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# INSTITUCIONALIZACIJA NEKONVENCIONALNEGA VOJSKOVANJA: PRIMER DARFURJA

## INSTITUTIONALIZATION OF IRREGULAR WARFARE: THE CASE OF DARFUR

**Povzetek**     Legitimnost kot družbenopolitični pojem se velikokrat omenja pri obravnavi konfliktov znotraj držav, vendar se le redko neposredno analizira. Avtor članka z institucionalno analizo kvalitativno in neposredno oceni vlogo državne legitimnosti pri nekonvencionalnih konfliktih. Uporabi primer Darfurja, vendar ne le zato, ker gre za konflikt, ki je podoben dinamiki številnih drugih konfliktov v državah v razvoju, temveč tudi zato, ker poudarja velik pomen legitimnosti pri tem, da država uporabi silo. Študija na primeru Darfurja pokaže, da se normativni in kognitivni dejavniki pri razvoju zavezništva med Kartumom in milicami džandžavid povsem prekrivajo z racionalnimi parametri, izmenično pa opredeljuje tudi nekaj globljih razlogov za ranljivost tovrstnega zavezništva.

**Ključne besede**     *Legitimnost, institucionalna analiza, nekonvencionalno vojskovanje, Darfur, Sudan.*

**Abstract**     Legitimacy as a social-political notion is oftentimes invoked to study intra-state conflicts, but it is rarely analyzed directly. This article uses institutional analysis to assess qualitatively, but more directly, the role of state legitimacy in irregular conflicts. It uses the case of Darfur not only because it is a conflict that is similar in its dynamics to a number of other conflicts in the developing world, but also because it highlights the critical importance of legitimacy in the use of force by a state. This study shows in the particular case of Darfur that normative and cognitive factors are fully imbricated with rational parameters in the development of the alliance between Khartoum and the Janjaweed, and in turns identifies some of the deeper reasons for the fragility of such alliance.

**Key words**     *Legitimacy, institutional analysis, irregular warfare, Darfur, Sudan.*

**Introduction**     As experts like Van Creveld predicted in the early 1990s, most wars of the late 20th and early 21st century belong to the category of intra-state conflicts (Van Creveld, 1991). Many reasons have been invoked to explain why such conflicts are becoming more prominent. One of them is based on the idea that with the end of the Cold War, the inherent weaknesses of the state in many developing countries became more acute and visible. Such weaknesses can be measured through a number of classical indicators such as GDP, life expectancy, average level of education, crime rate, etc. Yet, one of the more fundamental elements of state power is often ignored from mainstream analysis, namely how legitimate a state is. After all, as Max Weber famously noted one hundred years ago, if the state is the entity having the monopoly of the legitimate means of violence over a particular population and territory, then legitimacy is at the center of the state's existence. But legitimacy is a parameter that is often overlooked mainly because it is a qualitative concept which is harder to measure than quantifiable parameters, such as the GDP or crime rate. This paper proposes a qualitative way to assess state legitimacy through a case study of the conflict in Darfur, Sudan.

This case has been selected not only because it is a conflict that is similar in its dynamics to a number of other conflicts in the developing world, but also because it highlights the critical importance of legitimacy in the use of force by a state. In many regards, the war in Darfur is symptomatic of the political unrest and ethno-cultural conflict that have shattered the unity of Sudan for more than fifty years (Lesch, 1998, p. 299). The same as the parallel conflict in southern Sudan, violence in Darfur has drawn media attention since 2003, arousing international indignation (Khalil, 2009, p. 41). Some media and NGOs quickly labelled the horrific fighting as "genocide," "ethnic cleansing," and "slaughter—more than just a conflict" perpetrated by "the actions of government troops, rebel groups, and tribal militias" (El-Battahani, 2009, p. 43). Beyond the humanitarian dimension, the complex dynamic of the conflict hinges on the alliance between the government in Khartoum and the Arab militias known as the Janjaweed. To understand the issue of Darfur, one must first understand the logic and the underlying social and political forces that determine this unusual association between an irregular force[1] and a Sudanese State deprived of the proverbial monopoly over the means of violence.

It would be reductive, however, to characterize the relationship between Khartoum and the Janjaweed as a mere marriage of convenience. That limited view would also obscure some important elements concerning the domestication of irregular warfare by relatively new states still trying to emulate the Westphalian model,[2] and thereby,

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[1]   *Irregular forces and warfare refer to both legal and social standards of behavior about the use of force that go against the legitimate use of force by a recognized nation-state. Such deviations can cover a wide range of issues, such as wearing recognisable uniforms, having an accountable chain of command, protection of civilians, etc. As the actual reality of any legal regime is fundamentally dependent on the concrete acceptance of the social norms that are underwriting it, the notion of irregular force cannot be studied solely as a legal issue.*

[2]   *There are many definitions of the Westphalian state, but they are all built on the notions that each state is sovereign, and they respect other states' sovereignty while agreeing to common rules of behavior based on legal principles or frameworks. However, many analysts have noted over the years that the Westphalian state model is essentially a set of Western social norms that is not necessarily shared to the same extent in the non-Western world, and to frame it in a legalistic perspective is also very reductive (see among others, Krasner 1993, 1999, 2001).*

trying to establish a degree of legitimacy for themselves. The very notion of irregular warfare can also be construed as an anathema to the foundation of the Westphalian state that has emerged during the last 400 years, because the modern state, at its very core, is by definition an ongoing effort to legitimize power relations through regulating the king's armed bands, as the late Charles Tilly (1992, pp. 68-70) noted. At a time when those states are finding it extremely difficult to establish their authority and legitimacy over populations that they are nominally ruling, the crisis in Darfur is an example of a sovereign power using "illegitimate" militias, i.e. armed non-state actors, as spearheads in counter-insurgency.

We must therefore consider the deeper motivations for such an apparently unnatural association. By exploring the relationship between the government led by President Al-Bashir and the Janjaweed militias, this study will go beyond the traditional explanations limited to geopolitical and material factors, or the legalistic dimensions, in examining the sociopolitical factors underpinning the institutionalization of irregular warfare in the Sudanese conflict. In order to provide an effective framework to capture those institutional dynamics, this paper is built on institutional analysis, in part inspired by the work of Richard Scott (2008).

## 1 INSTITUTIONAL ANALYSIS AS A FRAMEWORK

There are many mechanisms that create orderly behavior in a society, but it is social and formal institutions that underpin most effectively social order in any given collectivity. With order, however, come also restrictions and unequal (and potentially unfair) influence over social affairs for some individuals. Thus, for social institutions to exist and be supported by members of a society, the expectation of orderly behavior that they create must appear legitimate, in spite of the ostensible inequalities they create. In other words, an institution cannot regulate a society if it does not enjoy a degree of legitimacy. But the world is not a static place, and there are always new pressures from the social environment of an institution that questions and challenges the social order that it creates. The integrity of an institution, therefore, is never assured, and must be protected, as an institution is always at the mercy of these environmental forces. In this light, the state is also a social and formal institution that creates inequalities that must be perceived as legitimate, and that expends a fair amount of its social and political resources to protect its legitimacy from external challenges that inevitably arise over time. Institutional analysis of the state is, therefore, about evaluating how this particular institution reacts and adapts to pressures and changes while protecting the foundation upon which its legitimacy is based.

Throughout the 20th century, several schools of thought on institutions coexist; however, there is one recent approach in particular, that of Richard Scott from Stanford University, that provides a substantive and synthetic framework to study institutions, and it is presented below. Institutional analysis, however, is not without criticism. One of the most important is the one argued by Donaldson (1995, 2008)

about the risk of ignoring pragmatic realities by focusing too much on institutional legitimization processes. Nevertheless, even if an institutional analysis tends to simplify the social reality (the same as any model) and if proper attention is paid to the context, useful knowledge about deep underlying dynamics can be uncovered.

The analytical framework inspired by the work of Richard Scott (2008) is based on three generic institutional dynamics. The first one is the regulative which refers to the rules and laws governing a community that are invoked to justify and legitimize the decisions of the institution, whether they are formal or informal, and the reward and punishment systems that underwrite them (Scott 2008, p. 52). The second dimension emphasizes the cognitive predispositions of a community, and encompasses shared conventions, systems of thought, and individually shared mental schemas used to provide legitimacy for its decisions. More specifically, it is a matter of what is considered true, correct, meaningful or proven (Scott, 2008, p. 57). The third component focuses on normative aspects, to include norms, values, deeply held beliefs and whatever underwrites ethics in a particular community. These norms specify the way in which things are to be done and the manner in which decisions are to be made so that they are perceived as acceptable, good, right, desirable, or just (Scott 2008, pp. 54-55). As well, the normative dimension is also the foundation upon which the identity of a particular group or community is ultimately defined (Scott 2008, p. 56), as every human collective self-defines itself, consciously or not, to be unique, special, or superior in some respects to others.

As it is generally done in institutional analysis, applying a model involves evaluating each of these dynamics' individual roles and then analysing their interactions in order to measure how legitimacy is created and maintained so that the community in question can continue to act as a collective whole. Resting on the threefold nature of this model makes it possible to identify if a community is tending towards instability or stability by examining the divergence or convergence of these dynamics. Some dynamics in the institutions of the state may show opposing trends. For example, the regulative dimension may conflict with the normative one, as was the case when certain French officers recommended the use of torture in Algeria in the 1950s, contravening the law of armed conflicts, and ultimately leading to the political and moral defeat of the French Army in Algeria, even if it contributed to a military victory on the ground (Ouellet & Pahlavi, 2011).

## 2   THE CONTEXT IN DARFUR

The crisis in Darfur is rooted in a conflict over land between nomadic and sedentary or semi-sedentary peoples (Dika, 2006, p. 11). Historically, these communities were able to accommodate and cohabitate with each other. However, recently, successive periods of drought and the demographic evolution of Darfur have led traditionally nomadic tribes, which are mostly Arab, to migrate into richer lands owned and worked by the sedentary or semi-sedentary tribes of Darfur (Tubiana, 2006, pp. 115-116). Given the direct link between the refusal of sedentary tribes to share their

lands with the nomadic tribes and the initial eruption of violence, it may appear on the surface that the conflict is only about land and access to agricultural resources (Dika, 2006, p. 11) But the Sudanese crisis equation is more complex.

The conflict is also complicated by ethnical and ideological differences (El-Battahani, 2009, p. 46). The population in Darfur have in common Islam as a religion and Arabic as a language, but they are divided ethically and culturally by some tribes being Black African while others are Arabic, the latter harbouring feelings of superiority against the former. The "Arabic" tribes consist of the Baggara, Rizaigat, Zayadia, Maalia and Beni Halba (El-Tom, 2009, p. 85). while the "Black African" tribes are made of the Zurqa, Fur, Massaleit, Berti, Meidobe and Zaghawa (who are related to the president of Chad, Idriss Déby, explaining in part the military support offered by that country). However, one must note that this ethnic division is not a neat one and it is complicated by the existence of many mixed families and the cultural "arabization" of some Black African tribes.

It is in this background of land and ethnic issues that a complex conflict emerged. In the early 2000, in reaction to Arab settlement, two local groups, the Sudanese Liberation Army/Movement (SLA/M) and the Justice and Equality Movement (JEM) formed and rose up against the Sudanese authorities, who were perceived as favouring colonization by Arabs (Lavergne, 2005, p. 131). In response to the local rebellion, Khartoum formed ties with Arab-majority tribes, which in turn organized themselves into armed militias: the future Janjaweed, which would become by 2003 the cornerstone of the counter-insurgency efforts of the Sudanese regime (Amnesty International, 2006, pp. 3-4).

The term "Janjaweed," it should be noted, has a complex history. It was originally associated with outlaws and bandits, but its meaning has expanded to include both paramilitary forces and "Arab militia acting, under the authority, with the support, complicity or tolerance of the Sudanese State authorities, and who benefit from impunity for their actions" (Annan, 2005, p. 34). However, "Janjaweed" is not necessarily synonymous with "Arab tribes," as some Arab tribes have allied themselves with the rebels and fought against the Janjaweed (Haggar, 2007, p. 114). Adding to the confusion is the fact that some non-Arab tribes have also fought as part of the paramilitary forces (Annan, 2005, p. 35). This means that, as Ali Haggar points out, the original Janjaweed are only a part of what is called "Janjaweedism," a larger phenomenon that includes armed groups which were not initially considered as Janjaweed (Haggar, 2007, p. 113).

In addition, the exact nature of the paramilitary forces, most of which are led by Arab groups, is quite nebulous; they make up a galaxy of militias without any coherent or fixed structure. According to the typology established by the UN in 2005 and completed in 2007 by Ali Haggar (2007, p. 128). it is possible to group them into three broad categories (Annan, 2005, p. 35). The first is informal forces that receive sporadic financial and material support from the government for specific missions.

The second is militias that are more formally organized into paramilitary units. The third and final category consists of the Popular Defence Forces (PDF) (Salmon, 2007) and the Border Intelligence Service (BIS) (Annan, 2007, p. 35). It can be further noted that the PDF are sub-divided into five groups: (1) the more or less permanent elite units, (2) students and other civilians forced into military training, (3) officers and indoctrinated civil servants, (4) local militias, and (5) networks of informers (Salmon, 2007, p. 17). For the sake of simplicity and clarity, the term "Janjaweed" will be used in this study to refer to all of the paramilitary forces representing the Janjaweed movement.

## 2.1 The normative dimension

The alliance between the Janjaweed and the government is more than a simple matter of costs and benefits. There are profound sociological and institutional forces that underpin this alliance found in shared, but mostly unconsciously taken-for-granted, norms and values that create "natural" conditions for it. Many nomadic tribes that have fallen into poverty and have been forced to become sedentary (Prunier, 2005, pp. 49-50) feel that they have been treated unfairly due to the power held at the local level by the Black African majority of sedentary peoples. This perception of historical injustice has participated in creating an identity built on revenge among some Arabic tribes.

Those formerly nomadic tribes became, unsurprisingly, a fertile ground for the central government's propaganda, as well as a pool from which the Janjaweed has been recruiting (Marchal, 2004, p. 128). Like most postcolonial states, Sudan had to create a sense of nationhood while at the same time establishing some sort of centralized authority. Building on those identity tensions, the Sudanese government put forward policies for the Arabization and re-appropriation of Sudan (Flint, 2009, p. 15). The pro-Arab policy is a testament to the significance of deep normative factors in the Darfur conflict (de Waal, 2008, p. 49). This dynamic results in ethno-religious polarization: while the Black African militias draw their members from the mostly Black African sedentary or semi-sedentary tribes (Flint, 2009, p. 13), most of the Janjaweed recruits come from groups that are promoting the Arab cause and are opposed to the mixing of the populations living in Darfur (Tubiana, 2006, p. 112).

Thus, ideological and ethnocultural polarization have been added to the pragmatic considerations underlying the alliance between the central government and the Janjaweed. Propaganda and the Arabization policy served as a kind of catalyst for the development of an apparently purely rational line of reasoning that led the Al-Bashir regime to use the militias to make up for its limited regular armed forces (Flint, 2009, p. 23) which had been further weakened by years of purges (Lesch, 1998, p. 135).

## 2.2 The cognitive dimension

The socio-political conditions and strategic considerations were already in place when the alliance was precipitated by a series of key events. The most decisive of those

events was the attack by an anti-government coalition of the SLA/M and the JEM against Al-Fasher garrison on 25 April 2003. This demonstration of force directly threatened Khartoum's power and authority. In 20 years they had not succeeded in inflicting that much damage on the Sudanese army (Flint and de Waal, 2008, p. 121). It was a severe psychological shock (El-Tom, 2009, 101) for the central government: in Khartoum, the humiliation was keenly felt (Peninou, 2004, p. 3). Profiting from that success, the rebels gradually extended their areas of operation, which caused the regime to fear the total loss of the Darfur region (Flint and de Waal, 2008, p. 122). It was in the national interest for the government to find a quick, effective and inexpensive means of containing the threat posed by the rebellion (de Waal, 2007, p. 19; Prunier, 2005, pp. 96-97).

In that context, it appeared that employing the Janjaweed could be an advantageous solution. But there were also several other factors that encouraged the government to resort to using Arab militias. First among them were Al-Bashir's doubts about the capabilities of the regular army and his fear of a rebellion, or even a coup (Lesch, 1998, pp. 151-152), given that the majority of Sudanese military personnel were natives of Darfur and thus reluctant to fight against local combatants (Annan, 2007, p. 25; Flint and de Waal, 2008, p. 123; Lavergne, 2005, pp. 131-132). There was also the fact that deploying the regular forces in Darfur, which would have made it possible to reset the balance of power in Khartoum's favour, did not appear to be strategically sound, as the government was engaged in direct negotiations with the rebels at the time (Bastid, 2005, p. 145). In addition, the army was not accustomed to or trained for that type of non-conventional combat (Lavergne, 2005, p. 131), whereas the Arab militias had access to fighting forces that were experienced in irregular warfare and knew the terrain very well (Blaise, 2007, p. 33).

But again, practical concerns are intertwined with cultural and historical ones. In particular, the use of tribal militias was part of a long tradition (Pérouse de Montclos, 1998, pp. 203-211) dating back to the Mahdi rebellion at the end of the 19th century.[3] More recently, during the 1980s, the regime of President Nimeiry, long before that of Al-Bashir, had often seen fit to arm Arab militias (Hassan, 2009, p. 161; Willemse, 2009, p. 220). From 1985 onward, the militias were systematically employed by the transition government of General Abdel Rahman Suwar Al Dahab in the war in southern Sudan (Flint and de Waal, 2008, p. 23). In 1989, Arab militias were raised, in combination with the armed forces, to fight rebel incursions in southern Darfur (Flint, 2009, p. 16). That tradition was so entrenched that it became the basis for a doctrine that would remain the reference point for all the intra-state conflicts to come, particularly the one in Darfur (Haggar, 2007, p. 302).

Thus, it was a combination of all the above-mentioned cognitive and environmental determining factors that led the government to decide to use the Arab militias to

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[3] *The Mahdi was a religious leader who organized a religious revolt against the Egyptian armed forces. He federated the tribes and used guerrilla techniques to lead an insurgency that enabled him to take power in Khartoum at the end of the 19th century.*

counter the rebellion. One must take all of those factors into account in order to understand why the Janjaweed became more than simple auxiliaries and how they were gradually absorbed and integrated into the armed forces. Now the analysis would not be complete without taking into account the role of regulative factors.

## 2.3 The regulative dimension

The assimilation of the militias into the military apparatus is also a legacy of past practices that became de facto legalized from the perspective of the Sudanese state. Beginning in 1989, the Murahelin were absorbed into the government militia led by the army (Human Rights Watch, 2004, p. 44). Similarly, the integration of the Janjaweed began in 2003, just two weeks after the attack on Al-Fasher (Flint, 2009, p. 20). In northern Darfur, the movement benefited from a particularly effective recruiting policy for the PDF that was implemented in April 2003 in order to absorb the Janjaweed (Haggar, 2007, p. 128). From individual enlisted men to the brigade-level organizational structures, the Janjaweed were well assimilated into the Sudanese military apparatus (Haggar, 2007, p. 129). The policy of assimilation was so effective that over time it became impossible to distinguish the Janjaweed from the regular armed forces and the conventional institutions in charge of state security (Willemse, 2009, p. 220). The reluctance of many Sudanese military officers, who were contemptuous of the militias (Flint, 2009, p. 22) or who wanted regular army units to be used for fighting the insurgency, had little influence on the assimilation process (Flint, 2009, p. 17).

The use of the militias very quickly became an integral part of the "normal" way of handling intra-state conflicts in Sudan (De Waal, 2007, p. 7). The same as in the past, the majority of attacks launched in the villages of Darfur were carried out by the regular forces working closely with the Janjaweed. The *modus operandi* almost invariably involved close cooperation between the air force, the militias and the army. As numerous observers have pointed out, the militias had become so normalized that there was total coordination between them and the government forces. However, even though the integration of the militias was largely a result of the legacy left by past conflicts, the phenomenon of the Janjaweed undoubtedly also received a boost from being legally and politically institutionalized by Khartoum.

The attitude and statements of Sudan's top leaders reveal that the government's support for the use of militias has become more and more obvious as the conflict has evolved (Bastid, 2005, pp. 143-145). Indeed, the decisions made by Ahmed Mohamed Haroun, Minister of the Interior, or by General Osman Mohamed Kibir, Governor of Darfur (Peninou, 2004, p. 3), show the extent to which the use of the Janjaweed has gradually been officialized at all levels of the local government of Darfur, from governors to commissioners (Annan, 2005, p. 30; Flint and de Waal, 2008, p. 123). The material and financial support provided are also obvious proof of the Sudanese government's involvement. The members of the Popular Defence Forces received paycheques like their counterparts in the regular forces (Human Rights Watch, 2004, p. 46; Prunier, 2005, p. 98), while the tribal militias or their

leaders were paid in exchange for the attacks they carried out as occasional supplements to the regular forces (Annan, 2005, p. 36). The Janjaweed officers sometimes received extra income in addition to their paycheques (Prunier, 2005, p. 98).

Along with political recognition came official legal recognition of Janjaweedism. In November 1989, a presidential decree institutionalizing the PDF gave the paramilitary forces a legal framework and a chain of command reaching all the way to the highest levels of the government (Annan, 2005, p. 30). As Human Rights Watch notes in its analysis of a more recent directive in this regard, the government allowed the militias to conduct irregular warfare with relative impunity (Human Rights Watch, 2004, p. 5). As demonstrated by the 2005 decision not to charge the militia members suspected of war crimes, Khartoum deliberately exempted the Janjaweed from their responsibilities as combatants (Idid.). For almost three decades, there is much evidence of a real policy of impunity and immunity put in place and maintained by successive governments (Ibid.). The policy was initiated in the 1980s (Prunier, 2005, pp. 98-99) and more recently was institutionalized in laws protecting the Arab militias under international law on armed conflict or giving them immunity from legal action (Fricke and Khair, 2009, p. 279).

## 3   INSTITUTIONAL ANALYSIS

The institutionalization of the Janjaweed as a branch of the Sudanese military was at confluence of several dynamics, which provided subtle but powerful incentives in addition to and beyond the more pragmatic interests of those in Khartoum and of the Janjaweed. The history of tribal warfare in Sudan, and of temporary alliances among tribes to evict those who were considered as intruders, created a commonly shared cognitive worldview and way of "doing business," which were further reinforced by normative affinities between the Arab-dominated post-colonial Sudanese state and the Arab tribal militias. De facto and formal legalization of using militias as the preferred tool for counter-insurgencies by the Sudanese state was, in many ways, the later outcome of deeper institutional forces found in the normative and cognitive realms.

These dynamics, however, were also working against other powerful institutional forces, being those of the Westphalian state that are also shared, consciously or not, by the Sudanese state. Sudan is also seeking legitimacy, as a state, in the eyes of other states, and it is under a lot pressures to "behave" like a "normal" state too (be it in legal terms or based on social and moral norms). There were, of course, regulative pressures from the international community for Sudan to respect human rights, and the rule of law in general. But there were also other more subtle institutional pressures regarding the cognitive and normative legitimacy of what constitutes the normal armed forces of a state. The integration and assimilation of the Janjaweed in the Sudanese military apparatus, which was perceived by many Arab militias as a betrayal, beyond issues of command and control, would be hard to understand without integrating such institutional dynamics into the explanation. In other words,

social and institutional pressures towards the institutionalization of the Janjaweed into the formal state apparatus were coming from outside Sudan, while the dynamics from inside Sudan were pushing towards maintaining the status quo.

These internal and external forces were complementing each other until the legitimacy that they provided were starting work at cross purpose. The Sudanese state is in many ways a weak state, and it has limited legitimacy both in the eyes of its own population and of other states. To cater to both sources of legitimacy would soon become impossible to manage, and Khartoum had to make a choice. As it is frequently found in most institutions, and as institutional theory predicts, in the long term pressures from the external environment tend to be taken more seriously that the ones coming from the inside.

Hence, during the first decade of the 21st century, unsurprisingly, there were several indications that the honeymoon between Khartoum and the Janjaweed was over. The alliance, which had lasted more than 30 years, had become fragile and was heading for the "breakup" that had been predicted from the late 1980s onward by some high-ranking officers in the regular army (De Waal, 2007, p. 7). The event that triggered the divorce was the signing of the Darfur Peace Agreement (DPA) at Abuja[4], Nigeria (Impe, 2007, p. 7). In the agreement, Khartoum committed to disarming and dismantling the Arab militias. It was a clear signal that it was ready to abandon the Janjaweed. Furthermore, the central government entered into an alliance with the rebel militias of Darfur, integrating more than 5,000 of them into the Sudanese army (Flint, 2009, p. 30). It was symbolic that Mini Minawi, the fiercest enemy of the Arab militias, obtained one of the highest positions: senior assistant to the President (Flint, 2009, p. 11). Once more, pragmatic political power certainly played a key role both in constituting the alliance and in dissolving it, but other subtle and yet powerful institutional forces were also at play.

Some saw the Sudanese government's about-face as an expression of the national interest; others, as the pursuit of a dangerous logic leading the regime to favour the rebels as a way of ensuring its survival, while failing to consider the harm that could result if the Janjaweed became more and more uncontrollable (Dika, 2006, p. 16). Although many of them remained loyal to the government, many others became radicalized and broke away from it. By the mid-2000s, observers quickly noted that the government had lost all control over the Arab tribes (Dika, 2006, p. 40). Some of the tribes became mercenary units working for the highest bidder, while others turned to banditry. Yet, the real question, too often ignored, is whether the Sudanese state was ever considered as something legitimate in the eyes of Arab tribes in Sudan. The former allies are increasingly becoming enemies, which may appear counter-intuitive given the deep normative and cognitive bonds that exist between the Arab-dominated government of Khartoum and the various Arab tribes of the country.

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[4]   The Darfour Peace Agreement was signed on 5 May 2006 by the SLA/M, but in the end it was not signed by the Sudanese state.

Once more, by excluding the institutional forces (legal or regulative, cognitive and normative) from the analysis, the situation in Sudan is difficult to comprehend.

**Conclusion**  The institutionalization of irregular warfare is a complex phenomenon for which a reductive analysis will not suffice. The institutionalization of the use of the Janjaweed cannot be understood solely in light of geopolitical and logistical factors, by considering only rational motives, cost-benefit calculus or by a legalistic view. Historical, ideological, ethnic and cultural factors also contributed significantly to determining the rise and fall of the alliance between the Sudanese government and the Arab militias, as well as the institutional dynamics of the state. The objective of this study was specifically to take non-rational factors into account and examine them together with rational parameters in order to better understand all aspects of the development of the alliance between Khartoum and the Janjaweed. That analysis has made it possible to identify the deeper reasons for the fragility of the alliance and has yielded a better understanding of the current state of that relationship.

Legitimacy is a concept central to any power relationship, as a degree of power has to be given if one wants to rule without relying solely on brute force (which is unsustainable in the long run). Yet, degrees of legitimacy are difficult to measure as it is a social construct dependent on meaningful perceptions and interpretations. Beyond the specific case of Darfur, however, this paper illustrates that the qualitative notion of the legitimacy, when properly framed within the lens of institutional analysis, can be a useful tool to understand the evolution of conflicts.

If legitimacy cannot be reasonably measured in percentage like quantitative indicators, it can be assessed in terms of alignment, or lack thereof, between internal and external sources, as well between the three key dimensions of the institutional dynamics (regulative, cognitive, and normative). Sound alignment provides legitimacy and therefore stability, while lack of alignment requires that sooner or later adjustments must be made through change and compromise. The alliance between the Sudanese state and the Arab militias was able to last because there was institutional alignment, but as soon as the sources of legitimacy became misaligned, something had to be done.

States to continue to exist, even if they are dictatorial in nature, need to be perceived as legitimate both in the eye of their "internal" audience (i.e. with at least some segments of its population) and their "external" audience (i.e. other states). These two sources of legitimacy can be in conflict, forcing a state to make compromises that may appear irrational on the surface, but when properly assessed, they can be explained. Such discrepancy between internal and external legitimacy can be particularly pronounced in the use of irregular warfare.

Many weak states of the developing world are in situations comparable to the early days of the Westphalian era, short of social legitimacy, both internally and externally.

One of the main challenges of the 21st century, for the international community, will be to support the establishment of legitimate states where there is not. This daunting task is fraught with many difficulties, and it will be requiring a lot of patience. This further calls for better understanding how legitimacy is established, how it evolves, and to develop a better grasp of its deep dynamics. Institutional analysis offers one avenue to frame with greater rigor the role of legitimacy in the dynamics of states using irregular warfare to exert its power.

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