

Earth and Nomad

Between tribal customary rights and laws and legislation uses and rights



Reported by

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Introduction:

The Oxford Dictionary defines as a concept on the ground that it is the solid part of the Earth's surface. Different specialists and adds to this definition, saying it includes all natural resources within and above and the resulting. While legal when it is hard King, which includes real estate and buildings and land resources as products constructivism apparently hidden in its interior, such as minerals, oil and any property of this type is not removable.

Monarchy:

This definition resulted different dimensions of dealing with land ownership in terms of meaning, methods, and methods of acquisitions, property transmission, and the concept of the act itself. Since the reign of William, the Conqueror's England (1066-1087) was the expropriation of land apply thereto after the open. This approach marched in English politics to become the law of that owns the land is that which accounts for them without the others. Under the empire that the sun never sets British King or Queen has become the owner of the territory of different colonies in the different parties of the world. The kings of England became have the right to grant land to anybody whom they want. It was clear that all of the land is granted in accordance with these principles means commitment in connection with the land owner. And that this grant be for services provided through the mess protect him or help him. And it has granted the right to grant some of the other owned his rights in accordance with specific conditions.

Property rights:

The prevailing rule in equity that, who owned the land, is really has a right to own above even to the sky and below even to the depths of the ground. However, the modern laws went mostly to the owner of the land is not necessarily entitled to possess wealth discovered under the earth, or water that is taking place, or transit rights through the land, for example, and thus become the ownership of the utilization of such land defined as the solid part only.

The concept of property:

Property is related to the full right enjoyment of something else. And tenure and property does not mean anything is always one. When steals (a), (b) the acquisition be something with (a), while the remains (b) authorized property. Since the tenure is the physical property, which means the power of the possession and the fact that the actual possession. The absolute monarchy that they are right recognized by law.

Land Law:

The overlap of interests and conflicts of rights becomes necessary to have laws governing landlord's relationships among themselves and the Supreme original owner or essential and between them and the beneficiaries of whether tenants or subsequent owners. So the law of land was interested in rights of distinct using the land generally from the personal use and enters the provisions of the lease and transfer of ownership after registration. Most of the land laws and go about getting free on the ground, use and owned without hindering the interests of others.

It is important that there be a clear difference between the ownership of the land which you go to take legal dimensions laid down by any State for the acquisition, use and ownership of land between land rights. Despite the importance of the laws, but it must be supported by social norms prevailing cultures and to become socially acceptable. And therefore the laws of the land ownership and land rights must become compliant.

The earth and the international community:

World cares much attention to land rights because they are directly related to development. As Callahan (2007) said, land ownership could become a source of capital, economic security, food, water, shelter and different economic resources. Accordingly, the lack of ownership rights to land threatens to poverty, hunger, and empowerment affect the realization of human rights.

A lot of the views or voices in the international community that say that the land rights of the basics of achieving higher standards of living.

However, some population groups may not own the land not because of laws, but because of some cultural barriers and poverty that limit the ability of these communities to own land.

Came voluntary routers mature judgment about the ownership of the land, fisheries, and forests ratified by the Committee on World Food Security at its own No. 48 on May 11, 2012 to pay about governments' adoption of property rights fair land and without discrimination as a means of fighting hunger and poverty and support sustainable development and the development of the province on environment. Interested in international law of the land rights of indigenous peoples in the European private land after attacks on parts of the countries that was inhabited by indigenous citizens in America, Australia and others.

In September 2007, the General Assembly of UN adopted, Declaration of the Rights of Indigenous Peoples (General Assembly of the United Nations 2007), which stressed that indigenous peoples' right to land and resources that possessed, and used it and they settled historically true.

The Land in Sudan:

Land has taken a physical entity and natural source of wealth and livelihood subject yourself in customary law and statutory laws. Since Thumper in the foot time and even now regulates the custom Holy Grail, along with modern laws, removal of ownership and uses of the land. Since the blue power (1502 - 1820) was the most important land uses are agriculture, logging, grazing, hunting, etc... The land owned by the Sultan, who owns the right to give Omda, Sheikhs and individuals with leaving the land in its name for the tribe. This approach did not change the Egyptian - Turkish rule (1821-1881) and the State of Mahdia (1881-1898) where left most of the features of this system with little change.

And is what the government has been doing in the English empire, the colonial government did not announce an owner of the land in Sudan by virtue of occupation and were maintained on all private land rights to individuals, but I went on it to increase the ownership of some of Sudanese

land irrigated and rain-fed. The tax returns and dates, trees and animals is the ownership of the land documents.

Uses and rights:

Rights:

- Historical ownership of the tribes in their homes and Hawaker.
- Tracks, trays for backpacker's rights of Nomads.
- Rights of using water commonly and generally.
- The benefit rights of land use for all citizens.
- Do not dispute the government of the historical land rights of the citizens.
- The right of all displaced persons and refugees to return to their homes.
- The right of citizens to preserve the customs, cultures and traditions.
- The right of litigation, compensation and settlement of disputes and the injustice done to some in the possession and use of land.

The right to environmental protection:

The right of the different levels of citizens to participate in the development of the land ownership laws and their use through extensive grassroots consultations and through the leadership and historical leaders, experts and professionals.

USES:

Civil Transactions Act 1984 came using legal terms which define the relationship between the right of ownership of the property or the benefit of the owner to give broad authority to the earth and all them. But the absolute monarchy remains in the hands of the state while granted the right to land for different uses.

It is clear here that the legal dimension of the 1925 and 1984 Law left for settlement and seize the historical legal measure, where the state becomes the owner of the land and donate it to or granted by the central authority or jurisdictional citizens to keep users or beneficiaries of the

land. Planning laws have been used and re-towns and villages term planning that goes to restrict the use of land with ownership. Civil Transactions Act of 1984 and the Law on Urban Planning and the distribution of land in 1994 have made the land of tribes and Hawaker traditional and historical ownership in Darfur without ownership rights, as the reality does not resemble a lot of other regions in Sudan, with a population and was attended by those who are not as young as 1% who are mostly professionals planning laws and re-planning covered by the law. While rural people more who bring them into the law with others their different contexts and realities with the view of the law of change to make the disposition of any government land registered or unregistered conditional free from inhibitions if owned or utilized only after following the procedures for the ratification of the planning of the planning authorities Urban and after it is ground survey and locate and pay related fees and release.

Land uses remain in Sudan varied from one area to another depending on the prevailing climates and environments. There uses: residential purposes in the cities and villages. For agricultural purposes, both in irrigated areas of permanent or seasonal rain.

The uses of different grazing:

Industrial, mining and commercial uses.

Services uses which provide different humanity services.

Custom:

Customary law regarding the land goes back to the history of the Sultanate of Darfur (1460-1916). Sultans of Darfur, where he was issuing decrees granting land to individuals and tribes. Most of these lands Bora population density was weak so it was the newcomers are encouraged to stay in this land and reconstruction. And it was based on the British colonial power to keep the customs of the tribe associated with the (Aldar) as a citizen of the different tribes, which were mostly related to administrative manner known to the civil administration, who was the leader of the tribe which the representatives of the local government to keep the law and public order in Dar tribe. And they fall under these leaders, sultans, sheikhs and Omda and bug tribesmen who own the land

under the name of Hakoura. This makes it the civil administration authority extended until the issues related to land management and distribution of solving their problems.

One of the main issues addressed by the tribal customs prevailing land use rights, where in many areas was allowed for those coming out of the house cultivation and reaping the bounties of the earth as well as the right of path through the AL DAR to nomadic tracks to their animals.

The customs are differ from place to another in its organizing the right of hosting in Hawakir among the land of the tribe.

The custom always is what tribes agreed to resolve interference problems posed by the tribal reality and move from one place to another in search of the source of that income, or in pursuit of water and pasture. There were many virtues to resolve disputes in the various discounts and other such as (Jawdah) and which were the best solutions to many of the issues without need to the official intervention of the responsible authorities.

The common rule is moral reference that meets everyone wrapped and acceptance by the civil administration that vibrate mode and before that a lot of politicization of the relations that existed between the tribes trust in each other and share each other through thick and thin.

Of the prevailing norms that when the scales differ climate in a particular region is not hampered movement of citizens to move to another land and use it even if it in the courts or other Hwakir be suitable for the climatic conditions. Provided that the newcomers recognizes customary land prevailing in the region, which displaced the rights. This includes also cites as Morton (2011) rely on two main social commitments:

To pay the tax and the acceptance of the principle of justice. And it confirms Chazali (2002) so that the freedom of access to such land and resources is usually open subject to the approval visitors to abide by prevailing norms. And it enters the nomads who have secondary rights to the land allows them access to the resources they need, according to transport them to him to negotiate with tribal leaders. The general principle governing this behavior is the civil administration institutions where cast upon themselves often settle disputes over land, Abdul Rahman (2006).

Legislative

acts:

1925 law: the custom that prevailed for centuries in Sudan was colonized in the repertoire of modern laws. Not so much stand for the customs and traditions that were prevalent. He issued the registration and settlement of land law in 1925 and came third in the article that all the undeveloped land, forests and uninhabited land will prepare the property of the state unless it is proved otherwise. The land is defined in the 1925 Act that it "includes the land and the benefits resulting from it and fixed the buildings and objects, which can be recorded even if they disagreed developed from year to year."

Some local authorities have taken the right to own land uninhabited and unregistered. The law called for the registration of property from private land and that at the time it first began to use the land, then the land itself and what is produced from the proceeds, it is then the villages near the farms and finally became a village and farm under family control and ownership. And enjoy the mayors of these rights and substantially.

Law 1925 interested in settlement of land registration. Which is still in force, the identification and registration of land in urban areas and those agricultural areas which has development infrastructure de Wet (2001) did not mention the law to land rights customary away from the Nile in Darfur or in rain-fed land in the Blue Nile, Eastern Sudan and the Kordofan.

Law 1970:

The Sudanese government issued in April 1970 land law is recorded to ensure ownership of the land and the establishment of state enterprises in accordance with article IV of the law, which says that all land, whether Bora, a forest, a land inhabited or uninhabited and were not registered before the law is the property of the state and will be recorded including approves the settlement and land registration law.

The law left space for some cases of partial or total use of the land to be

excluded when it was just in the right of any owner. This leaves ample room for the millions who now occupy the land registered for the government to be sued if they satisfy the requirements of Article (3) of the Act.

The most important effects of that law that suspended Article (1) of the 1925 Act and prevent the possession of any rights or ownership of the land on the land registered government spokesman. However, the government has not exposed any of those who were occupying territory without identification papers but in accordance with item (8) of the Act, the government can be evacuated at any moment.

It followed many of the legislative laws governing land ownership and use. Including the Civil Transactions Act 1984, which repealed the law in 1970 and kept the 1925 Law and the Law on Urban Planning and the distribution of land in 1994 and the Law on Local Governments in 2003 to give the state greater rights and authority in control of the land and its uses.

Arabic references:

- The Government of Sudan - recording and land settlement law 1925.
- The Government of Sudan - the law of the unregistered land -1970.
- The Government of Sudan - Khartoum Civil Transactions Law-1984.
- The Government of Sudan - the Urban Planning Law and the distribution of the Earth Khartoum -1994.
- The Government of Sudan - Local Governments Act - Khartoum -, 2003.
- Mahdi, S. M. - land laws.
- Abu Salim –Al fur and the land: ownership documents. Afro-Asian Studies Institute and the University of Khartoum 1974.

English references:

1. Abddilonim et al, Agricultural change, land and Violence in Protracted Political Crisis- Oxfam America - 2013.
2. Curzon, L, B, Land Law - Macdonald and Evans Ltd.-London – 1975.

3. De Wit, Paul - Legality and Legitimacy- IGAD- 2001.
4. F.G. Fowler (Compiler) - Oxford Dictionary of Current English – Clarendon Press - 1974.
5. Gilbert, Jeremie- Nomadic Territories: A Human Approach to the Nomadic Peoples' Land Rights- Human Rights Law Review- 2007.
6. Morton, J-In Environmental Governance in Sudan, 2011.
7. Report- How to Govern Darfur - Durham University- 2011.
8. Shazali, Salah- Share the land or Part the Nation- Report to UN-2002.
9. UN General Assembly - Declaration on the Rights of Indigenous Peoples- 2007.
10. Young, Helen et a Livelihood, Power and Choice: The Vulnerability of the Northern Rezegat – 2009.