled as one region. They reject the current three federated states in the region. Darfur, as we have seen, is historically, geographically, culturally and politically a design region. Although Darfur is comprised of diverse ethnicities and various communities, the peoples of Darfur may well agree to share a common region and a common citizenship. The devolution of the region is one of the central issues that facing the parties.

Darfur must have a Regional Assembly (R.A) with full legislative jurisdiction over issues of development, infrastructure, education, health, social services, taxes, finance, agriculture, lands, livestock, environment, local police and security, municipal affairs, rehabilitation and all local issues that influence Darfur’s people lives and their well being. The Regional Assembly and the Executive Council are interdependent and one cannot exist without the other.

The Regional Assembly elections should be conducted on a proportional representation system throughout the three states of the region. Party-list system is encouraged because

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131 Ayesha Zuhair, Supra Note 130.
132 Id.
it helps make party leaders more powerful and better able to sustain inter-ethnic engagements. The Speaker of the Assembly, the Governor of the region, and their Deputies shall be from different parties/communities in Darfur. Proportionality and cross-community rules should be applied also in the allocations of the R.A committees.

The Regional Assembly may design special rules for key decisions and vital legislations that directly affect the lives of people. These legislations and decisions can’t be adopted unless through “parallel consent” which requires both the majority of the Assembly votes and the majority of the three major parties in the assembly. Another rule of 65% of Assembly members voting in support of such decision is also viable. These rules would ensure that cross-community consent is required for agreements on issues that influence all local communities, and guarantee more engagement among their leaders.

Darfur must have its own constitution adopted by the Regional Assembly by parallel consent. The constitution must affirm that Darfur is a High Devolved Region. The constitution must reflect the socio-political facts of the region and principles of equality among them. All communities should be represented proportionally and treated equally and justly. The new Darfur regional government should be granted a nullification power stated in the constitution.

The agreement should recognize the diversity of communities and avoid any compulsory transfer of people throughout the three states. However, some ethnic groups may be “stranded” as minorities in one state or another. If such minorities rights are not protected violence results. The Regional Assembly should adopt a cross-community procedures that will protect minorities from the dominance of the majority. In addition, the courts system should be accommodative to redress breaches of human and civil rights.

**Conclusion:**

The main causes of the war in Darfur as the paper highlights lie in both communal conflicts and the imbalance of power between the centre and marginalized regions. The war has led to politicization of ethnicity in Darfur. Therefore, the power sharing is a valid mechanism for redressing communal conflicts and the years of political marginalization of the people of Darfur.

As the DPA demonstrated, there were no powers to share in Darfur. The parties have not been able to achieve peace in the region because the essence and spirit of power sharing have been largely ignored. Power sharing, however, should not be about the existing powers mandated by the current federal system, rather it should be about creating a new real power for Darfur region that secures self-governance, and reflects on the aspiration of the Darfurians to address their needs to participate in the central government of the country as well.

To solve both communal conflicts and the imbalance of power, the parties should consider a communal framework for a settlement. The paper has suggested a particular community based political plan for Darfur, which intends to create real power, and set
forth a formula to share it among communities, by transforming Darfur into a Highly Devolved Region (HDR), with both elements of true federalism and genuine autonomy. Darfurians should be allowed a very high level of latitude in governing themselves and their region. The HDR sets the conditions under which the main communities in the region can carry out most of the work for formatting a new Darfur.

The High Devolution Region (HDR) formula is the best viable solution for Darfur. It entails granting a high-level autonomy for Darfur region and devolves power to Darfur’s three states. The HDR can more easily accommodate the region’s multitude of ethnic and tribal factions better than a typical federation would. It would reduce the incentives for tribal armed conflicts, and provide a setting for security arrangements.

To facilitate this transformation, an effective communitarian approach should be applied. One that guarantees an association of all communities. All members of Darfur communities should be members of a permanent coalition government of Darfur region. Cross-community procedures are required for the elections of the executive council and the regional assembly as well, and consensual cross-community decision-making process as a main granter to success. This communal arrangement should be built on principles of proportionality.