

Post-dam land property dynamics of the Manāṣīr in Kabna Al-Fūqqara

A thesis submitted to the School of International Development of the University of East Anglia in fulfilment of the requirements for a Doctor of Philosophy degree

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Dedicated to Baba



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Arabic Transliteration

For rendering the Arabic alphabet, this thesis employs the transliteration system adopted by editors of the journal of Sudan Notes and Records as follows:

ب	B	ر	R	ع	°	ه	H
ت	T	ز	Z	غ	GH	و	W
ث	Th	س	S	ف	F	ي	Y
ج	J	ش	SH	ق	Q (or G)		
ح	H	ص	Ṣ	ك	K		
خ	KH	ض	Ḍ	ل	L		
د	D	ط	Ṭ	م	M		
ذ	DH	ظ	Ẓ	ن	N		

Vowels		Diphthongs			
Fatha	a	Lengthened fatha	Ā	ى	Ai
Kasra	i	Lengthened kassra	Ī	و	Au
Damma	u	Lengthened damma	Ū		

Note: The transliteration is not applied to the names of well-known places such as Khartoum, Omdurman and people (e.g., socialist president Ja'afar Nimeiri) or common spelling of names of people (e.g., Mohammed or Osman) and names of people are not transliterated with the diphthong symbols. The transliteration of the hamlets in the Manāṣīr (e.g., Fūqqara, Ḥasanāb, Nawāwīr) are only applied to those most frequently referred to. Furthermore, the names of areas and places such as Wadi al-Mukabrab and al-Multaqqa are not transliterated.

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Abstract

Dams almost inevitably displace communities from their lands. Yet despite extensive research, there is virtually no research on cases where displaced people reject formal resettlement in favour of self-directed resettlement. Furthermore, there has also been very little research addressing adaptive responses of land tenures, rights and relations in such contexts.

This study addresses this research gap through investigating the land property adaptations amongst the Manāṣīr people displaced by the Merowe dam in 2008. A large proportion of the Manāṣīr elected to stay around the dam's reservoir, remaining rooted to their homeland. Through a contextualised ethnographic case study methodology, focusing on the hamlet of Kabna al-Fūqqara located towards the tail end of the reservoir, this research explores the land property dynamics of their informal (re)settlement.

The methodological approach adapted the analytical framework of property developed by F. von Benda-Beckmann, K. von Benda-Beckmann and Wiber (2006) which distinguishes between *categorical property*, visible at the legal/institutional layer of social organisation and refers to property rules and norms, and *concretised property* which relates to the actual 'lived' property relations on the ground.

The analysis reveals how adaptations occur at both these layers of property in complex, interrelated ways. The *concrete* actions and social practices of inhabitants in reserving and reclaiming the unoccupied wastelands above their hamlets are the primary means through which adaptations are pursued. These actions are informed by existing *categorical* customary rules and norms and in turn reform and update these norms. As a result, new categorical land rights are in the process of emerging. The customary institutional mechanisms which underlie these dynamics, while flexible and enabling, are pursued in the context of a wider legal/institutional rupture. The findings reveal the complexity underlying the processes of concrete property making and the wider, more contested, dynamics of 'institution-making' concerning the emergence of law.

Chapter 1: Introduction

1.1 The context

In July of 2008, the gates of the Merowe dam were closed without warning, resulting in the sudden, unexpected flooding of *Dār al-Manāṣīr*, the historical homeland of the Manāṣīr people in Northern Sudan. The unannounced inundation of their lands precipitated an acute humanitarian crisis in the months that followed as they scrambled to rescue themselves in the absence of any government support. Their lives along the fourth cataract of the Nile would never be the same again as the lands they had historically tended, the majestic groves of date palms which once lined the riverbanks, their houses and most of their personal belongings were submerged under the rising waters. The devastation, loss, and injustices they experienced did not however deter them from their defiant attachment to their historical homeland or their resolute determination to maintain their presence in the area surrounding the Nile River.

As the dam was being built in the 2000s, the government had developed plans to resettle the soon-to-be displaced communities in sites far from their traditional homelands along the river. Going against this, a significant proportion of the Manāṣīr insisted on re-settlement beside their old homes on the new reservoir's shore. This came to be known as the 'local option' or '*khiyār al-maḥallī*'. The term is used to refer to the newly established homeland of the Manāṣīr in the areas surrounding the Merowe dam's reservoir. Hereinafter, this study uses the term 'local option' — '*khiyār al-maḥallī*'—in the same sense that the people affected by the dam use it: eschewing re-settlement in distant government-provided houses for settlement around their ancestral villages and homes. Furthermore, it is deployed throughout this thesis to refer to a location (i.e., the Manāṣīr settlements around the reservoir).

The community leaders and elected representatives of the Manāṣīr dam-affected people rallied behind this proposal. They fought for their people's rights to choose the terms and conditions of their resettlement. Months of sustained mobilisations and negotiations with the responsible authorities eventually yielded promises and agreements to recognise and establish the 'local option'. Yet, when the government closed the dam's gates without warning, without any implementation of the promised 'local option', the community concluded that these agreements had been nothing but empty promises and that they could not rely on the government to support them in their wish to remain. Nevertheless, still determined, the 'local option' was established by the Manāṣīr themselves, through *ad hoc* community-directed resettlement in the elevated lands around the reservoir in the aftermath of the flooding. Thus, they tenaciously maintained their presence, adjusting their way of life and community institutions to the new physical environment of the dam's reservoir.

Displacement caused by dams and other development infrastructure, along with the associated issues of land dispossession, constitute a persistent global phenomenon which has affected an estimated 20 million people per year (Cernea and Maldonado, 2018, pp.4-5). Even

though land tenure and land property issues are central in these instances of displacement, and despite the wealth of knowledge generated by studies into land tenure and land property dynamics in legally plural context, there is a major research gap concerning our present understanding of the specific land tenure dynamics underlying displacement and resettlement (see for example Hay, Skinner and Norton, 2019).

The purpose of this research is to investigate the land tenure dynamics of adaptation in contexts where people are displaced by a dam without being formally resettled by the state or formal authorities but rather ‘stay behind’ and remain on the edges of their flooded lands. The lack of research into this social phenomenon and the resulting underrepresentation in the literature might suggest that it does not occur. However, people *do* resist resettlement and choose to ‘stay’ or otherwise direct their own post-displacement lives and outcomes. This seems to occur more often than the literature would suggest, for example, in many historical cases before the development of international standards of involuntary resettlement planning (e.g. Asif, 2000). Furthermore, evidence of ‘staying’ is hidden in the literature on the political resistance against dams, as the most extreme resistance to displacement is rejecting formal resettlement projects in favour of self-directed (re)settlement (e.g. Dao, 2016).

The absence of a detailed analysis of the dynamics of land tenure in such situations, whether before and/or following their displacement, is another blind spot in the literature. The complexity of land tenure in contexts where customary and statutory land rights co-exist makes investigating these dynamics challenging. Despite the extensive literature on land tenure in plural legal contexts (reviewed in Chapter 2), there is a surprising lack of research which engages with land tenure issues of dam displacement in any depth. Furthermore, the land tenure dynamics of self-directed community-driven resettlement and reestablishment of life in instances of ‘staying’ is almost completely absent from the literature. The original contribution of the present research is in addressing these identified gaps.

To investigate the broad social phenomenon of the dynamics of land tenure adaptation in situations of ‘staying’ after dam displacement, this research draws on the experience of the ‘local option’ Manāṣīr, who resettled themselves along the shores of the Merowe dam’s reservoir. The land property system, or the system whereby access to and rights over land as well as the social relationships embedded in the land are managed and directed, underwent significant transformations in the aftermath of the flooding. The case study methodology adopted focuses on the experience of a single hamlet at the tail end of the reservoir—the hamlet of al-Fūqqara in the village council of Kabna (see Figure 5-1) to illuminate the dynamics of adaptation at the micro-local level of a partially inundated hamlet and to examine how these changes are negotiated among and between its constituent members.

The relevance of this research has been heightened by the current political climate in Sudan. Since the start of this research, the dictatorial regime under former president Omar al-Bashir, ruling for 30 years, was overthrown in 2019 by a peaceful revolution. As such, the current phase of transitional government offers an opportune moment for policy reforms and a potential redressing of many of the injustices which the previous regime was responsible for.

Land-tenure is an important arena of reform in Sudan as land-based conflicts have plagued the nation since independence in 1956. Despite the great importance of customary land tenure institutions and customary land rights to the livelihoods of millions of Sudanese, they have largely been unrecognised and threatened by Sudan's post-independent governments. The frequency and apparent casualness with which land dispossession has occurred, and the devastating impoverishing impacts which invariably follow, make it critically important to develop policies which better safeguard the rights of local people to benefit from their land—particularly at this hopeful moment for change.

The Manāṣīr of the local option had their land and their way of life sacrificed in the name of the so-called 'greater common good' through which the Merowe dam was officially promoted. Many live without governmental support, including electricity, which was originally touted as the main purpose of the dam. Furthermore, their isolation and neglect, physically manifested in the absence of any roads connecting the area to the rest of Sudan, constitute an additional insult to the lasting injury of sudden inundation and associated mistreatment. The struggle for justice among the Manāṣīr and the other dam-affected people – whether resettled in government-built sites or on the edges of their old homeland – is still very much alive. Considering this, the present research serves as an important record and reminder of their ongoing struggle for fair compensation and just resettlement and presents an important contribution to knowledge that can potentially serve as a resource for further advocacy and reform.

The rest of this chapter is structured as follows: first, the theoretical basis of this research is introduced as it pertains to the analytical framework of property and understanding of land tenure in plural legal contexts. Second, the context of the Merowe dam and the displacement of the affected people is reviewed. Third, the overarching research question and research methods used are introduced. Lastly, the overall structure of the thesis is presented.

1.2 The theoretical basis of the research

Property is one of the most theoretically contested and empirically challenging concepts to study. In much of today's world, what land property actually means to those who 'live' it, i.e., for local people who relate to land directly, differs considerably from how their land is represented in formal governmental registers, ordained by different land legislation, and theorised by economists. Moreover, this disparity in turn contributes to much land-conflict worldwide and certainly in the Sudanese context. Existing theories of property can be too narrow on their own to consider the experiences of a single hamlet at the tail end of the Merowe dam's reservoir. This is due in part to the emphasis on formalised legal rights, rules, and relations, without sufficient attention to the 'de-facto' lived property rights and relations. However, the work of many anthropologists studying land property in various contexts (F. von Benda-Beckmann, 1979; Peters, 1994; Hann, 2007), has led to a greater appreciation of the actual 'lived' property rights and relations, which frequently do not conform to the formal

legal and institutional land rights but are nonetheless inextricably linked to them. It is this body of work that provides the foundation for the framework employed in this study.

As Franz von Benda-Beckmann, Keebet von Benda-Beckmann and Melanie Wiber (2006) highlight, although ‘property’ undoubtedly lies within the realm of economics, it cannot be reduced to this dimension, and greater attention must be paid to its multi-functionality. As they put it:

“Property is always multifunctional. It is a major factor in constituting the identity of individuals and groups. Through inheritance, it also structures the continuity of such groups. It can have important religious connotations. And it is a vital element in the political organisation of society.... Property regimes, in short, cannot easily be captured in one-dimensional political, economic, or legal models” (2006, p. 2).

Research into the ‘lived’ dimension of property relations, and its multifunctional roles in society, is essential if the meaning of land property is to be rescued from partial and obscuring hegemonic conceptualisations focussed on individual private ownership alone. Such research is a prerequisite for the development of policies that can be more in alignment with local experiences and practices and recognise the often-overlooked meaning of land as a basis for social belonging, identity, and continuity.

This study adopts an analytical frame, which views property broadly as the relationships between people with regards to ‘things’. This framework (elaborated in Section 2.5) distinguishes ‘*categorical*’ property’ at the legal-institutional layer of social organisation, from ‘*concretised*’ property’ at the layer of actual social practice. To aid in more accurately descriptive accounts of property rights and relations at both these layers, the framework further conceives of property relations as ‘constellations’ composed of three main elements: the *social units*—whether individuals, groups, or lineages/descent groups, the *property objects*—the socially constructed valuables, and the *rights and obligations* which the latter can hold with regards to the former (F. von Benda-Beckmann, K. von Benda-Beckmann and Wiber 2006, p. 14).

This framework is well suited to interpret the land tenure dynamics and adapted social relations of the people still living in Kabna al-Fūqqara. As applied in Chapters 5 to 7, the frame is able to capture property as it is actually lived, in terms of the concretised relationships and social practices that create, maintain, negotiate and transform property. It also captures how property rights are expressed in the social norms and rules that seek to govern and direct these actions at the layer of categorical property.

For the purposes of this research, the framework is adapted to investigate the changes in the Manāṣīr’s ‘local land property system’ in the hamlet of al-Fūqqara—or the arrangements by which the hamlet’s social units hold various rights and obligations with regard to the different categories of land—at both categorical and concretised layers. Applied to the case of the hamlet of Kabna al-Fūqqara, the frame demonstrates the impressive breadth and depth of the

adaptation of the people and their local land property system in the face of the very sudden and significant exogenous shock caused by the Merowe dam's reservoir. The application thus further contributes to a deeper understanding of the socio-cultural values attributed by the Manāṣīr to their land, date palms and their way of life along the banks of the Nile River, much of which is not captured adequately by narrow economic models of land property. Application of the framework in Chapters 5 to 9 reveals, for instance, that notions of 'homeland' (*al-balad*), territoriality and belonging, must be considered alongside the various socially embedded dimensions of the complex customary land system—and emerge as a counterpoint to the pervasive notions of the commodification of land which are detached from its social and political functions. More importantly, the enduring relevance of customary land tenure systems throughout Sudan, and especially evidenced in this case of the Manāṣīr's post-dam local resettlement directed primarily through customary means, highlights the importance of paying attention to local level dynamics and negotiations over access to and rights over land.

1.3 The Merowe dam and its effects

The government of Sudan built the Merowe dam on the fourth cataract (white-water rapids) of the Nile River primarily to generate electricity, although it is identified as a multi-purpose dam, with irrigation and flood control among its other objectives (Dams Implementation Unit, 2007a; Zeitoun *et al.*, 2019). Built between 2003 and 2009, the dam was implemented by the controversial Dam's Implementation Unit (DIU) the authority established by the (recently deposed) government of President Omar al-Bashir and has been funded mainly by China along with several Arab Gulf Coast Countries. The dam's 170km wide reservoir displaced between 50,000-70,000 people in North Sudan, from three different groups: the Ḥamdāb, Amri and Manāṣīr. Many aspects of the Merowe dam's implementation have been fraught with controversy (detailed in Chapter 3). Furthermore, many issues related to compensation and resettlement have yet to be fully resolved and persist at the time of writing (2022), well over a decade since the dam's inauguration.

To briefly summarise the experience of the affected people, the Ḥamdāb, representing 7% of the total population of people directly affected by the dam, were the first group to be displaced in 2003 as they inhabited the land where the dam itself was to be erected. Most of the Ḥamdāb were resettled in the government-constructed site of al-Multaqqa (New Ḥamdāb), around 45Km from the Nile. The Amri, representing 27% of the affected peoples, were the second group to be displaced and most of them were resettled by the government in the government-built schemes of Wadi al-Muqaddam (New Amri), roughly 100km from their old homelands. Finally, the Manāṣīr, at the tail end of the reservoir and representing 65%, were the last group to be displaced. Manāṣīr were also the group that made the most sustained efforts against the government plan, to choose their own terms of resettlement. The state-built resettlement sites for the Manāṣīr (Wadi al-Mukabrab near Atbara and al-Fida near al-Damer, refer to Figure-3-2) were rejected by the many who favoured the local option.

The Manāṣīr Executive Committee lobbied vigorously for the rights of those who wished to remain in the area around the reservoir (see Chapter 3). This ‘local’ option was favoured by roughly two-thirds (68%) of the Manāṣīr, as revealed by a referendum undertaken in 2005. The appeal of the local option was the guarantee of water and a familiar landscape to which they knew they could confidently adapt. However, they were also aware of the devastating failure of government irrigation schemes, resulting from the lack of maintenance of various irrigation pumps and channels, consequent frequent breakdowns, and the resulting water shortages in the new Ḥamdāb and Amri resettlement sites.

Even though the state authorities failed to honour their agreements and promises to facilitate the choice of local resettlement, the Manāṣīr held their ground as the waters rose that fateful summer and, through their own self-directed efforts, re-established themselves on the reservoir banks as the ‘local option’. Following the trauma of the deluge, the flurry of rescue missions which salvaged as much of the personal belongings and livestock as they could manage, and while they were still mourning the scale of the loss, the Manāṣīr rebuilt their homes and re-established their lives (Hänsch, 2012; 2019).

1.4 Research Questions and Design

For those Manāṣīr that remained rooted in their historical homeland and re-established their lives along the reservoir, there is more to the story than just the hidden and apparent losses. The local-option Manāṣīr who took up residence around the reservoir managed to maintain their customary territorial rights to the area and re-established their customary land property system to fit the new physical context and post-dam social landscape.

The research investigates the land tenure dynamics of this re-established settlement. Such an investigation demands specific theoretical and empirical considerations. Theoretically, an analytical framework of property is needed which can capture and describe the land property rights and relation at the customary institutional level *as well as* the observable activities and practices of the hamlet’s inhabitants, as they practically adapted their land use patterns in the aftermath of the flooding—hence the employment of the adapted F. von Benda-Beckmann, K. von Benda-Beckmann and Wiber’s (2006) analytical framework of property. Conceptualizing property as a constellation composed of three constituent elements of social units, property objects and rights and responsibilities which exist both normatively (whether these are customary norms or legally codified rules) and in actual socially practised ways, the framework provides a means of more accurately analysing property dynamics without falling prey to common theoretical or legal-institutional simplifications or distortions. Furthermore, this conceptualisation lends itself to the analysis of changes in property dynamics in contexts of rapid and radical transformation, such as that caused by a dam’s reservoir. Empirically, it necessitates an ethnographic approach focused on a specific local context to facilitate an empirically grounded analysis of the dynamics of transformation in the land property system.

The overarching research question is articulated as follows:

How do local people adapt their land property system in contexts of dam-displacement where formal resettlement is rejected in favour of self-directed (re)settlement?

To answer this, I address the following specific research questions:

1. How do the Manāṣīr along the Merowe dam's reservoir relate to land after being forcibly displaced and not formally resettled?
2. What are the land tenure dynamics of their informal settlement along the reservoir?
3. How have the historical land tenure rights and the land tenure system of the local option Manāṣīr been transformed in the aftermath of the Merowe dam reservoir and the inundation of land?

These three sub-questions seek to differentiate key aspects of the land property system referred to in the overarching question: the meaning of land, adaptations of land tenures and claims, and the emergent property system adaptations.

This investigation into changes in the local land property system in the aftermath of the flooding caused by the dam necessitates a reconstruction of the historical (pre-dam) land property system. The existence of prior ethnographic studies of the Manāṣīr (Beck, 1999b; 2003), and particularly, the manuscript by Abdelrahim Salih, *The Manāṣīr of Northern Sudan: Land and People* published in 1999, made it possible to juxtapose the well-documented historical property system of the Manāṣīr against the current post-dam property relations of the local option Manāṣīr, consequently supporting the research design's focus around the themes of continuity and change in land property relations.

1.5 Organisation of the thesis

The remainder of this thesis is structured as follows. The first part (Chapters 2 and 3) presents a review of the most relevant published literature which is required in order to provide a conceptual and contextual grounding for the second part (Chapters 5,6,7 and 8), which presents and analyses the ethnographic data of the Manāṣīr gathered from secondary sources (primarily the work of Abdelrahim Salih, Kurt Beck and Valerie Hänsch) as well as the primary data gathered during the six months of fieldwork spent in the hamlet of Kabna al-Fūqqara.

The case study methodology adopted, and the elaboration of the ethnographic approach and fieldwork experience is placed between these two parts in Chapter 4. The concluding chapters (Chapter 9 and 10) consolidate the findings as it returns to the main research question. Chapter 10 offers reflections on a further research agenda into land tenure dynamics in dam-displacement contexts, both in the Manāṣīr and beyond.

Setting this out in more detail, Chapter 2 situates the present research of post-dam land property transformations within a research gap identified in the existing theoretical and empirical literature on dam-related land property transformations. In doing so, it reviews two separate and rarely interacting bodies of literature and explores the ways in which they might

be brought together for the purpose of this research. These are 1) land tenure and property theory literature and 2) dam-induced displacement and resettlement (DIDR) literature. The latter body of DIDR literature is less relevant to the case at hand as it deals primarily with resettlement. Rather, the glaring omission as it relates to cases of 'staying' is highlighted. Furthermore, despite the centrality of land property in instances of dam-displacement, there is a dearth of in-depth studies into the land-property and dynamics of displacement. This is peculiar as there is a wealth of knowledge from the long tradition of anthropologists (and particularly legal anthropologists) studying land tenure and land property relations in post-colonial settings, which is rarely considered by displacement scholars. This chapter works towards a synthesis of these two bodies of literature by first reviewing the land tenure literature and (to a limited extent) dam-displacement and resettlement literature separately before then considering some possibilities of a synthesis in the concluding section.

The story of the Manāṣīr, their experience with the Merowe dam displacement, their long-standing and ongoing resistance against the government and their historical land property system is the subject of Chapter 3. The chapter begins by tracing the development of the fight for the 'local option' in Section 3.1 before looking backwards at the historical Dār al-Manāṣīr prior to its dramatic inundation in Section 3.2.

Chapter 4 outlines the research methodology, research design and data collection and analysis methods employed. Reflections from fieldwork experience are outlined and discussed, including how I experienced and negotiated my way through the various challenges and opportunities during my time in the Manāṣīr.

Chapter 5 presents the primary data of the pre-dam historical land property system of the hamlet of al-Fūqqara and contextualises it within the historical pre-dam land property system of the Manāṣīr drawing on published ethnographic research. Chapter 6 elaborates on the post-dam changes at the immediate level of local lived land property relations in the hamlet of al-Fūqqara and illustrates the adaptive responses through a sample of 11 case-study social units. The chapter introduces the overall local option experience of the Kabna village council in which al-Fūqqara hamlet is located in Section 6.2, before outlining their post-dam land property adaptations, as observed and gathered through interviews in Section 6.3.

Chapters 5 and 6 focus on the historical pre-dam and current post-dam land property system in the hamlet of al-Fūqqara, respectively, to illustrate the dynamics of adaptation and change at two layers of property, the categorical (institutional) and concretised (actual social practice). Chapter 7 provides an analysis of these dynamics in al-Fūqqara and unpacks these micro-level processes of adaptation. The first Section 7.2 focuses on the enduring and adaptive institutions in al-Fūqqara, while Section 7.3 presents a more detailed analysis of the transformations in the hamlet's land property system.

Chapter 8 draws on the experience of other neighbouring hamlets in upper Manāṣīrland (visited during fieldwork), evidence from key-informants, and on the rich account of the experiences elsewhere in the Manāṣīr in Hänsch's seminal work (Hänsch, 2019) to

contextualise the experience of al-Fūqqara within the wider local option Manāṣīr. Section 8.2 highlights the distinction between the upper and lower Manāṣīrland and describes the institutional dynamics at the hamlet-level, namely how new rights to land were established and negotiated and the different ways through which rights to public lands were appropriated and allotted. Section 8.3 looks at the emergence of post-dam agricultural cooperatives in the local option. This is complemented by a discussion of the wider institutional dynamics in Section 8.4, particularly with regard to the customary institutional mechanisms of post-dam land dispute mediations and the attempts of some influential members to work towards elaborating a new legal framework which can be applied to land tenure across the Manāṣīr.

The analysis in Chapter 9 unpacks the evidence presented in the preceding chapters and presents an analysis of the dynamics of land tenure adaptation in the post-dam Manāṣīr. Following an overview of new categories of post-dam land in Section 9.2, the analysis in Section 9.3 unpacks the dynamics of continuity and change that were behind the adaptive responses across the local option. Section 9.4 then provides an analysis of the institutional dynamics of property-making in the absence of a clear legal-institutional framework (in the shadow of law). The concluding Chapter 10 consolidates the research findings in relation to the research questions. Reflections on the unanswered questions which arose from the data and possible avenues of further research are presented and discussed.

Chapter 2: Land Tenure in Contexts of Displacement- Review of Evidence and Theories

2.1 Introduction

Dams and associated infrastructures have displaced millions of people off their lands and moved them away from the basis of their livelihoods (Cernea and Maldonado, 2018). Despite the frequency and scale of development-induced displacement globally, conceptualisations of the transformations in the land property rights and relations of those displaced peoples remain underdeveloped. Furthermore, there is a significant blind spot in the dam-displacement literature as it relates to displaced people who reject formal resettlement in favour of self-directed (re)settlement without formal state assistance.

This chapter situates this study's investigation of the post-dam land property dynamics among the Manāṣīr who have resettled themselves along the shores of the Merowe Dam's reservoir within the existing theoretical and empirical literature on dam-related land-property transformations. This requires a review and combined reading of two separate, and rarely intersecting, bodies of literature: i) land tenure and property theory and ii) dam-induced displacement and resettlement. The relevance of the first body of literature justifies the greater weight it is given in this chapter as the latter body of work does not speak to the case at hand. Not only do these two bodies of work occupy different disciplinary niches and are concerned with different policy issues, but additionally, the preoccupation in the development-induced displacement and resettlement (DIDR) literature with the 'managerial-reformist' approach to developing 'successful' resettlement and rehabilitation (R&R) schemes has distracted attention from in-depth research into the dynamics of the affected population's own agency in self-directing their rehabilitation after displacement. Evidence that self-directed settlement does occur is often hidden and glossed over in different bodies of literature, for example, it is hidden in the resistance to displacement literature as the most extreme form of resistance (e.g. Dao, 2016; Armstrong, 2002).

The rich body of scholarship on land tenure has illuminated various dimensions of the complex reality of land relations, including the co-existence of customary and statutory land tenure regimes, the complex, contested and ambiguous notions of rights in contexts where multiple legal frameworks for land rights coexist, and the social embeddedness of land rights and relations (F. von Benda-Beckmann, 1979; Benjaminsen and Lund, 2003b; Cousins, 2007; Ubink, 2008; Vanderlinden, 2008; Chimhowu, 2019). While much of this literature does not explicitly engage with tenurial dynamics in post-displacement and resettlement contexts, it has the potential to offer considerable insight into how displacement impacts the land property systems of the displaced.

The next section of this chapter (2.2) identifies the aforementioned blind spot in the dam-displacement literature, which this present research aims to contribute towards. After briefly

sketching the disciplinary limits of the field and presenting a critical definition of displacement, the section highlights the limited engagement with land tenure issues and the curious absence of research into cases of self-directed resettlement of displaced people.

This is followed by a review of the literature on land tenure and property theory in the following three sections. The first of these sections (2.3) reviews the empirical literature on land property dynamics and land tenure regimes in normative and legally plural settings such as post-colonial contexts, highlighting key contributions and debates among land scholars, drawing out the general trends in colonial experiences of land administration and post-colonial trajectories in land tenure reforms. The second section (2.4) focuses on the Sudanese context, elaborating on the colonial and various post-Independence developments in land administration and the resulting system of land tenure. The third section (2.5) presents the key theoretical debates among anthropologists studying land tenure in normative and legally plural contexts and culminates in the presentation of the analytical framework of property employed throughout this research. The conclusion (2.6) sketches out a synthesis of the insights generated by the land property scholarship to the study of land property transformation in post-dam-displacement contexts. It also provides a rudimentary reflection on the unexplored linkages and the potential avenues of exploration through the application of the analytical framework of property.

2.2 Identifying a blind spot in dam-displacement literature

Situated within the broader context of development-induced displacement and resettlement (DIDR) (Vandergeest, Idahosa and Bose, 2007; Satiroglu and Choi, 2015; Cernea and J. Maldonado, 2018), the dam-displacement literature documents and analyses the social, livelihood, and cultural impacts of displacement and resettlement on affected groups. This body of work can be categorised into two main schools distinguished by the approaches they take to the phenomenon of displacement. The first is what Dwivedi (2002) calls the 'reformist-managerial' approach and refers to the policy-oriented ethnographic research into the effects and 'impoverishment risks' of displacement and resettlement along with various policy prescriptions and recommendations. This research seeks to mitigate the impact of DIDR and ensure 'successful' resettlement schemes (Cernea, 1997; Cernea and McDowell, 2000; Scudder, 2005). The second is termed by Dwivedi as the 'radical-movementist' approach which includes activist-driven research into the losses incurred by affected populations and resistance to forced displacement. This latter approach rejects the premise, accepted by the former, that displacement is a necessary sacrifice for development, and challenges the paradigm of development which results in displacement (Kothari, 1996; Patkar, 1998; Roy, 1998; Khagram, 2004; Chakrabarti and Dhar, 2010).

The expansive literature from both approaches is unfortunately only partially relevant for the present research as there is an enduring blind-spot to those who reject formal resettlement projects in favour of self-directed settlement along the edges of their inundated or expropriated lands. There is little exploration of the relationship between displacement and

the *transformed* land tenure systems of the affected populations, especially in cases when a large portion of these affected people return to live in or near the place they were displaced from.

2.2.1 Defining Displacement

Displacement can be narrowly or broadly defined, as it not only refers to physical relocation but is, in practice, a multi-dimensional phenomenon. The Thematic Review of displacement and resettlement for the World Commission on Dams (Bartolome *et al.*, 2000) frame displacement in ways that highlights both the personal experiences of the displaced and the structures which drive displacement. In their understanding, displacement consists of “(1) the alienation of the individual and community legal and customary rights and dislocation of the social and economic organisation and (2) the politics of legal and policy instruments that sanctions such disenfranchisement” (p. 8). As such, beyond the physical loss of land to a dam-reservoir and the involuntary relocation, displacement also constitutes a loss in the institutional basis of resource rights through the workings of more powerful legal-institutional processes which displace less powerful legal-institutional processes on which local people’s access and claims are legitimated.

Of course, the term “displacement” is only a surface-level description of the experiences of the affected people. Even a cursory blended reading of the land tenure and property theory with the effects of dams clearly emphasises the fact that their plight also entails the destruction and loss of a way of life, cultural rootedness in a place, community cohesion, and fragmentation of the social fabric of group identity (see for example, Drèze, Samson and Singh, 1997).

The *practice* of displacement is usually facilitated through some form of legal framework or policy. For example, under land acquisition laws, eminent domain discourse, or the right of the state to all lands required for ‘public purpose’. However, the common experience of such practice has been found to involve involuntary or forced removals, without the participation of the affected people in any of the decisions leading to their displacement, as well the submergence of land and property without sufficient prior warning of the impending filling reservoir (McCully, 2001). As we will see in Chapter 3, the Manāṣīr people displaced by the Merowe dam experienced elements of these forced evictions.

According to Chris de Wet (2006) displacement and resettlement should be understood primarily as an imposed ‘spatial change’ with cultural, social, environmental, institutional, political and economic implications compounded by local-level responses. He argues that “spatial change usually involves a change in the patterns of people’s access to resources [and] ... involve a change in land use and often in land tenure” (de Wet, 2006, p. 183). While his explanation of the inherent complexities acknowledges land tenure in passing, there is no deeper engagement or proposal for its integration. Developing this approach further in later works de Wet (2008; 2015) conceptualises human settlement as ‘emplacement’ and the

displacement and resettlement processes as a “dis-emplacing” and “re-emplacing” of communities:

“‘Emplacement’ portrays an association and identification that a person or a group of people has with a socially constituted place/territory that is recognised by others... [it] ...thus involves a socio-spatially constituted local citizenship ... With DIDR, people ... are dis-emplaced, and have to reconstitute, i.e., re-empower, themselves socially, politically and economically in a new environment. They are now part of wider bureaucratic and power structures, with less control over their circumstances, both political and economic. Externally initiated development projects, such as those that transform land use and therefore spatial and social patterns, tend to involve increased outsider control of the way that land is subsequently used, and resettlers often lose control of their land, as well as overall power, in the process” (de Wet 2015, p. 86).

As subsequent chapters illustrate, the land tenure dynamics alluded to in the above extract reflect the Manāṣīr of the local option’s struggle to maintain some degree of autonomy over their land by resisting being ‘part of wider bureaucratic and power structures’ which formal resettlement often entails. While de Wet (2015) explores the contributions which ‘complexity theory’ may offer to the analysis of DIDR, particularly regarding the difficulties of the resettlement process and how best to approach it perhaps a more fruitful cross-disciplinary endeavour would lie in the explorations of anthropologists’ contributions to understanding land property systems. Indeed, it is peculiar that such a synthesis has yet to occur.

2.2.2 Missing engagement with land tenure issues and overlooking those who ‘stay’

Perhaps as a consequence of the very common undesirable effects of dams, and particularly the aforementioned land-tenure effects of ‘dis-emplacement’ identified by de Wet (2008; 2015) displacement resistance movements have tended to be framed as struggles over land rights, with movements being engaged in a battle over the ‘right to land’ (Kavanagh, 2015; Satiroglu and Choi, 2015). Kothari (1996) for example points to the repeatedly acknowledged issue of access to land and struggles for the recognition of local notions of territoriality, which forms a fundamental base of resistance for many of these movements.

Curiously, while the diagnosis of the overwhelming failure of the global experiences with dam-induced displacement and resettlement frequently acknowledges shortcomings in the approach to land tenure and land property issues (e.g. Nor-Hisham and Ho, 2016), one would be hard-pressed to find a detailed ethnographic account which offers insights into what is happening beneath the surface of these identified issues. For example, one common critique of dam-related DIDR is that common property resources and systems of customary tenure are often not recognised by the authorities responsible and are thus not compensated adequately or at all (Kibreab, 2000; Koenig and Diarra, 2000; Scudder, 2005). Yet, the all too common

assertion that compensation procedures should acknowledge unregistered and informal land rights based on customary and traditional tenure systems has amounted to little more than amendments to ethical and normative guidelines, or policy prescriptions rather than fundamental review (McDonald-Wilmsen and Webber, 2010). The possibility of translating these into implementation however requires a deeper understanding of the dynamics of land tenure systems and the overall 'emplacement' of affected communities in particular local contexts.

In her analysis of the performance of land-for-land resettlement approaches in five major dams in Africa, Lassailly-Jacob (1996; 2000) unpacks the reasons for the 'disappointing' results in the experiences. Among these are the distance of the resettlement site from the homeland, conflicts between resettled and host communities, the challenges posed by the prevailing tenure dualism in the state's acquisition of sites for relocation, and the land tenure arrangements whereby the resettled come to be considered tenants on governmental agricultural schemes. For the Nubians on the Sudanese side of the Aswan Dam, these shortcomings were certainly experienced. As the resettlement site of New Halfa in Khashm al-Girba was over one thousand kilometres from their homeland, she notes how many Nubians returned to resettle themselves around the reservoir shore in their homelands.

The fact that many Nubians decided to 'stay behind' and move to higher grounds surrounding the dam's reservoir despite the government efforts to resettle them is acknowledged and yet curiously overlooked (Daffala, 1975; Fernea and Kennedy, 1966, both cited in Hänsch). Hänsch observes how these 'stayers' in Wadi Halfa were almost completely ignored in the extensive research into the Nubian experience of displacement, only mentioned in passing by Sørbo (1985) who states "..... the region to the north of the Second Cataract was depopulated of all but a few, bitter-enders' who refused to leave the area" (p. 58, cited in Hänsch, 2019, p.25).

For the most part, evidence that dam-displaced people choose to stay is hidden deeply in the literature. For example, it is hidden in historical studies of displacement and resettlement before the standardisation of resettlement policy and guidelines. The most notable of these is Elizabeth Colson's (1971b) study of the self-settlement experiences of the Gwembe Tonga people displaced by the Kariba dam in Zambia, which was constructed in 1956. Asif (2000) notes that many India development projects before 1980 lacked resettlement plans resulting in large numbers of displaced people not being formally resettled. He further observes that even in instances where resettlement was offered, the displaced frequently refused formal resettlement colonies. Questioning why this is the case he invokes Foucault's concept of the panopticon to make an analogy of the resettlement process as similarly viewed by affected people as an exercise of power drawing them into the official gaze and making them visible to (and therefore vulnerable in the face of) state authorities. Mehta and Gupte (2003), looking at the wider issue of forced migration which not only includes refugees from conflict but also development 'oustees' or those displaced by development projects, highlight similar trends in rejecting formal assistance in favour of self-directed settlement. In the case of dam-displaced peoples who resist resettlement, they note how the most extreme expression of resistance is

rejecting assistance, clinging to the fringes of the old landscape, and directing their own resettlement. Dao (2016) looks at the resistance to displacement by ethnic minority groups displaced by the So'n La hydropower dam in north-west Vietnam, finding that the resistance was expressed as a refusal to move, and highlights how for a portion of those displaced who "...wanted to move further uphill within their old commune land, which meant that they could still have access to the reservoir. The authority finally agreed to let them stay..." (p.304). The limited research into these cases of 'staying' would wrongly suggest that the phenomenon does not occur, whereas it is likely to be much more widespread.

The desire to stay expressed in resistance to displacement suggests something in the value affected people attach to their land. Lassailly-Jacob rightly considers the great discrepancy in the meaning of land held by policymakers and implementers and the displaced. In her words:

"There is a gap between two rationales or two perceptions of the land. The planners' land perception focuses on productivity and profitability, whereas the resettlers' land perception encompasses a wide range of social, cultural and religious elements as well as the productive factor. As long as this gap persists...land-based development programmes will never satisfy the resettled population's needs and wants" (Lassailly-Jacob, 1996, p. 196).

Unfortunately, this gap does persist, and there is a serious shortcoming in the in-depth analysis of the tenure impacts of dams. This might be because the literature on land tenure occupies a different conceptual and epistemic field (often concerned with agrarian transitions and agricultural productivity and the debates surrounding tenure reform policy), which rarely interacts with the literature on dam-displacement. Furthermore, as the former body of work is entangled in many debates concerning the complexity of land tenure issues, understanding the dynamics which play out in dam-displacement settings present a unique challenge. The depth of understanding that is called for demands a more sophisticated conceptual approach to studying property, certainly an approach which transcends the current emphasis on the legal-institutional dimension.

2.3 Land Tenure and Property Theory

Land is not only the basis of many people's livelihoods and social reproduction; it also carries a symbolic and spiritual significance associated with intangible yet indispensable notions of 'home' (Franco *et al.*, 2015; Abd Elkreem, 2018). For much of the world's population, land is considered an essential element in the constitution of identity, belonging, heritage and culture (Peters, 1994; Kuba and Lentz, 2006). Yet land is also an important material and political resource as its exploitation may confer material wealth, while the control over land, and the power to grant or deny access to it is an important factor in the constitution of political authority (Sikor and Lund, 2010; Lund and Boone, 2013; Berry, 2017b). Thus, land has fundamental cultural, economic, and political value.

Land-tenure systems are the rules and institutional structures under which rights to land are claimed, granted, and enforced. These are themselves inextricably linked to a historic and often very long-standing variety of social, political, and economic processes. Considered alongside each other, these abstract and measurable conceptions of land property demand a deep understanding of the interplay in their numerous dimensions – and make the study of land tenure and land property systems a complex and rich field of inquiry.

‘Land tenure system’ or ‘land tenure regime’, are used interchangeably in this thesis to refer to the legal-institutional, as well as the social, economic, and political structures under which rights of access to and control over land are organised in any given context. However, the related concept of the ‘land property system’ must be treated more cautiously as it may conflate an important distinction between *ownership* and *possession*. This distinction is easily neglected by analysts primarily familiar with statutory systems. Customary systems tend to acknowledge and enable greater complexity between ownership, possession, use, and benefit-sharing between different parties, as exemplified for instance in the ubiquity of sharecropping arrangements. Describing and theorising this complexity has been a long-standing pursuit of anthropology, and scholars have contributed to a richer conceptualisation of property. This section focuses on those contributions which empirically illustrate the complexity of land tenure in plural legal contexts. Such a selective review serves as a contextual prelude into the consideration of these dynamics in Sudan in the following section (2.4.), as well as contextualizing the debates among anthropologists and the usefulness of the analytical framework presented in Section 2.5.

2.3.1 Land tenure in plural legal contexts

Every land context is unique, and each land tenure system is a unique by-product developed from particular historical circumstances under successive periods of political rule (Berry, 1993; Spear, 2003; Cousins, 2007; Ubink, 2008; Boone, 2014). Nonetheless, most such systems express some degree of a phenomenon known as ‘legal pluralism’—a consequence of the coexistence of persistent customary systems and the expanding jurisdiction of state systems (F. von Benda-Beckmann, 1995; K. von Benda-Beckmann and Turner, 2018). In land tenure systems in particular, legal pluralism involves the coexistence of customary land rights based on customary institutions on the one hand and of statutory land rights based on the formal legal framework of the state on the other (Benjaminsen and Lund, 2003a; Cotula and Cissé, 2006; Boone, 2007; Musembi, 2007; Ubink, 2009). This is also referred to as ‘tenure dualism’ (Bruce, 1986; Adams and Turner, 2005; Ubink, 2009).

Legal pluralism is an outcome of the expansion of state systems. Across the world legal pluralism has existed as long as states have, although colonialism has generally intensified this through the development of modern states which extended the jurisdiction of the statutory system ever more systematically into peripheries. In the post-colonial period, independent state-building and developmental state planning has typically consolidated this pattern further. In these ways, legal pluralism has remained a prevalent post-colonial phenomenon.

There is a very wide-ranging body of empirical literature on land tenure in contexts of legal pluralism. This may be differentiated thematically according to the intersections with numerous other issues, including agricultural and economic development (Barrows and Roth, 1990; Place, 2009), political authority, citizenship and representation (Boone, 2007; Berry, 2010; Lund, 2016), cultural and ethnic group identity (Kuba and Lentz, 2006; Manger, 2008; Boone and Duku, 2012), and resource competition and conflict (Peters, 2004; Komey, 2008; Abdalla, Elhadary and Samat, 2011; Greiner, Bollig and McCabe, 2011), to name just a few.

Needless to say, anthropologists have spent a great deal of effort to understand the complexity of land tenure rights and relations, and have debated at length as to the appropriate methodological approaches to study this complexity (F. von Benda-Beckmann, 1979; Peters, 1994; F. von Benda-Beckmann, 1995; Hann, 1998; F. von Benda-Beckmann and K. von Benda-Beckmann, 1999; Verdery and Humphery, 2004; Peters, 2006; Hann, 2007; Turner, 2017). The following firstly outlines the key aspects of colonial land administration which extended the existing legal pluralism of the contexts they governed (2.3.2) and secondly reviews the various ways in which post-colonial governments have addressed this plurality through land policies and tenure reforms, as well as the impacts they had on land tenure systems (2.3.3).

2.3.2 The Proliferation of Legal Pluralism-The Effects of European Colonialism

States have existed in Africa for thousands of years, the likely earliest forms emerging in flood recession areas of the Nile valley. Legal pluralism is thus likely to have been an ever-present phenomenon between states and local customary practices, from the earliest times. And as states have come and gone, their legal innovations leave behind imprints to greater or lesser extents, partly in the character of the customary practices. The recent emergence of the modern state in Africa was spread primarily through the European colonial encounter and has continued after independence. The consequent expansion of the modern state's jurisdictional reached ever further into the peripheries has also extended manifestations of legal pluralism.

States have undergone cycles of expansion and decline throughout history, and agrarian policies have generally provided the foundation for their revenues. European Colonial land administration policies have in particular shaped the terrain of post-colonial land tenure systems in significant and enduring ways (Colson, 1971a; Chanock, 1985; Pierce, 2013). Land administration was a central aspect of colonial state-building efforts and through it, colonial agents were able to extend their power across the territories they sought to control (Berry, 1993; Boone, 2014; Lund, 2016). Two key strategies in achieving this aim are aptly summarised by Boone (2014) to be *indirectly* through the recruitment of traditional authorities who were sanctioned by the colonial state to handle land administration issues, and *directly*, through so-called 'statist land tenure regimes'—where the state acted as the primary agent in allocating rights to land, governing its access and use, and also extracting taxation, especially from agricultural yields. Operating in tandem, these two strategies served to inject new forms of legal pluralism in already legally plural contexts (Adams and Turner, 2005; Boone, 2014).

Since colonial projects had an interest in both exploiting economic resources and maintaining some form of social order in the regions in which they were engaged, they frequently attempted to accommodate so-called 'customary' systems of law and authority within their broader systems of colonial administration (Berry, 1993; Boone, 2014). This 'indirect rule' model of government is argued by many to have been a practical necessity as the outsourcing of the governance to traditional authorities enabled colonial governments to rule over large colonies with limited administrative resources (Berry, 1993; Spear, 2003; Richens, 2009)—as Berry puts it, indirect rule was a form of "hegemony on a shoestring" (Berry, 1993; 2017a). Yet, rather than fostering political and social stability in the regions in which it was practised, government via indirect rule was a major contributor to much of the instability experienced; instability which manifested in shifting authority relationships and opposing interpretations of the rules (Berry, 1993, p. 32). Berry argues that this colonial governance model not only failed to conserve (or repair) stable systems of conventional social order, but increased instability in local structures of authority and in the terms of access to productive resources (p. 25).

Several scholars have observed that the customary systems of law and authority recognised and empowered by colonial governments were often 'created' or 'invented' through the collaboration between colonial forces and "native" elites (Colson, 1971a; Chanock, 1985; Moore, 1986; Mamdani, 1996). Some stress the limits of colonial invention and emphasise the role of colonised elites (e.g. Ranger, 1983; Spear, 2003).

The term "native" needs qualification. It is a term used by colonial powers as a precondition of 'indirect rule' and as Mahmoud Mamdani argues was largely a creation to distinguish the "native allies" as "traditional" and "authentic" thereby facilitating the process of indirect rule. It is used here in a similar context to refer to the political identity which was imposed on groups for the sake of governance by colonial states (Mamdani, 1996; 2012).

As Berry (1993, p. 24) observes, the 'customary' laws co-opted by colonial regimes into their broader administrative systems, far from being "static perpetuations of precolonial norms", were, in fact, new and artificial legal systems based on colonial officials' interpretations of African tradition. Furthermore, in pursuing the establishment of stable administrative systems, officials sometimes sought to completely reconstitute traditional authority structures (Berry, 1993, p. 27). In northern Nigeria, for example, Boone (2014, p. 18) argues that the British land committee 'created' the concept of communal land tenure among Hausa people to drive through a certain form of colonial project. As a result, Boone rejects the word "customary" in favour of "neo-customary" emphasising the fact that modern property institutions sometimes show little similarity to precolonial land norms and practises (Boone, 2014, p. 25).

The term "tribe", like "native", is a political identity imposed by the colonial state on groups with perceived shared identity, ethnicity, language, and culture, for the sake of colonial administration (Mamdani, 1996). Rather than existing as an entity, it is a creation which was "vital to the technology of colonial governance" (Mamdani, 2012). Prior to colonialism, the

'tribe' existed as an ethnic group with a common language and culture, however, the usage of the term 'tribe' here refers to an administrative entity (which also politically differentiates natives from non-natives). While tribal identity generally coincides with 'ethnic identity' there are instances when the same ethnic group was divided into different 'tribes' for administrative reasons and in other cases were completely invented (Ranger, 1983).

Customary authority in colonial Africa was predicated on a sort of marriage between a perceived tribe and some form of suitable territory. Consequently, the kind of customary authority established by colonial regimes was effectively understood as "tribal authority" wielded by traditional rulers over tribes in their ancestral homelands (Boone, 2014, p. 18). However, it was not enough simply to put customary rulers in place so that a system of rule may be established in these territories. Colonial powers also had to define geographical jurisdictions for the exercise of this kind of authority, as well as allocate defined subjects to rulers and territories (Boone, 2014, p. 18). Making use of anthropologist expertise, colonial regimes proceeded to carve out jurisdictions that verified or increased the geographic sphere of power of certain (trusted) local leaders while reducing or eliminating the domains of other (distrusted) local leaders (Boone, 2014, p. 29).

Indirect rule had several significant and enduring effects on land tenure and land use. As rights to land were linked to social identities and likewise as access was granted and negotiated on the basis of group membership, the demarcation and enforcement of property rights became embroiled in competing testimonies over the borders of a community and its structures (Berry, 1993, p. 42). Berry makes the convincing argument that one effect of indirect rule on land tenure in Africa was to institutionalise contestations over property rights and relations. She argues that colonial regimes infused continuous battles for power and social identity into the framework of colonial administration, and generated contradictory testimonials from their African subjects about the meaning of "local law and custom." As a consequence, neither property rights nor labour relations were altered toward the European model, nor were they locked in outdated "community" forms, but instead became issues of continual contestation (p.40).

Some scholars have highlighted how colonial interpretations of customary land tenure inaccurately represented the reality of land rights and tenure regimes (Colson, 1971a; Chanock, 1991; Roberts and Mann, 1991). For example, when colonial powers were determining how to govern the lands claimed through colonisation, they made assumptions about 'native' land rights system that were based on their own ethnocentric historical experiences (Home, 2013; Bhandar, 2018). The most frequent assumptions viewed native land property systems as characterised by 'common' or 'communal' (Colson, 1971a). Such rights were viewed by the colonial authorities/project as inherently less advanced and less favourable in comparison to the individualised private property rights (Home, 2013). Yet anthropologists have contributed empirical evidence to refute these common misperceptions and oversimplifications. Most notably, the work of Max Gluckman (1965) in present-day Zambia reveals how individual land rights did in fact exist in areas that were labelled by colonial officials to be governed by communal property regimes, arguing that "the working of

the land and the appropriation of its products in this system of land tenure are highly individualistic” (Gluckman, p. 101 cited in Peters, 2009, p. 1318).

Furthermore, while it was convenient for colonial agents to perceive land rights as derived from the political authority of a chief (Chanock, 1991) this misperception led to gross misrepresentations - a fact picked up upon by many anthropologists. Meek (1949) notes British anthropologist Lucy Mair’s thoughts concerning the Uganda Agreement of 1900, which established a British Protectorate in Uganda, that:

“a government which supposed itself to be confirming native rights turned the Chiefs by a stroke of the pen into landlords entitled to exact rent from their former subjects and to dispose of their land for cash” (p. 13 cited in Hann, 1998, p. 15).

Alongside the indirect rule and creation of customary land tenure regimes discussed above, colonial land administration simultaneously took on direct forms where the conditions to do so were more amenable and where the advantages, for instance in potential revenues, outweighed the costs (Berry, 1993; Boone, 2014). For example, in areas where colonial interest in land was for economic production, strong state claims to land property were established through various legal instruments (Boone, 2014). In some instances where land rights were relatively distinguished and discernible to the colonial officers, these rights were often formally surveyed and registered (Home, 2006; Serels, 2007).

In situations where land was deemed as ‘empty’ or unoccupied, colonial forces invoked the legal principle of ‘terra nullis’ effectively claiming large swathes of land as crown lands (Bhandar, 2018). This was most widely done in Australia (Banner, 2005; Bhandar, 2018) but also in some parts of Africa (Ülgen, 2002). As Berry points out “Vast tracts of land were often judged ‘vacant and ownerless’ on the basis of cursory inspection or none at all...” (2002, p. 642). Such lands could then be allocated to private buyers and concessionaires for their economic exploitation. Many examples of this form of land administration are to be found in settler colonies where land rights were expropriated from locals and reallocated to European settlers, and for the establishment of commercialised agricultural schemes (Bhandar, 2018; Home, 2013). A consequence of this practice was the frequent forced removal and redistribution of rural populations, resulting in widespread displacement (Berry, 2002, p. 643). Boone (2014, p. 40 citing Amin, 1974) notes many instances where such colonial expropriation for what Samir Amin refers to as ‘agrarian colonisation’ created situations where natives were displaced and forcibly resettled. In such instances, state officials have sometimes used formal decrees to “fully extinguish” ancestral claims to land rights in areas where migration was state-sponsored or forced. Central authorities have not even acknowledged ancestral claims or set up user rights, putting into practise the idea that a property right that the state does not respect is not a valid right to property (Boone, 2014, p. 40).

Colonialism thus extended and proliferated the pre-existing conditions of legal pluralism through the strategies of land administration used. Legal pluralism observable in post-colonial

contexts thus partly bears an imprint of the recent colonial state past, as well as that of more historically distant states. But it is also affected by the post-colonial experience. The different trajectories of post-colonial land governance and long-standing debates concerning tenure reforms are now reviewed.

2.3.3 Post-colonial Land Tenure: Land Reform Debates

Scholars have spent decades researching the co-existence of complex and overlapping systems of customary and statutory land tenure regimes and property systems (Okoth-Ogendo, 1989; Cousins, 2005; Chimhowu and Woodhouse, 2006). There are long-standing debates around the most effective institutional configurations of land rights for the purposes of agricultural productivity, economic development, and poverty reduction (e.g. Bruce, 1986; Platteau, 2000; Toulmin and Quan, 2000; Benjaminsen, 2002; Woodhouse, 2003; Walker, 2005; Sikor and Müller, 2009; Boone, 2019).

Some scholars have highlighted that the distinction between formal and informal is not always clear-cut but that land tenure institution in post-colonial contexts is often characterised as a jumble of formal and informal institutions (Benjaminsen and Lund, 2003b; Cleaver, 2003; Chimhowu and Woodhouse, 2006). Benjaminsen and Lund (2003a) for example, show how there are common trends of ‘formalisation of the informal’ whereby customary mechanisms and tenure arrangements adopt elements of formalisation such as certification of informal sales and, documentation of dispute settlements. Likewise, there is ‘informalisation of the formal’ whereby negotiations and political dynamics among powerful actors end to undermine and reverse the effects of formal rules and regulations. Contributions in their edited volume all point to the ways in which such processes coalesce to produce land tenure systems that are neither controlled by dependable rules and structures nor characterised by absolute lawlessness. Cleaver (2003) for example argues that the distinction between formal-informal is a misconceived dichotomy and has little empirical basis as “local resource use practices and management arrangements are a complex blend of formal and informal, traditional and modern” (p. 17). She suggests that a more suitable distinction should be between ‘bureaucratic’ and ‘socially embedded’ institutions.

Considering the entanglement of ‘formal’ and ‘informal’ institutions and the prevailing complexity, policies for statutory land reform rarely achieve their desired objectives (Bromley, 1989; 2009; Moore, 1998; Adams and Turner, 2005; Musembi, 2007; Meinzen-Dick and Mwangi, 2009; Sikor and Müller, 2009). Moore (1998), for example, points out the difficulties faced by state legislation and international development agencies in revising African systems of land tenure. Empirically validating her scepticism over the capacity for legal reform to affect systems of property regimes, she documents cases where local people undermine state policies of land tenure reform ‘from above’ through the “seemingly trivial actions of individuals” (p. 34). Using the example of post-colonial Tanzania throughout different historical periods—from the socialist regime under Nyerere during which there were restrictions on property ownership through to the post-socialist World Bank-led liberalisation waves of the mid to late 1980s which reversed these restrictions—she analyses “the way the

informal strategies of local people may redirect the implementation of policy” (p. 38). Drawing on evidence from the life-experience of Kilimanjaro inhabitants she shows how the actions of individuals eschewed the legal dictates of the shifting ideologies (socialist to neoliberal) to maintain their property holdings during the socialist era of restrictions and regain them post-liberalisations. She concludes that local peoples’ observation or violation of the law is just one factor among many in the management of life. Numerous such local conditions affect the meaning of property and the relevance of national legal involvement throughout Africa. Though these are not mobilisations of collective political action, they nonetheless may undermine the goals of a government as effectively as if they were (Moore, 1998, p. 37).

This brief summary of the land tenure debates is by no means representative of the complexity and nuances in the field. It simply serves to illustrate some of the effects of tenure dualism and the legacy of legal pluralism which is relevant to the study at hand. The hope is that this provides the reader with a broad understanding of the complexity involved in land tenure issues and serves to justify the need for the analytical framework of property developed in this thesis.

Economic models have contributed to the conventional logic that ‘informal’ property systems were characterised by less tenure security and therefore less likely to encourage investment and agricultural development (Feder and Feeny, 1991; de Soto, 2000; Deininger, 2003; Lawry *et al.*, 2017). This conventional logic combined with various assumptions over the risks of informality for sustainable resource management (see e.g. the ‘tragedy of the commons’, Hardin, 1968) has been the rationale behind arguments for the ‘formalisation’ of land rights through individual titling and registration programmes (de Soto, 2000; Deininger, 2003). Under the direction of international development agencies, many former colonies pursued land tenure reform policies primarily in the form of formalisation of tenure campaigns through land titling and registration programs (Bruce, 1998; Adams, 2000).

On the other hand, critics of formalisation through titling and registration have countered these assumptions with empirical research critiquing and disproving the aforementioned assumptions. A great deal of research reveals how unsuccessful approaches to formalisation through individual titling and registration have been in achieving the desired policy objectives (Bromley, 1989; 2009; Atwood, 1990; Bruce and Migot-Adholla, 1994; Sjaastad and Bromley, 2000). These scholars also counteract the conventional logic by showing how so-called informal rights and customary tenure in many instances are indeed very secure and enforceable (Migot-Adholla *et al.*, 1991; Migot-Adholla and Bruce, 1994). Furthermore, many have shown how formalisation processes which focus on exclusive individual rights could create and exacerbate conflicts over land and undermine the existing access and use rights of various groups and individuals by ‘cutting the web of interest’ (Meinzen-Dick and Mwangi, 2009). Proponents of this second position generally advocate the recognition, protection and formalisation of customary land rights and argue that the flexibility or negotiability of access to land in customary systems enables greater access for the poor through need-based reallocations (Toulmin and Quan, 2000).

Concerns have been raised over development approaches which seek to formalise customary tenure, particularly concerning the issues of unequal power relations in informal local institutions and the politics of exclusion (Cousins, 2002; Peters, 2002; 2004; Chimhowu, 2019) specifically as it relates to the rights of women (Whitehead and Tsikata, 2003; Peters, 2004). Policies of customary tenure formalisation have been shown to often deepen social inequalities and exacerbate social conflicts (Peters and Kambewa, 2007), risking undermining the customary authority and enabling land consolidation, and possibly dispossession

Arguments in support of customary tenure continue to be made to counter the trends in the appropriation and dispossession of customary lands (Alden Wily, 2012; 2017; Peters, 2013; de Schutter, 2015; Sulieman, 2015; Elamin, 2018). An avid proponent for the protection and recognition of customary land rights, Alden Wily (2017, p. 458) makes an emphatic argument for customary protection, stating “that the issue of where customary rights sit in the modern world is not only a matter of just survival of traditionally born regimes on their own merits but also a pressing matter of sound social transformation”. She identifies a “structural commonality” in customary tenure regimes that aid in emphasizing some of their shared features, which can be summarised as follows: (i) customary systems attribute rights based on the existence of a social community, and as such are not possible in the absence of a social community or a geographical space over which the community's norms apply, (ii) land use determines norms, and changes in land use and distribution can have far-reaching effects on those norms; as a result, the right to land of a community or its members can take many different shapes and sizes depending on the land's current and planned uses, (iii) local communal jurisdiction, as opposed to external or state jurisdiction, most consistently constructs customary regimes, and (iv) what ‘ownership’ and ‘property’ mean in customary regimes are fluid, shifting, and adaptable, depending on factors such as the socioeconomic conditions, the amount of land that is available, and the political climate. As we shall in Chapters 6 through 8, these structural dimensions of customary tenure regimes play an important role in the Manāṣīr’s experience of adaptation in the aftermath of their displacement by the Merowe dam.

The overall experience in post-colonial land tenure reforms reveals a vast array and combination of approaches and outcomes (Firmin-Sellers and Sellers, 1999; Meinzen-Dick and Mwangi, 2009; McAuslan, 2013; Boone, 2019). Some post-colonial governments pursued formalisation through individual titling and registration, while others adopted various ways to formalise and legally recognise existing customary rights (Benjaminsen, 2002; Cousins, 2005; Behr, Haer and Kromrey, 2015). Others still pursued land nationalisation policies and extended legal claims of the state to all unregistered land effectively transforming customary land into state land (Francis, 1984). These approaches were not always mutually exclusive. Yet whichever way post-colonial governments sought to direct patterns of land use after independence, Berry (1993, p. 132) observes that since many of the colonial era debates over the meaning and application of custom remained unresolved, the execution and impact of land-reform programmes have a striking similarity to those of indirect rule. She concludes that the impact of postcolonial land reforms have had unclear and differentiated implications on

the ground, and that in actuality, access to land has remained contentious and related to social identity and position. Furthermore, as Peters (2006, p. 90) astutely put it, land tenure policies and their analysis is very much subject to the “strangling power of paradigms” both on the side of the dominant evolutionary paradigms which privilege exclusive individual rights sanctioned by states and the reactions to these, which stress the embeddedness and negotiability of rights based on customary systems.

2.4 Land Tenure in Sudan

Land rights in Sudan share the key characteristic of legal pluralism common to contemporary post-colonial land tenure dynamics discussed in the previous section, albeit shaped by its own unique social, economic, political cultural and historical experience. Parallels with the general trends of land tenure identified above include: (a) the close association of tribe and territory and between group membership and access to land rights which was introduced by the Turco-Egyptian administration in the mid-1800s, and subsequently reinforced by the British colonial model of indirect rule at the turn of the century; (b) the enduring legal pluralism/tenure dualism and coexistence of customary and statutory land rights which was intensified through the colonial period.

The term "tribe" needs special qualification in the Sudanese context. It is a translation of the Arabic term *qabīla* used to refer to groups with shared ethnic, linguistic, and cultural characteristics. Throughout Sudan's history, the existence of different ethnic and linguistic groups has been the basis of political administration (Zain, 1996). From as early as the Funj Sultanate (1504-1820), through to the period of Turco-Egyptian rule (1820-1881), the Mahdists State (1881-1898), the Anglo-Egyptian Condominium (1899-1955), and different post-colonial governments (1955-present)—tribal structures and tribal identity were solidified and reinforced as political identities for the purposes of administration and governance (Holt and Daly, 1980; Zain, 1996).

Anglo-Egyptian colonialism and the system of indirect rule further solidified tribal identities, exploited the inherent linguistic and ethnic differences of groups, and “invest[ed] these differences with political meaning” (Mamdani, 2020, p. 197). The usage of the term tribe in the Sudanese context throughout this thesis refers to the politicised and institutionalised identities of people with shared ethnic, linguistic, and cultural characteristics which were systematically tied to territorial enclaves for administrative purposes

Post-Independence Sudan land and agricultural policies and laws marginalised customary land rights and, in many instances, contributed to land conflicts. This section reviews these key trends within the Sudanese context and is structured as follows: first, a historical overview of the development of the legal framework of land in Sudan is established by tracing the key colonial and various post-colonial governments' land policies. This presents the backdrop against which the key themes in the literature on contemporary land issues in Sudan are presented and explored in the succeeding sections.

2.4.1 Colonial Land Administration in Sudan

Colonial land administration in Sudan reflects many of the broader themes of colonial / post-colonial tenure transformation discussed above. Under Turkish-Egyptian colonial rule (1821-1881) as well as the following period, and Anglo-Egyptian colonialism (1898-1956) land tenure reform and governance was a central feature of state-building activities (Spaulding, 1982). British indirect rule recognised and empowered customary tenure systems by empowering tribal traditional leaders to administer rights within their territories (Willis, 2011). These led to the reification of tribal territorial enclaves known as 'dār' under tribal systems of governance, known as 'native administration' (Elhussein, 1989; Gertel, Calkins and Rottenburg, 2014). At the same time, the colonial administration issued ordinances for the registration of productive lands in certain regions (particularly arable land along the river) thereby creating a dual system of coexisting customary and statutory tenure regimes which have survived in the post-colonial era (Awad, 1971; Warburg, 1971; Gari, 2018).

Evidence of the importance of land tenure and land administration to the establishment of a colonial government in Sudan can be found in the priority land registration received immediately after the victory of the British forces over the Mahdist Rebellion in 1899 (Warburg, 1971; Serels, 2007; Allen, 2017). In keeping with the rest of the British Empire's model of indirect rule, Lord Kitchener, the first Governor General of the Anglo-Egyptian Condominium, made land 'settlement' or the surveying and registration of tenure, his first policy strategy (Serels, 2007).

For Kitchener, land surveying and registration were crucial in establishing alliances with the native elites and embedding his desired structure of governmental rule into the physical landscape of Sudan. This structure would see government officials exercising direct control over native elites, who would in turn exercise control over the rest of the population (Serels, 2007, p. 59). Among his first acts as Governor General was the passing of two key land ordinances: the 'Khartoum, Berber and Dongola Town Lands Ordinances' (KBDTLO) and the 'Title of Lands Ordinances' (TLO), both issued in May of 1899. These set out the mechanisms and procedures for official recognition of indigenous land ownership, the KBDTLO focusing on the registration of urban land within the mentioned towns and the TLO focusing on rural lands.

The two land ordinances differed in two main aspects: in the definition of what constituted a valid claim to land, and in the delineation of the responsibilities of land ownership (Serels, 2007). While the KBDTLO had no clear outline of what would be considered valid evidence to establish an urban land ownership claim, the TLO was more explicit as to what constituted a valid claim, stating that the claim had to be based on continual ownership for a minimum of five years before the establishment of the local rural land registration commission. Both ordinances required provincial governors to establish registration commissions.

Neither of the ordinances explicitly addressed communal land rights. As the required evidence for individual land ownership was an uninterrupted use or cultivation of land, in instances where a tithe or a customary tax was collected from land used, the colonial government

considered such land to be owned by the tithe collector. In such instances, the TLO mandated that any land that was cultivated by native subjects who made a payment of tribute to a local elite must be registered as the private property of that member of the elite. This vested communal land with the group of individuals whom Kitchener acknowledged to be the appropriate representatives of the communal group (Serels, 2007, p. 63).

Kitchener's successor Reginald Wingate (1900) made some major changes to the form and purpose of land registration during his term as Governor-General. Among the changes he instituted was developing the first foreign land tenure policy in 1904 and establishing a committee to develop a policy for foreign land sales (Serels, 2007). Wingate's committee determined that foreign land sales could not infringe on the Nile Waters Agreement, which limited the land available for sale to foreign investors. To work around this limitation, the committee proposed changing the requirements stipulated in the TLO for establishing land rights—differentiating between lands with access to stable water sources (i.e., land along the Nile River) and lands with seasonal or irregular water sources (i.e., rain-fed or watercourse-fed lands). While individual occupation and cultivation of land with stable water sources were recognised as evidence of full individual ownership with the right of alienation, the same types of rights could not apply to the latter category of land which was deemed 'communal' and inalienable. This set the precedent whereby irrigated land along the river in Sudan is administered differently than the central rain-fed lands, and further entrenched the existing legal pluralism and tenure dualism (El Amin, 2016; Gari, 2018).

While the committee revoked the treatment of these lands as 'the alienable private property of local shaikhs' as they had been under the TLO, it made no recommendations for developing the legal mechanisms for the recognition of these communal lands. Land registration bodies set up after the committee's report deliberately disregarded all communal land claims. For example, in 1906 during the registration of land in the Gezira region south of Khartoum, the official in charge of the efforts (H.S Peacock) highlighted in his report that people tried to establish land claims based on individual as well as communal land rights, even producing recent and historical documents which seemed to prove 'tribal' land rights (Peacock, 1913; cited in Serels, 2007). Yet the land registration committee only recognised the legitimacy of private land ownership and ignored and outright rejected the evidence presented for communal claims (Serels, 2007, p. 67). As Allen (2017) highlights, the primary concern was to clarify the title of land rights for private investors in the new Gezira irrigation scheme. Land tenure policy was therefore effectively a mechanism for realizing Britain's economic interests, specifically of expanding cotton production in Sudan to feed the cotton mills in Lancashire (Serels, 2007; Allen, 2017).

Parallel to these and other land ordinances, the British colonial government passed a series of legislations which strengthened traditional leadership and empowered traditional tribal structures of authority with various judicial, administrative and political powers (Mamdani, 2009; Willis, 2011; Babiker, 2018a). These ordinances, such as the 1922 Nomad Shaikhs Ordinance and the subsequent additional 1927 Power of Shaikhs Ordinance, gave local traditional leaders the power to regulate land access and use and to resolve and adjudicate

over land disputes. A key consequence of this was that land rights were vested in tribes and access to it was determined by tribal identity (Mamdani, 2009; Babiker, 2018a).

The identification and recognition of tribes by colonial agents served primarily administrative functions. As Mamdani (2009) argues tribe is an administrative category that is formally delineated for purposes of colonial governance and is created from the “actual cultural raw material” encountered by the colonial state. The identification and recognition of tribes by colonial agents served primarily administrative functions. Hence, *tribe* was a legal category as well as a cultural identity since it was the group identification that the colonial authority recognised in law and governed in practice (2009, p. 147-8). Pointing to the key influence of key colonial administrator Harold MacMichael and his two-volume publication: *History of the Arabs in the Sudan* (1922), Mamdani argues that the classification of Sudanese peoples into tribes and groups through the technologies of censuses, histories and laws, served to create deep and lasting fissures and tensions between ‘natives’ and ‘non-natives’. The preferential treatment of the former through the recognition of rights to a tribal homeland (*dār*) and political recognition and the discrimination against the latter has had lasting implications for the politics of land in Sudan.

Regarding Darfur, he challenges the assumption that the colonial government simply reproduced the existing tribal system of property (*dār*) and tribal system of governance (native administration) but rather shows how the pre-colonial Sultanate of Dār Fur was actually moving away from tribal forms of property and governance and the effect of colonial policy was to deliberately ‘retribalise’ Darfuri society (Mamdani, 2009). The colonial interests in the ‘retribalisation’ of Sudanese society were high since the British conquest of Sudan followed the deposition of the Mahdist rebellion which effectively united Sudan against foreign imperialism (Mamdani, 2009). The colonial administrator Sir John Maffey is said to have argued for the expedition of indirect rule “...while tribal sanctions are still a living force” (Maffey, 1927, cited in Mamdani, 2009, p. 166). One of the key effects of this colonial ‘retribalisation’ of society was to create distinctions between ‘natives’ and ‘settler’ tribes which had major implications for land access. British colonial land ordinances, land settlement and registration campaigns and the simultaneous empowerment of tribal authority structures and corresponding systems of land governance in the tribal territories of ‘*dārs*’ solidified legal pluralism, tenure dualism and the contested nature of land rights in Sudan. The following section highlights some of the key post-colonial trends in land administration and their effects.

2.4.2 Post-colonial, post-Independence land tenures

Following political independence in 1956, various legislations vested land governance within the state, asserting a process of nationalisation which delimited and denied customary land tenure in formal state law (Awad, 1971; Gari, 2018). However, the relevance of customary institutions and tenure regimes continued to endure across the country (Babiker, 2018b).

The colonial institutional legacy is expressed in the enduring co-existence of customary land tenure and ‘private ownership’ of registered land. The latter dominates in the rainfed areas

away from the Nile basin, while registered property predominates in the areas around the Nile River and its tributaries where year-round irrigated cultivation and permanent occupation of land was considered by the colonial land ordinances as a sufficient basis for registration (Gertel, Calkins and Rottenburg, 2014; Calkins *et al.*, 2015; Babiker, 2018a; Gari, 2018). This is partly a colonial legacy of Wingate's committee's proposal to sidestep the challenges discussed above in the privatisation of land. Registered 'freehold' land property, however, is far removed from the individual ownership structures that are legally represented (El Mahdi, 1976; 1977), as will be illustrated further in Chapter 3 with specific reference to colonial land registration in the Manāṣīr. Furthermore, the undefined nature of the communal and customary land rights in the areas removed from the Nile basin have arguably made them more amenable to contestation and conflicts, discussed further below (Shazali, Ghaffar and Ahmed, 1999; Casciarri, 2007; ElHadary and Obeng-Odoom, 2012; Sulieman, 2015).

Beginning with the Unregistered Land Act of 1970 (ULA), all land that had not been registered prior to the passing of the act was effectively claimed as state property (El Mahdi, Saeed Mohd, 1976; Kibreab, 2001; Babiker, 2018a; Gari, 2018). The act stipulated that all land of any kind, (waste, forest, occupied or unoccupied) which was not formally registered prior to the commencement of the act would be considered governmental land (Kibreab, 2001; Babiker, 2018a). The act was accompanied by the People's Local Government Act of 1971 which abolished the colonial-era native administrations and the traditional local structures of governance which oversaw the governance of land on a customary basis (Abdul-Jalil, 1985; El Amin, 2016; Babiker, 2018a). The other most significant piece of post-colonial land legislation was that of the Civil Transactions Act of 1984 (CTA) which largely reaffirmed the stipulations of the ULA while making further legal provisions to govern land possession and ownership (Gertel, Calkins and Rottenburg, 2014; Babiker, 2018a; Gari, 2018). It reaffirmed the state's position as the owner of all land (Babiker, 2018c).¹ Amendments to the CTA in the early 1990s strengthened state ownership of communal lands under customary tenure by disabling the mechanisms for legal complaints (El Amin, 2016; Babiker, 2018a; Gari, 2018). While these and other legislations represent Sudan's land tenure reforms, they are far from representing a coherent tenure reform policy with particular social, political, or developmental aims, rather as Babiker puts it, "land legislation in Sudan is confused, complicated and arbitrarily used for purposes of land expropriation" (2018a, p.126).

Despite the legal denial of communal lands held under customary tenure and the denial of the legitimacy of traditional leadership structures which had hitherto administered them, the relevance of customary tenure governed by customary norms and laws in Sudan persists (Calkins, 2014; Calkins *et al.*, 2015; Abdal-Kareem, 2018; Abdel Aziz, 2018; Babiker, 2018b). Under the prevailing conditions of legal pluralism in Sudan, statutory laws, Islamic laws and

¹ Article 599, clause 1 of the CTA states "Land is to Allah; and the State is successor thereof and responsible therefor and owner of the corpus thereof. All lands of any type, which are not registered prior to the coming into force of this Act, shall be deemed as if they have been registered in the name of the State, and the provisions of the Land Settlement and Registration Act, 1925 have been given due regard, with respect to the same" (cited in Babiker 2018c).

customary laws all operate simultaneously in complex interacting ways (Abu Rannat, 1960; Babiker, 2018b). Babiker (2018b) highlights the considerable overlap in legal practices between customary norms and institutions, statutory laws and the formal legal system.² Illustrating the legal pluralism in practice he shows how customary institutions act as part of the justice system and play important roles in settling disputes. Furthermore, membership in the formal institutions of town and rural courts often consists of influential tribal figures and draws upon customary norms in the adjudication of disputes.

While the jurisdiction of these formal institutions is limited—with no jurisdiction over criminal cases, civil claims with regard to land ownership and any claims against the government or any public corporation—they continue to play vital roles in the management of local land rights among other functions. Despite the limitations of customary institutions, and the incompatibility of customary law with statutory and human rights law in some instances, Babiker (2018b, p. 236) argues that these institutions should not be neglected or weakened since they are more accessible to the poor and disadvantaged groups and serve a key role in ensuring the peaceful resolution of conflicts via the application of the principles of traditional justice. Legal pluralism and the co-existence between customary and statutory land tenure regimes have been the topic of much ethnographic research in Sudan (Casciarri, 2007; 2009; Calkins *et al.*, 2015; Casciarri and Babiker, 2018), as has the threats posed to the former by the latter (ElHadary and Obeng-Odoom, 2012; Gertel, Rottenburg and Calkins, 2014; Sulieman, 2015; Elhadary and Abdelatti, 2016).

2.4.3 Contemporary issues in Sudanese land tenure: Land dispossession and land-based conflicts

Land has been and continues to be a key driver in many of Sudan's ongoing conflicts. A significant body of literature focuses on the issue of land conflicts in Sudan, exploring the conflict through the lenses of the institutional legacy of colonialism on the one hand (Mamdani, 2009) and exploring the possibilities of land reform and land governance as a peace-building strategy on the other (Pantuliano, 2007; De Wit and Hatcher, 2008; Alden Wily, 2010; Abdul-Jalil and Unruh, 2013). El Amin (2016) argues that violent conflicts are more prevalent in the unregistered customary lands in rural areas driven by the ambiguity of tenure rights, state denial of legitimacy, the erosion of the regulating institutional structures and the increasing state encroachment on these lands. Mamdani (2009) argues that one of the key factors behind the conflict in Darfur is the local land issue - a result of the colonial legacy of dividing Darfur among tribes, some of which were allocated *dār* or homelands, while others remained without. He demonstrates how the case of Darfur exemplifies how conflicts over land stem from this legacy and are intimately linked to group survival.

² Under the “Rules and Regulations of the Town and Rural Courts” of 2004, the courts are allowed to “apply the predominant custom in their geographic jurisdiction and other laws” so long as “customs shall not contravene the law, the principles of justice and *shari‘a* laws” (Article 10 (h) and 22 (2) respectively, translated and cited by Babiker, 2018b, p. 250).

Sudan is frequently featured in studies on land dispossession and 'land-grabbing', a trend commonly associated with the controversial agricultural and economic development strategies of various post-colonial governments (Deng, 2011; ElHadary and Obeng-Odoom, 2012; Allan *et al.*, 2013; Hoffmann, 2013; Umbadda, 2014; Sulieman, 2015; Elhadary and Abdelatti, 2016; Taha, 2016; Zambakari, 2017; Elamin, 2018). Notably, the failed "Arab Breadbasket" strategy which arose in the 1970s (O'Brien, 1981; Oesterdiekhoff and Wohlmuth, 1983) and the recent renewal of the "Agricultural Revival Programme" which arose in the aftermath of the 2008 food crisis and the secession of the South (Verhoeven, 2013) has been credited with the upswing in Gulf and Arab states' agricultural investments (Woertz, 2011; Umbadda, 2014). These investments and the expansion of mechanised farming have encroached upon the customary land rights of many small farmers and pastoralists' grazing grounds, dispossessing groups of land, breaking seasonal passage routes and precipitating land-based conflicts among tribes (Komey; 2008; 2010; Large and El-Basha, 2010; Abdul-Jalil and Unruh, 2013). These expansions are buttressed not only through agricultural policies and development strategies but also supported through various legislative measures, including the Encouragement of Investment Acts of 1999 to 2013 which empowers the Ministry of Investment to grant land for 'strategic projects' and provides investors with a series of guarantees (Babiker, 2018a).

An example of one such 'strategic project' is the Ed Damer Food Security Pump Scheme located in Wadi al-Mukabrab. This warrants a special mention as it involves the portion of the dam displaced Manāṣīr who have formerly been resettled in the Mukabrab. The story as related by Sandra Calkins (2012) sheds light on many aspects of the politics of land in contemporary Sudan, particularly the tribal territorial basis of land rights and the effects of the processes of land commodification on ethnic-based land conflicts. The scheme consists of two large pumping stations, constructed in 2001, which divert water from the Nile River via large Chinese-built irrigation canals along the eastern bank of the Nile. The total irrigated area is divided among several actors. Large portions are allocated via long-term leases to foreign Arab companies (Saudi and Jordanian) that develop export-oriented mechanised agricultural schemes and are "granted commercial and entrepreneurial freedoms" (Calkins, 2012, p. 234). Smallholder Sudanese farmers may apply for a license granting them three faddāns,³ however, in return for the services of water provision, they must forego entrepreneurial independence and cultivate specific crops mandated by the Ministry of Agriculture. In late 2008 an additional 60,000 faddāns was allocated for an agricultural scheme for the Manāṣīr displaced by the Merowe dam and resettled in Wadi al-Mukabrab. These land allocations among the foreign companies and resettled Manāṣīr created contention among the two tribes with historical customary land rights in the Wadi, the Rashaida and the Jaʿaliyyīn. Both tribes had historically used the area for rain-fed cultivation and experienced a loss of customary land rights, yet only the Jaʿaliyyīn would have their loss recognised and compensated through the establishment of an agricultural scheme of 17,000 faddān (Calkins, 2012).

³ One faddān is equivalent to approximately 1.04 acre, or 0.42 ha

This is attributed, by Calkins (2012, p. 238), to the wider dynamics of land tenure. The Rashaida, who have a pastoral nomadic background, were historically 'dār-less', i.e., without a tribal territorial homeland (dār). This was a result of British colonial land administration policies, which fixed formerly flexible systems of negotiating access to resources, and post-colonial land legislations which further invalidated traditional common land tenure systems (Calkins, 2012, p. 238). As we shall see in Chapters 3-8, one of the key rationales behind the Manāṣīr's struggle for 'local-option' settlement is arguably informed by these prevailing dimensions of land tenure and dynamics of land commodification. The erosion of customary land rights (even where compensated) and erasures of the relevance of 'dār' rights seem irreversible, as the local people are either subsumed into statutory systems of tenure, (e.g. as tenant farmers with limited entrepreneurial freedoms on governmental agricultural schemes) or excluded altogether as was the case with the Rashaida in the above example.

Elsewhere in Sudan, state legislations which strengthened the acquisition of customary land and similar cases of land appropriation for the development of large agricultural schemes have led to large-scale dispossessions. In many cases, such as in South Kordofan and the Blue Nile States, the resulting contentions among local farmers and pastoralists often erupt into violent ethnic-based conflicts (Komey, 2008; 2014; Osman and Schlee, 2014). Land dispossessions can be a major causal factor behind violent conflicts as they can incite armed resistance from dispossessed peoples (e.g., the SPLA-Nuba Rebellion, in Komey 2008). Land-based conflicts highlight the strong and enduring associations of identity and belonging with land in Sudan (Calkins, 2014; Osman and Schlee, 2014; Pantuliano, 2014; Miller, 2018).

The central role played by land in securing peace is recognised in the Comprehensive Peace Agreement (CPA) of 2005 which states that "existing laws and practices be amended to incorporate customary laws and practices...with a commitment to give customary tenure statutory support" (GoS & SPLM, 2005 cited in El Amin, 2016, p.12). The CPA made provisions for the establishment of a National Land Commission and State Land Commission, but progress has not been made. Similar legal provisions for the protection of customary land rights are to be found in the Interim National Constitution (2005), yet no legislation has been enacted to address customary land rights (Alden Wily, 2010; El Amin, 2016; Babiker, 2018a). El Amin (2016, p. 12) argues that all CPA clauses on customary tenure are vague, indicating a deliberate attempt to avoid recognition and maintain state legal ownership of communal lands. He contrasts the situation of customary land tenure in Sudan with the Southern Sudanese progress in the establishment of a land commission and the enactment of the 2009 Land Act which formalised and legalised communal land ownership under customary tenure.

As Sudan currently stands on the threshold of a new government era, following the people's brave and determined revolutionary efforts against the 30-year autocratic Islamist government of Omar al-Bashir, it is challenged yet again to overcome the dual crises of identity and national unity, which has plagued it since Independence. Land governance policy is crucial in this regard, as the toppled regime's exploitative and exclusionary land policies have neglected and infringed upon the customary land rights essential to the survival of many rural Sudanese. This urgency of land reform for peace, stability and justice is reflected in a

recent publication by the revolutionary Forces for Freedom and Change in which land tenure reform is identified as one of the top priorities and urgent needs of the transitional period (Forces for Freedom and Change, 2020).

2.5 An Analytical Framework of Property

Property analysis is usually associated with the fields of economics and law, but legal-economistic models of property do not sufficiently capture the complexities of property relations in the real world. The review of the empirical literature on land property in the preceding sections has demonstrated how the reality of land rights and relations in non-western contexts eluded the colonial and post-colonial models of property and approaches to land governance, resulting in an enduring complexity in land relations which continues to unfold. Needless to say, anthropologists have spent a great deal of effort to understand the complexity of land tenure rights and relations in such contexts and have debated at length as to the appropriate methodological approaches to study this complexity (Bohannon, 1960; F. von Benda-Beckmann, 1979; 1995; F. von Benda-Beckmann and K. von Benda-Beckmann 1999; Hann, 1998; 2007; Vanderlinden, 2008; Turner, 2017). This section reviews some of these contributions in order to highlight the key theoretical issues for the analysis of property relations, and then presents the analytical framework of property which is used throughout this research in more detail.

2.5.1 The problems of studying property: anthropological insights

As F. von Benda-Beckmann, K. von Benda-Beckmann and Wiber (2006) observe, property is a contested concept, with heavy “theoretical freight” resulting from the multiple disciplinary interests in the concept. Conceptualisations of property in political and economic sciences were heavily dependent on the categorisation of ideal types of property, or the ‘big four’ categories: open access, common, private, or state (F. von Benda-Beckmann, K. von Benda-Beckmann, and Wiber, 2006) (or what Vandergeest (1997, p. 4) identifies as the “holy trinity of state, private, and common property categories”). However, these property types may have obscured rather than clarified how property manifested in social reality. The categorisation fails to adequately explain, for example, situations where land may be owned in common, but the produce of the land may be privately owned (F. von Benda-Beckmann, K. von Benda-Beckmann and Wiber, 2006). Furthermore, a rigid dichotomy between ‘public’ (or what is thought of as owned by the state or the loosely organised commons), and ‘private’ (the individual) has plagued property analysis and has been an epicentre of much debate in the field (F. von Benda-Beckmann, 1995; Lund, 2009).

Conventional theories of property developed in Western intellectual traditions and the associated ‘dominant evolutionist paradigm’ which hypothesised a natural progression of property relations from communal to more private and individualised forms have influenced the approaches of both colonialism and post-colonial developmentalism (Hann, 1998; Moore, 1998; Peters, 2006). Furthermore, these conventional theories often espouse a narrow and

selective focus on the economic functions of property in terms of the regulation of efficient production and circulation and less attention is paid to other social, political and religious functions of property (F. von Benda Beckmann and K. von Benda-Beckmann, 1999). Property models imposed through European colonialism to incorporate Western property regimes and globalizing forces continue to transform local property in Sudan and elsewhere, through multiple and novel avenues (Verdery and Humphery, 2004; Gertel, Rottenburg and Calkins, 2014; Makki, 2014; de Schutter, 2015). Because the model has become ubiquitous, there is a pressing need to understand how current transnationalising processes are *actually* transforming local property (F. von Benda-Beckmann, K. von Benda-Beckmann and Wiber, 2006; Hann, 2007; Turner and Wiber, 2009).

In seeking to understand the land tenure systems of non-western societies, anthropologists have repeatedly come face to face with the inadequacies of their own conceptual bearings and “problems of cultural translation” (Hann, 1998, p. 29). European colonisation and administration of native peoples was pursued “...with one sharp dichotomy uppermost in their thinking: that between collective and private land tenure” (*ibid*, p. 24). Anthropologists' engagement with property research during the late half of the nineteenth century and early twentieth century occurred within the context of colonialism. Their contributions to understanding ‘native’ tenure systems were employed throughout the colonial projects and later applied to aid in post-colonial development policies of land tenure reform (Bohannan, 1960; Hann, 1998; Vanderlinden, 2008). Hann (1998) provides a helpful summary of the leading anthropologists' key contributions during this era, including most notably Sir Henry Maine (1861) Lewis Henry Morgan (1877) Bronislaw Malinowski (1935) and Max Gluckman (1965) among others (p. 24-30).

Vanderlinden (2008) recounts his early experiences of studying land property systems of the Zande in the Congo in the late 1950s and early 1960s. As a trained lawyer turned legal anthropologist, he outlines the difficulties he faced in identifying the ‘land law’ of the Zande. Through adopting an ethnographic approach of fieldwork and interviews with inhabitants he came to a series of conclusions about their land tenure system. The different categories of land and the different rules and practices of their appropriation and use became more apparent. Contrary to earlier assumptions about the absence of individual rights and the communal nature of property he found that amongst the Zande individualised appropriation of the fruits of their labour was common. Like other anthropologists, he pondered the challenges of translating into legal terms the Zande's categories of land usage and rights. For instance, he wondered whether the word “owner” really existed in Zande, and if it did, if it appropriately described the land connections he had witnessed. He places his own difficulty in context with those of his colleagues and peers (referring to Bohannan, 1963; Biebuyck, 1963; Okoth-Ogendo, 1995) among others, who also had to deal with “translation” issues, or the difficulties of conveying African legal notions in Western European languages. His observations have led him to question whether pre-colonial African minds had a separate mental category segregating what we understand to be ‘legal’ from the rest of the seamless network which held those communities together.

In Bohannan's (1960) attempt to address this challenge of translation, he offers definitions of what is meant by 'land', 'tenure', 'property system', 'social system' and 'rights' in the Western context and juxtaposes these with culturally generalizable conceptualisations, drawing on the findings of anthropological research into various African societies to illustrate. He argues that in the Western context, 'land' is inseparable from its measurability via mathematical and technological procedures of surveying and charting and that 'tenure' is based on 'measurable land' since 'land' can only be 'owned' (or 'held') if it is divided. Therefore the 'man-land unit' which is identified as the 'property system' in the West, is the "rights *in land against or with other persons*" (p. 441, emphasis in original) and is part of the 'social system' or the 'man-man unit'.

The problems with attempting to apply these concepts in the African context arise because *rights of people* and *rights in land* are not equated in the same way. The culturally generalizable factors that can be employed instead of these Western conceptualisations are stated as three axioms:

- (1) A representation of the territory in which a people reside—comparable to the Western map.
- (2) A set of ideas for describing and navigating the interactions between members of a society and the physical environment which they utilise.
- (3) The spatial dimensions of social organisation are manifested in the actions and words of a society's members and the relationships between them.

Therefore, studying land in different societies entails the study of people's associations of 'property' with the spatial relationships, in a given territory (p. 442). Bohannan draws examples from different African societies, including the Kikuyu of Kenya, the Tonga of Northern Rhodesia, the Bedouin Arabs of Libya, Fulani pastoralists in western Africa, and the Tiv of central Nigeria to illustrate the applicability of these three axioms in describing their land tenure systems. In contrast to Western societies, whose maps are primarily concerned with man-thing units like property, many Africans, he argues, saw something resembling a map in terms of social relationships in space; these 'social maps' were the basis upon which groups or individuals exploited the earth, and utilised resources in their environment.

In looking at property relations in non-western contexts through lenses conditioned by Western historical experiences and ideologies, property and land tenure in these contexts were repeatedly misunderstood and misrepresented (Bohannan, 1960; Vanderlinden, 2008; F. von Benda-Beckmann 1995). The combined experiences of colonial land administration and post-colonial land tenure reforms described in the previous section are a testament to these ongoing confusions between 'what is' and 'what ought to be'. The following section presents an analytical framework of property which is well suited for a rigorous cross-cultural analysis of property and is capable of redressing and transcending these common misunderstandings.

2.5.2 Analytical Framework of Property

Theoretical contributions to property from the field of anthropology have served to broaden the understanding ‘property’ beyond the narrow synonymizing of ‘private property’ and have contributed to conceptualisations which are general enough to capture cross-cultural and social variations in property relations and regimes across time and space (Bohannon, 1960; Hann, 1998; F. von Benda-Beckmann and K. von Benda-Beckmann, 1999; Vanderlinden, 2008; Turner, 2017). The consequent analytical step is to conceive of property as dealing with human relationships in regard to ‘things’ (Hann, 1998; F. von Benda-Beckmann, K. von Benda-Beckmann and Wiber, 2006). A textbook anthropological definition of property formulated by Hoebel is as follows:

“The essential nature of property is to be found in social relations rather than in any inherent attributes of the thing or object that we call *property*. Property, in other words, is not a thing, but a network of social relations that governs the conduct of people with respect to the use and disposition of things” (Hoebel, 1966, p. 424 cited in Hann, 1998, p. 4).

This basic definition contrasts with the common equating of property as the object or ‘thing’ itself or with its ‘exclusive ownership’ (Hann, 1998). Moreover, property is based on a process of ‘communicative claims’ (Rose, 1994) – and therefore not static but constantly undergoing transformation through contestation and negotiation. Further, it is conceptualised as an ‘enforceable claim’ that requires an enforcing entity or authority (Macpherson, 1978, p. 3 cited in Sikor and Lund, 2009, p. 3). A significant branch of property literature theorises the connection between property and political authority (see Boone, 2014). Sikor and Lund (2009) for example theorise this the dynamics by which the power to grant and enforce property simultaneously confers the authority to do so.

The property framework adopted to investigate the transformations and resulting competing claims over the “property” surrounding Merowe is developed from F. von Benda-Beckmann, K. von Benda-Beckmann and Wiber’s (2006) work, which is based on the authors’ long engagement with property studies and builds on earlier work (F. von Benda-Beckmann, 1979, 1995; F. von Benda-Beckmann and K. von Benda-Beckmann 1999; Wiber, 1993). It deals with the empirical description and delineation of what is meant by “property”. They draw on the rich tradition of anthropological contributions to property theory in their formulation of the framework. Property relations are conceptualised as “property constellations” which conjoin specific *social units* or actors and *rights and obligations* with respect to various the *property objects*.

From this thinking, the authors developed a framework of three elements of **property constellations**:

1. the ‘*social units*’ or ‘*property holders*’—these are the individuals, groups or social entities, that can hold property, and they could include ethnic groups, communities, corporations, local or national state agencies, and government bodies;

2. *'property objects'*—these are the “socially constructed valuables” such as land as a productive resource and a combination of natural resources, or ancestrally and culturally significant artefacts;
3. *'rights and obligation'*—these are the various sets of rights and obligations that property holders can have in relation to the property objects, such as usufruct rights, ownership rights, and transfer and inheritance rights.

The conceptualisation of property as constellations of these three elements can capture a broad variety of diverse arrangements which have in the past been usefully conceptualised through the ‘bundle of rights’ metaphor (F. von Benda-Beckmann, K. von Benda-Beckmann and Wiber, 2006, p. 15). It has generally been used to refer to the totality of property rights and obligations in one society and to refer to specific forms of rights such as ownership (p. 32). The extension of the bundle of rights metaphor in this framework is used to characterise specific rights “bundled in” one property object, as well as to characterise different kinds of property held by one social unit and is discussed further below. These three elements combine in property constellations which are empirically manifested at three different ‘layers of social organisation’, namely at the layer of *ideologies and cultural ideal*, the layer of *legal-institutional categories*—termed “categorical property”, and at the layer of *actual social relationships and concrete practices*—termed “concretised property”. Since these three different layers correspond to different social phenomena, it is not possible to reduce what property is at one layer to what it is at another layer (p. 17).

At the layer of ideologies, property relations adopt a multitude of expressions be they capitalism, communism, possessive individualism, moral economy, welfare state ideologies or neoliberalism. Furthermore, and particularly relevant to this thesis’s analysis of dam displacement, ideological property may be rooted in and operate through idealised, normative and abstract ideas such as state claims to property for the ‘common good’. Most of these ideologies depart significantly from the reality they claim to reflect, with significant differences in how they portray and justify legal-institutional and actual or ideal property relations. This divergence necessitates viewing the ideological layer as a phenomenon distinct from the legal institutional layer and its categorical property relations, and the layer of actual concrete social relationship (pp. 22-23).

While arguing that distinguishing between what property is at these three layers is significant to a more thorough and refined analysis of property, the authors assert that there are important interrelations across these layers which must also be considered. These interrelations are borne of various *social practices* which have diverse cross-cutting effects in creating, maintaining, and transforming what property is at the three layers in which property finds expression (ideological, legal institutional and concretised layer of social organisation). They distinguish between two types of general *social practices*. First are concrete inter(actions) through which people use, transfer, inherit, or dispute a relationship with concrete property objects. These (concrete) social practices may have effects at the categorical and ideological layers in which property finds expression. Second, are social practices where categorical property law and rights themselves are reproduced or

transformed, such as when the nature of property law is explained, discussed, debated, or disputed in public forum settings such as courts, parliaments, universities, mass media or other local forums. In plural legal contexts, this second type of social practice often includes debates concerning the relevance of the different co-existing legal orders. To avoid drawing incorrect conclusions about "gaps" between real practices and a confused "ideological-legal-institutional complex", the authors argue that it is crucial to include these interrelations between property at three layers of social organisation in the study of property.

As we will see in Chapter 7, the three elements of these property constellations and the distinction between categorical property at the legal-institutional layer and concretised property at the layer of social practices are useful in accurately tracking and describing property transformations and enabling a more precise and empirically grounded analysis of the complex moving parts in the post-dam land property adaptations of the Manāṣīr. The following section elaborates on the identification of the three elements in categorical and concretised property constellations employed throughout this thesis.

2.5.2.1 *Categorical and concrete property*

The categorical layer of property is the layer of the general rules and procedures for claiming, using and transferring property objects. At this layer of property, the property-holders, property objects and the corresponding rights and obligations which the latter can hold with regard to the former are specified to construct the general categories of property relations. It is therefore the layer which provides the 'legitimizing and organisational blueprints' of property relations and defines the procedural and substantive repertoire for dealing with disputes. These may be codified and formalised to a greater or lesser extent across different contexts and as such may be represented in highly specified legal stipulations or may be represented in normative expressions. For example, some fundamental principles may serve as the foundation for *ad hoc* decision-making processes concerning property, or there may be a substantial body of institutionalised formal rules and procedures. These principles, or codified rules and procedures, may be isolated from other social or political relationships or they may be treated as one facet or 'strand' of many-stranded relationships" such as relations of kinship and/or political authority (F. von Benda-Beckmann, K. von Benda-Beckmann and Wiber, 2006, p. 16).

At this category layer, the bundle of rights metaphor may be used to explain the considerable diversity of categories of property objects and rights (however legally defined), such as private *ownership*, as constituting a bundle of rights in itself. As property is often conflated with this category of *ownership*, the value of this framework is in its ability to distinguish *ownership* at the categorical layer from *possession* at the concretised layer, elaborated further below.

These specific categories, such as private ownership, lineage property, heritable property, or state domain, are referred to as 'master categories' and have specific bundled rights attached to them. The analytical usefulness of the 'master category bundle metaphor' is demonstrated by its capacity to enable an examination of how the different rights of a bundle can be

distributed among different potential property holders in the production process. For example, an absentee landlord may grant 'provisional' and temporary rights to a tenant farmer who further delegates these rights to a sharecropper while maintaining 'residual' rights of *ownership*.

Under the conditions of legal pluralism, the same resources can be classified as different property objects attached to different property holders by the different co-existing legal-institutional orders. This is the case for example in many post-colonial contexts where customary law and property systems coexist with statutory law and state-based property rights; this coexistence may be relatively peaceful or openly contested (Peters, 2006; F. von Benda-Beckmann, K. von Benda-Beckmann and Wiber, 2006). For example, local classifications of property rights in the *ejido* common lands in Mexico coexist with state law without much antagonism (Nuijten and Lorenzo, 2006). Yet, many examples of contested coexistence exist in cases where state law fails to recognise or actively denies non-state and customary property systems (Alden-Wily, 2017). Furthermore, and directly relevant to the case at hand, these contestations are amplified in instances where the state's claims to land dispossess and displace existing rights based on customary systems (Babiker, 2018a).

The concretised layer of property is the layer of the actual 'lived' and 'concrete' social relationships and practices and finds expression in the actual relationships between actual holders of property and the tangible or 'concrete' property objects (F. von Benda-Beckmann, K. von Benda-Beckmann and Wiber, 2006). These are distinguished from the categorical property relationship described above as categorical rights are founded on the definition of certain criteria (i.e., the property holders, property objects and rights and obligations which the latter can hold with regard to the former). They are frequently subject to dispute, negotiation, or open conflict, and as a result, property relationships frequently change. Concretised property rights may thus substantiate or contradict categorical rights, and in plural legal contexts, the emergent nature of concretised relationships takes on an added dimension of complexity. This is because co-existing plural legal orders provide ample opportunities for the construction of different property relationships through the various normative and legal-institutional basis upon which claims, and counterclaims can be made.

According to F. von Benda-Beckmann, K. von Benda-Beckmann and Wiber (2006), the bundle of rights metaphor can be employed in the analysis of concretised property relationships in three main ways. Firstly, it can be used to analyse how concrete rights that are 'bundled-in' a master category are distributed in the case of an actual property object. For example, in the analysis of how private ownership rights of a specific farm are distributed among sharecroppers and tenant farmers who have 'management rights' in the same farm.

Second, it can be employed to examine the different bundles of rights held by a single social unit. In doing so, it can elucidate how the accumulation of different rights held by a single property holder can interact with one another with various implications on the uses and exchange value of one part of the total property to which they hold rights to. For example, a single person or property holding unit may hold rights of ownership to agricultural land,

irrigation infrastructure, agricultural machinery such as tractors or threshing equipment, as well as rights to agricultural processing, manufacturing, and packaging plants. The accumulated rights of the single social unit in such a situation would in turn have implications on the uses and exchange value of one of these property objects. Furthermore, these accumulated rights would enable them to have greater economic and political influence, which in turn would better position them for the accumulation of further rights at the expense or exclusion of others.

Finally, it can be used to examine how a single property object may have a variety of rights 'bundled in' to it over time. For example, in the context of land tenure, this application of the bundle of rights metaphor can enable an analysis of the different rights bundled into a single territory, such as the public rights of the state, the collective rights of a 'tribe', and the myriad of other rights attached to it—such as the right of the easement, grazing rights, rights of collecting wood and other resources. Furthermore, the collective rights of a 'tribe' and the specific rights of individual members coalesce in complex ways into the same territory. As many of the chapters in the edited volume by F. von Benda-Beckmann, K. von Benda-Beckmann and Wiber (2006) highlight, a thorough deconstruction of what is buried beneath the 'communal' term can often reveal complex sets of rights that have through time become attached to a particular resource or property object.

I argue that a useful application of this framework is in the ability to distinguish between two dimensions of property that are often conflated in practice—that of *ownership* at the categorical layer, from that of *possession* at the concretised layer of social organisation. Though these two dimensions may overlap, they are very different and in conventional theories of property are unable to be adequately separated for analysis in real-life contexts. *Ownership* is the legal or institutionally recognised bundle of rights that social units can hold to institutionally recognised or authorised property objects. *Possession* may be an extension of such ownership rights or may be negotiated by other means. It refers to the actual, real, or lived relationships of use, cultivation, or concrete benefits that actual social units hold with regard to concrete property objects. As will be illustrated in subsequent chapters, in the case of the Manāṣīr, this distinction between *ownership* and *possession* is of vital importance as the historical lands of the *sāqiya* are *owned* (at the categorical layer) by a large group of heirs of the original registered owner whilst in reality (at the concretised layer) the land is held in *possession* by a few eligible heirs who concretely occupy, possess and make use of it.

Table 2-1 below summarises the key distinctions between “categorical” property rights, which are rather like the rules of the property game in a society, and the “concretised” property rights and relations which manifest in the actual interactions between social units and actual property objects. This framework is relied upon extensively throughout chapters 6 and 7, precisely because of its ability to distinguish between categorical and concretised property and enables a comparative analysis which is useful for this study's investigation of land property transformations as a result of dam displacement.

Table 2-1: Summary of the main distinctions between categorical and concretised property.

	Layer of social organisation	Expression as social phenomenon	Examples of representative statements
Categorical property rights	Legal - institutional	Rules and procedures for claiming, using, and transferring property objects E.g. expressed as <i>ownership</i>	<ul style="list-style-type: none"> - “the owner of a thing can dispose of it freely so long as he does not violate the rights of others” (p. 16-17) - “inherited lineage property can only be pawned under the following conditions: ...” (p. 17)
Concrete property rights	Actual social relationships	Concrete, ‘on the ground’ and ‘lived’ social actions, practices and relationships E.g. expressed as <i>possession</i>	<ul style="list-style-type: none"> - “I am the owner of this house” - “Mrs S. holds these three rice fields that have been allocated to her as part of the lineage property” - “Mr A receives water at this time in the rotation scheme irrigation system X” (p.20)

2.6 Conclusion: Towards a synthesis for the study of land property transformations in post-dam contexts

The DIDR literature and its policy-oriented emphasis on developing fair compensation measures and successful resettlement schemes have ignored the prevalent phenomenon of rejected formal settlement in favour of self-directed settlement in alignment with customary principles and tenure laws. The absence of research into land tenure issues of dam-displaced people, both in situations where formal resettlement is accepted and where it is rejected, is a peculiar and frustrating gap in the field. The land tenure literature with a different policy emphasis on land tenure reforms for various development objectives on the other hand potentially offers a rich contribution to this missing analysis, but these two fields of research rarely coalesce. Yet, despite the divergent policy emphases, there are significant parallels which may open possibilities for synthesis. By means of a conclusion to this chapter, this final section offers some preliminary reflection on these parallels and on possible avenues of synthesizing and cross-fertilizing across these two fields of research.

A significant thread in the land tenure literature is concerned with the various impacts (whether on social or economic development impacts or environmental impacts on the sustainability of resource use) of various forms of institutional arrangements of property rights (Woodhouse, 2003; Boone, 2019). Development projects and particularly ‘mega-projects’ (Gellert and Lynch, 2003) which cause the displacement and relocation of populations undoubtedly result in the transformation of land tenure arrangements, “enabling enclosures” of property (D’Souza, 2014). As the prevalence and scale of development-induced displacement are arguably large enough to be considered significant factors in the transformation and restructuring of land tenure arrangements, it follows that the analysis of

the various impacts of the resulting tenure arrangements should be a concern amongst land tenure scholars.

Another parallel could be found in the displacement effects of certain land tenure reform policies. These common experiences have warranted a greater exploration by DIDR researchers (e.g. Vandergeest, 2003; 2007; Mollett, 2007; Bugalski, Grimsditch and Pred, 2018). While extensive literature on land dispossession and dispossessing effects of neoliberal land tenure reform policies exists, the thrust of this is either linked to broader political-economic concerns such as the classical 'land question' and 'agrarian question', or focuses on the legislative frameworks of expropriation and dispossession (Bernstein, 2005; Moyo and Yeros, 2005b; Levien, 2011; Hall, 2013). Such 'dispossessing' land policies often give rise to land-based resistance movements which employ strategies of land occupations to defend existing customary tenure rights and institutions (e.g. Moyo and Yeros, 2005a). Resistance to dam displacement similarly often takes the form of similar land occupations in the form of unplanned community-directed resettlements in surrounding areas (Del Bene, Scheidel and Temper, 2018; Dao, 2016) and is certainly the case for the Manāṣīr. While in the case of the former, the analysis of the various implications of the land tenure arrangements represented both by the reforms and local resistance is present, the same could not be said in equal measure for dam displacement. Yet as many cases of resistance to dam displacement are articulated as 'struggles over land rights', particularly among peoples whose property systems (not only the rights of social units) are threatened, the land tenure effects and implication of both the displacement and land-based resistance warrants greater attention.

Conceptualisations of land property and the way in which it is addressed by both fields of studies reflects the limitations of conventional property approaches identified by F. von Benda-Beckmann, K. von Benda-Beckmann and Wiber (2006). In land tenure studies, property conceptualisations tend towards being guided by ideological assumptions rather than empiricism (for example driven by theoretical assumptions of the pre-eminence of 'private' property, the 'tragedy of common property' and the dichotomy between 'private and public'). As such it does not offer a clear analytical methodology which DIDR research can make use of. Notwithstanding all the interesting insights generated by this literature, an essential shortcoming is the lack of a rigorous analytical method that is essentially rooted in the way in which property is conceptualised. However, anthropological contributions to the conceptualisation of property and particularly the culmination of these contributions represented in the analytical framework of property developed by F. von Benda-Beckmann, K. von Benda-Beckmann and Wiber (2006) offer important methodological tools.

Likewise, in the DIDR literature, the emphasis lies on categorical property at the legal-institutional layer of societies and often focuses on state-based categorical property as evidenced by discussions around land-acquisition laws and legal instruments of displacement. The concrete property relations of the displaced are rarely considered in tandem with the state-based categorical claims which cause their displacement, and the tendency is to juxtapose these with the threatened customary categorical rights and property systems. However, the analysis of the concrete property dynamics caused by displacement and the

concrete adaptations pursued could arguably represent an important ‘missing link’ in current attempts to understand the impacts of displacement and outcomes of resettlement. The contributions to DIDR policy of such analysis could potentially be found in a more empirically grounded assessment of the invisible losses of customary land rights and access to resources based on customary institutions so often referred to in the DIDR literature (Nor-Hisham and Ho, 2016) and in addressing the challenges of compensation.

This thesis explores one avenue of adapting the methodological tools of property analysis from the anthropological tradition to dam-displacement contexts. Using a case study approach, it applies the analytical framework of property to discern and more accurately describe the changes in the land property relations experienced by the Manāṣīr who were displaced by the Merowe dam, rejected state-based resettlement schemes, and resettled themselves around the dam’s reservoir.

Chapter 3: The Merowe Dam's disruption of the historical Dār al-Manāṣīr

3.1 Introduction

This chapter presents the story of the Manāṣīr people's struggle for land, after a large segment of the land they lived on was inundated when the Merowe Dam reservoir filled. Its relevance pertains to the attachment to land as a basis of group identity, belonging, rootedness, ties to the ancestors, and a host of other factors which highlight how land property is multi-functional and valued far beyond its economic or productive value. It also presents some of the essential historical and ethnographic background to the Manāṣīr and their lives along the fourth cataract prior to the disruptive influence of the dam. This provides the contextual background for the development of the argument in subsequent chapters and against which the ethnographic data on the land property adaptations should be read.

The Manāṣīr identify themselves as a 'tribe' or in the Arabic emic term a '*qabīla*' that emerged from different groups in their area over the past two centuries under various historical administrations. (Salih, 1999; Hänsch, 2019). They distinguish themselves from the other two Merowe dam-affected groups of the Ḥamdāb and Amri, who belong to *qabīlat-al-Shaiqīyya* (Shaiqīyya tribe). The politics of group identity and territorial claims to land in Sudan described in the previous chapter were brought to the forefront of the Manāṣīr resistance against being displaced by the Merowe dam, as will be illustrated in this chapter.

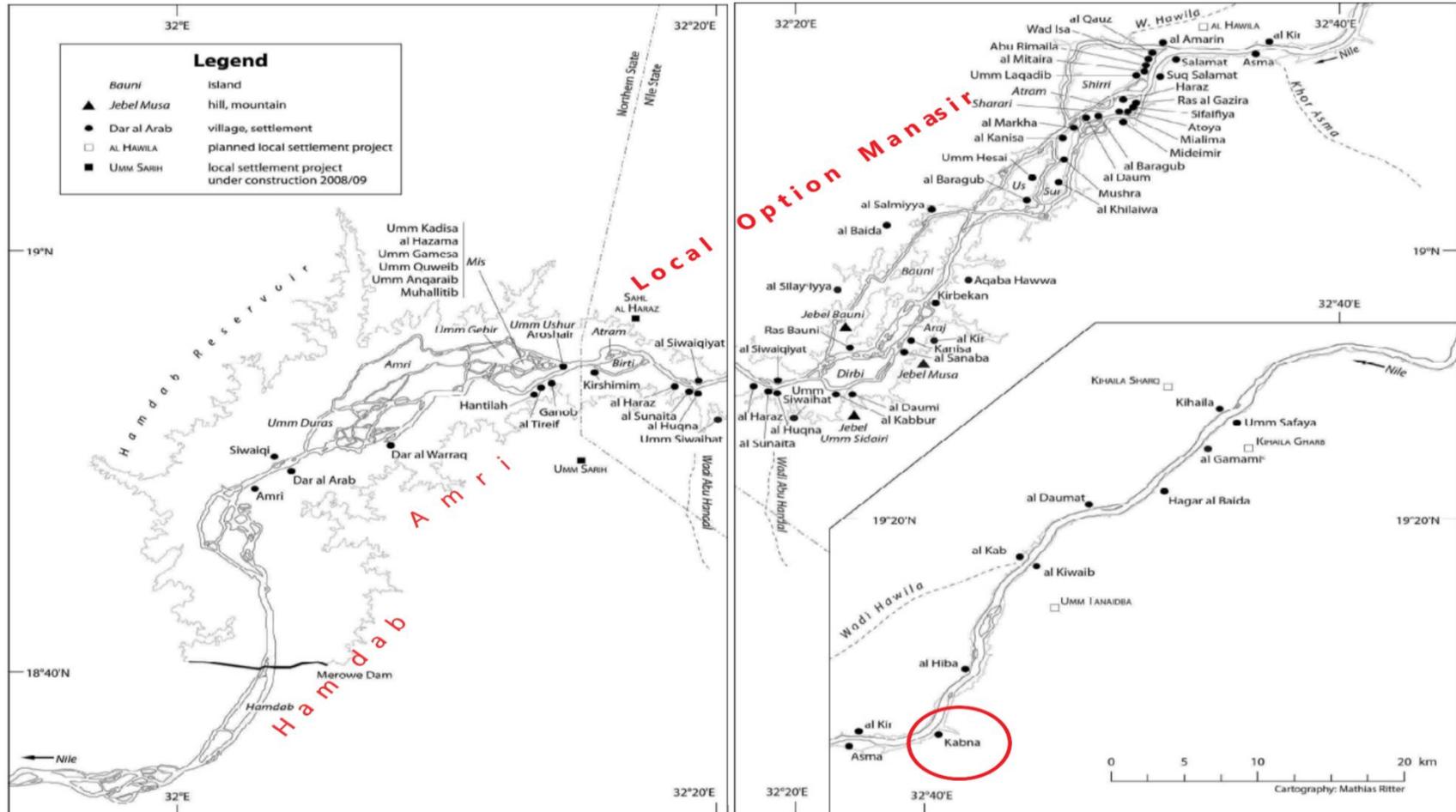
The Manāṣīr struggle for the continued settlement in their homeland is best understood within the wider context of the inextricability of tribal identity and territory in Sudan (see chapter 2). Salih (1999) who studied the land property system of the Manāṣīr before it was threatened by the dam relays the strong emotional attachments which imbue land with values far beyond its mere economic valuation as a factor of production. As he poetically puts it, for the Manāṣīr, land "...is a fabric of social cultural and symbolic interactions and is understood as an essential means of maintaining natural balance between themselves, their ancestors and generations yet unborn" (p. 222). It is this multifunctional nature of property and the strong ties between land and identity that informs the politics of land in Sudan and among the Manāṣīr. It also explains the inconceivability of the commodification of land in the Manāṣīr evidenced by the lack of land sales or a market for land in the area (Salih, 1999; Beck, 2003). Salih finds that "Sale of land is shameful and rare. There is not a single case of land sale reported in the last 20 years" (1999, p. 102). Similarly, Beck (2003) records a saying amongst the Manāṣīr: "Selling your land is selling your honour" (p. 160). Even those who migrate away from the Manāṣīr area in search of economic opportunities value their ties to the land of their ancestors and "almost all people are keen to retain their land as loss of land implies discontinuation of ancestral merits and the uprooting of identity source" (Salih, 1999, p. 119). The strong attachment the Manāṣīr have to their land is inseparable from what the homeland represents socially, namely the security and continuity of the tribe.

Customary land property systems throughout Sudan have been increasingly threatened in recent decades, as land commodification policies and processes have expanded (Gertel, Rottenburg and Calkins, 2014). In many cases, and as highlighted in the previous chapter, this has resulted in the outbreak of violent conflicts. Within this context, dam construction has figured as another arena of competition and conflict over land, namely between state-driven discourses of development and territorial claims to land linked to narratives of identity and belonging (see also Verhoeven, 2012 on the political economy of Sudan's Dam-Programme and Abd Elkreem, 2018 on the Nubian resistance against the Kajbar Dam).

As will be shown in this chapter, the social value of land and the attachment to the '*balad*' (homeland) was brought to the forefront of the resistance movement against the terms of compensation and resettlement in the face of being displaced by the Merowe dam. The Manāṣīr resistance culminated in what came to be known as the fight for the 'local option'— or the choice of settlement around and on the shores of the dam's reservoir and within the boundaries of their historical tribal homeland or '*dār*' (see Figure 3-1 below). This choice was by no means a desirable one, yet for many, it nonetheless represented a better alternative to the government's plans of relocating the Manāṣīr to resettlement sites far away from their homeland. Although their lobbying efforts to gain formal recognition for the development of the 'local option' were successful, there had been no implementation of the resettlement projects when, in 2008, the unannounced closure of the dam gates led to the sudden and devastating flooding of Dār al-Manāṣīr.

To relay the story of the Manāṣīr struggle for land in the face of dam displacement, this chapter begins by tracing the development of the long-standing resistance movement against the terms of compensation and resettlement. Section 3.2 reviews the key elements of this resistance and contextualises this struggle within the overall experience of the Merowe dam and forced displacement. The focus is on the Manāṣīr struggle for the 'local option' settlement and how it took shape both in bureaucratic struggles for formal recognition of reservoir settlement and the on-the-ground ad hoc resettlement in the aftermath of the sudden and unannounced flooding of the area. The second part of this chapter looks backwards at the history of the area prior to the dam's disruptive influence. Section 3.3. paints a picture of the historical Dār-al-Manāṣīr, describing the geographic and ethnographic characteristics of the Manāṣīr as well as their settlement patterns and agricultural lifestyles on the banks of the Nile River. Taken together, these sections provide a contextual backdrop for the ethnographic research concerning the changes in the local lived property relations around the reservoir (addressed in subsequent chapters).

Figure 3-1: Map of the pre-dam Manāṣīr settlements and islands and the outline of the dam's reservoir indicating the extent of inundation.



Note: The “local-option” Manāṣīr are the re-established villages and settlements within the contours of the reservoir but within the Manāṣīr Homeland. The homelands of the Amri and Ḥamdāb groups are also indicated. The village council of Kabna (the study area of this research) located at the tail end of the reservoir is circled in red. Source: Kleinitz and Näser 2012, pp. vii, ix with author’s annotations

3.2 Background to the Merowe dam and the Manāṣīr struggle for compensation and the ‘local option’

3.2.1 The Merowe dam

The inception of the Merowe Dam stems back to the 1940s when it was first conceived by the British colonial government (Ahmed, 2012). In the early 1980s, under the government of Ja’afar Nimeri, the first pre-feasibility studies were commissioned by the Swiss company SWECO. During the 1990s, during the Ingaz regime of the recently deposed Omer al-Bashir, the Canadian company Monenco Agra conducted a three-stage feasibility study (Dams Implementation Unit, 2007a; Askouri, 2014a). However, it was not until the opportune alignment of various political and economic factors that the dam began to make its way from the drawing board into the real world (Verhoeven, 2012).

Construction work began in 2003 and was concluded six years later in 2009. At a height of 67 meters, the multi-purpose hydro-power dam created a reservoir of 170km in length, inundating the lands of the Shaiqīyya of Ḥamdāb and Amri in the Northern State and of the Manāṣīr in the River Nile State (see Figure 3-1). The primary purpose of the dam was the generation of electricity, with a designed capacity of 1,200 MW (operating capacity of 600 MW), and accompanying irrigation projects for centralised agricultural schemes of 300,000 ha (Dams Implementation Unit, 2007a, 2007b). Funding for the project was secured from the Chinese government along with Arab Gulf countries and a series of international companies were commissioned for the construction (Dams Implementation Unit, 2007c).

From the beginning of its implementation through to the inauguration, the project was wrought with numerous controversies, including the various forms of injustices, and amounted for many to a textbook example of ‘bad development’, ridden with fiscal, social, and environmental recklessness (Verhoeven, 2012; Askouri, 2014a). From the inadequate and undisclosed environmental impact assessment conducted by the German company Lahmeyer International (Teodoru, Wüest and Wehrli, 2006), to the lack of transparency and autarchic decision-making of the Dams Implementation Unit surrounding matters of compensation and resettlement, every stage of the implementation was characterised by some sort of contention (Teodoru, Wüest and Wehrli, 2006; Mohieldeen, 2007; Moussa and Bethmann, 2007; Hashim, 2009, 2010; Hänsch, 2012; Nāser and Kleinitz, 2012; Verhoeven, 2012; Dirar *et al.*, 2015; Hänsch and Maaß, 2018; Zeitoun *et al.*, 2019). Among these, the appalling neglect of basic social standards concerning compensation and resettlement procedures (discussed further below) garnered international criticism (International Rivers Network, 2007).

Described as an institution that was “above the laws of the state” (Hashim, 2009, p. 32), the Dams Implantation Unit (DIU) was formed as an executive unit for the implementation of the Merowe dam in 1991 (then named the Merowe Dam Project Implementation Unit- MDPIU).

Its authority superseded that of ministries when it was brought into formal existence through presidential decree No. 363 in 2001, being promoted into a presidential department in 2007 under presidential decree no. 217. Side-lining and replacing the existing relevant ministerial bodies, the DIU's formation was built around the man who was appointed as the executive director of the institution in 1999—Osama Abdallah Mohamed El Hassan. Osama Abdallah was appointed as Minister of State at the Ministry of Irrigation through presidential decree No. 78 of 2001, and later as the head of the DIU through presidential decree 217 of 2005. He was also the secretary of the High Political Committee since 1999. The DIU was empowered to an unprecedented degree and enjoyed an unparalleled level of exemption from the law, including exemptions from civil service, auditing and accountability legislations, while accountable only to the president of the republic. Unlike any other state institution, it also had its own armed militia (Hashim, 2009; Verhoeven, 2012; Askouri, 2014a). In effect, Osama Abdallah could do as he pleased without being held accountable. In Verhoeven's assessment, the creation of the DIU for the implementation of the Merowe dam was a means through which the government of Sudan could capitalise on the alignment of the enabling political and economic factors without being hindered by democratic procedures and the various bureaucratic checks and balances. This, he argues, reflects the political economic imperative for dam-building and the association of the Sudanese Dam Program with the 'competence agenda' of the Ingaz regime's fragile hold on power (Verhoeven, 2012). Considering the gross violations of procedural, distributive and redistributive justice with regards to the Merowe dam affected peoples of Ḥamdāb, Amri and the Manāṣīr (Ali *et al.*, 2019; Zeitoun *et al.*, 2019), this assessment bears some weight.

The DIU is incidentally also heavily implicated in other dam controversies in Sudan, such as the Roseries dam in the Blue Nile State and the Upper Atbara and Siteit dams in the Gedaref State in eastern Sudan (Verhoeven, 2012). The most notable example is the proposed Kajbar Dam on the third cataract of the Nile River in the Northern State and deep in Nubian territory. The fierce Nubian resistance against the dam resulted in a series of violent confrontations with the DIU in which the DIU's militia opened fire on peaceful protests, killing at least 4 on one occasion (Abd Elkreem, 2018).

3.2.2 Compensation and Resettlement

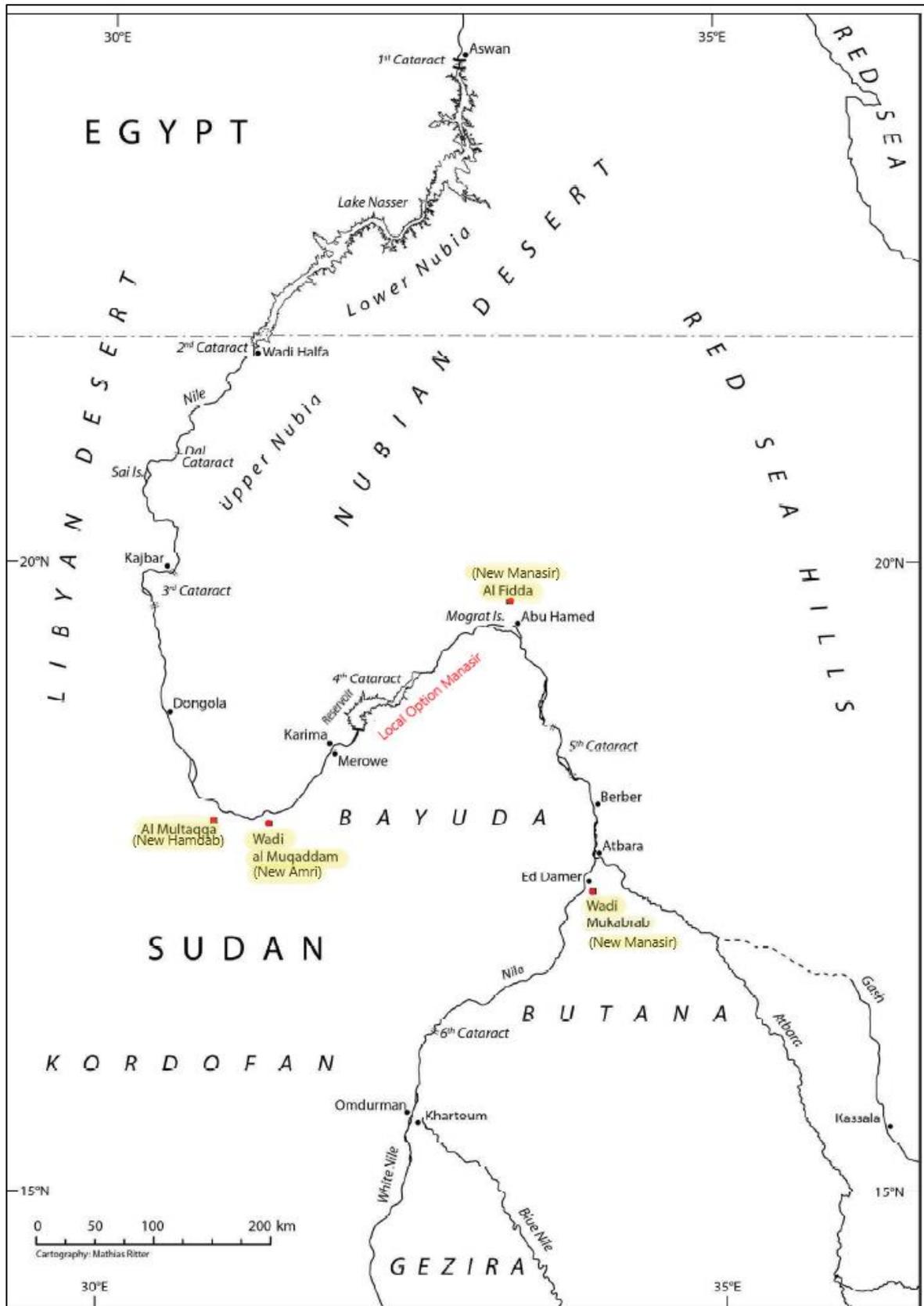
Among the many shortcomings of the Merowe dam's implementation, the process of compensation and resettlement of the affected people has proven to be grossly inadequate and unjust (Askouri, 2014a; Ali *et al.*, 2019; Zeitoun *et al.*, 2019). When construction began in 2003, the resettlement negotiations were not concluded, and the matter was still not fully settled in 2008 when the dam became operational. The main grievances among the dam-affected peoples of the Ḥamdāb, Amri and Manāṣīr arose concerning issues of compensation and resettlement. In the early 1990s, a joint committee composed of the three affected groups of the Ḥamdāb, Amri and Manāṣīr was established to negotiate the matters of resettlement and compensation. The Joint Committee comprised representatives of Committees from each group (i.e., the Ḥamdāb Affected People's Committee, the Amri Committee, and the Manāṣīr Committee), visited potential resettlement sites, and was

composed of a steering committee and specialised sub-committees. One of the most important proposals submitted by the joint committee was the creation of an independent resettlement and compensation authority of ministerial ranking, composed of representatives of all concerned ministries of the two states (Northern State and River Nile State). However, following the formation of a High Political Committee in 1993 under the president for the initiation of the dam construction, a new resettlement commissioner was appointed in 1995, followed by the appointment of Osama Abdallah as the Executive Director of the DIU in 1999 (Askouri, 2014a). Along with these developments, separate committees for each of the affected people were formed with members appointed by the dam authorities.

The DIU proceeded with a census of properties of the affected people in 1999, with no notification to the affected people as to the purposes of the census and without the participation of the representative committees (Al Magdoun, 2007; Askouri, 2014a; Interviews I conducted with dam-affected peoples in 2013 and 2017). The DIU proceeded with a census of properties of the affected people in 1999, with no notification to the affected people as to the purposes of the census and without the participation of the representative committees (Al Magdoun, 2007; Askouri, 2014a; interviews I conducted with dam-affected peoples in 2013 and 2017). Unaware of the real reason for the census, many people assumed it to be related to taxation and today admit to minimizing their property holdings (interviews, 2013, 2017). Nonetheless, the 1999 census would become the basis for compensation and resettlement employed by the DIU until the present time, and a central point of contention throughout the negotiations (and later confrontations) between the affected people and the dam authorities. The census was furthermore problematic as it was carried out before the feasibility studies on the dam were complete and before the delineation of resettlement sites was established in 2002 and construction of the dam in 2008 (and so did not include any investments or changes made in the land for those nine years).

The participation and recommendations of the affected people's committees were side-lined throughout the DIU's exclusive selection of resettlement sites and determination of the terms of compensation. Further, the committees were internally divided and conflicted due to the state's implantation of members who were loyal to the state and therefore were complicit with the plans set by the dam authorities. With negotiations still pending and unresolved, the National Assembly passed the Law of Compensation and Resettlement in 2002, thereby clearly signalling to the affected people that their participation was not a determining factor in the decision-making process. The law was accompanied by a presidential decree passed the same year (decree no. 353 of 27/09/2002) which expropriated the land required for the construction of the dam and the area of the artificial lake it would create, although the expropriation was also based on several pre-existing legislations, including the 1998 Constitution (Article 43), the 1930 Land Acquisition Act, and the 1999 Investment Encouragement Act (Ille, 2018; Ali *et al.*, 2019).

Figure 3-2: Map of the region indicating the dam's reservoir, 'local option' of the Manāṣīr and the government's four proposed resettlement sites



Note: resettlement sites relate to the three affected groups of the Ḥamdāb (al-Multaqqa- New Ḥamdāb), Amri (Wadi al-Muqaddam, New Amri) and the Manāṣīr (Wadi al-Mukabrab, and al-Fida, New Manāṣīr). Source: Kleinitz and Nāser, 2012, p. vii with author's annotations

A further presidential decree passed the following year (decree no. 277 passed September 2003) decided the sites of resettlement in by-law no. 1; these were the areas of Wadi al-Multaqqa (New Ḥamdāb) for the resettlement of the Ḥamdāb, Wadi al-Muqaddam (New Amri) for the Amri and Wadi al-Mukabrab (New Manāṣīr) and the area around the artificial lake for the Manāṣīr (see Figure 3-2 above). The feasibility of these sites for settlement had not been properly assessed when the work on the construction of the dam itself was initiated.

The Ḥamdāb was the first group to be uprooted as they inhabited the land on which the body of the dam would be erected. They were the smallest group of dam-affected people, representing 7% of the total. In 2003, the first group of the Ḥamdāb people was moved to the *Wadi al-Multaqqa* resettlement site, (concrete homes and public service buildings far from the river) despite the rejection of the site by the Ḥamdāb committee one year before the event based on the doubtful agricultural potential. The Lahmeyer study moreover found the soil to be high salinity and subject to erosion (Askouri, 2014a, p. 421). Their experience was replete with difficulties: slow and incomplete compensation payments, various shortcomings in public services of health and education, poor infrastructure, poor soils in the irrigated agricultural schemes, and shoddy irrigation infrastructure to name a few (Bosshard and Hildyard, 2005). By 2005, it had become apparent that the resettlement project was a complete failure as the inadequate infrastructure and services led to a collapse of the irrigated agricultural schemes. An independent assessment of the conditions in the new resettlement site found that the incidence of poverty increased from 20% to 65% (Bosshard and Hildyard, 2005). Many would be displaced again in search of wage labour elsewhere while some returned to old Ḥamdāb just north of the dam (Askouri, 2014a)—a precursor for the Manāṣīr's local option. The experience of the Ḥamdāb set the tone of resistance for the following two groups in other ways as well, not least of all by heightening the distrust of the dam authorities' capability to deliver a fair and adequate resettlement project.

The Amri was the second largest group of those affected by the dam, representing 27% of the total affected people. Unlike the Ḥamdāb, the Amri put up a sustained fight against being uprooted prematurely and they rejected the government's proposed resettlement site (of *Wadi al-Muqaddam* approximately 100km from the original Amri villages) on the basis that it would not be enough to accommodate all the Amri families. They required an area of 90,000 faddān whereas the planned project could only provide 20,000 faddān. Similarly, the number of houses constructed would not accommodate the Amri population (Askouri, 2014a, p. 475). Furthermore, Amri's rejection of the planned site in the Bayuda desert was informed by a preference to settle in their traditional lands surrounding the reservoir. The Amri committee negotiations with the DIU were fraught with difficulties as the DIU employed many different measures to infiltrate the committee and appoint state loyalists (Askouri, 2014a). Furthermore, they rejected the 1999 census that would be used as the basis of compensation and disagreed with the dam authorities over the terms of conducting a new census (Sudan Tribune, 2006). Plans to conduct a second census were rejected by the committee on the grounds that the resettlement project was still not ready. Like the experience of the Manāṣīr discussed below, their belief that the lack of an acceptable census would be a sufficient

bargaining chip to prevent the premature inundation of properties proved to be a miscalculation. Disagreements eventually escalated into violence as the DIU militia opened fire on a peaceful congregation of Amri people at a school to address the issue of the planned census, killing three and wounding at least 50 in April 2006 (AFP, 2006; Askouri, 2006; SHRO, 2006). Following the shootings, mediation efforts to negotiate the terms of a new census were set up, though these were not acceptable to the Amri (LOHAP, 2006). Finally, in August of 2006, they were forcibly flooded out of their home without warning, creating a humanitarian crisis worsened by the government's blockade of the area thereby preventing the delivery of aid and press coverage of the incident (The Amri Committee, 2006).

The Manāṣīr people represent roughly 65% of all the people affected by the dam and were also the last group to feel the effects, given their lands were at a greater distance from the dam. Similar to the experience of the Ḥamdāb and Amri described above, their attempts at negotiation with the dam authorities were repeatedly frustrated and were eventually concluded with the sudden flooding when the dam gates were closed in 2008, like their counterparts in Amri (Sudan Tribune, 2008). The following details the course of the Manāṣīr resistance, with emphasis on their struggle for the local option settlement.

3.2.3 Manāṣīr resistance and the local option struggle from the year 2000 onwards – ‘land is honour’ — *al arḍ ʿird*

As the last group to be displaced by the filling of the reservoir, the resistance of the Manāṣīr was the most long drawn out of the three, comprised of various stages, and in many ways is still ongoing. Like the Ḥamdāb and Amri counterparts, the Manāṣīr never opposed the dam nor the prospects of resettlement. They had welcomed both and reportedly saw the latter as an opportunity of gaining access to land, especially among the landless and youth of Manāṣīr who felt constricted in the land-scarce and highly populated Dār al-Manāṣīr (Beck, 1997b cited in Hänsch, 2012). Nonetheless, relinquishing rights to their homeland was not a palatable prospect for all. As Hänsch observes “Since the 1990s, some Manāṣīr in all parts of the country had consistently declared that they would never, under whatsoever circumstances leave their land” (2012, pp. 215–216). In any case, as the events with the Ḥamdāb and Amri developed, and as their own experiences negotiating with the dam authorities progressed, the attachment to the land gained prominence in their collective consciousness and found expression in the form of an articulated vision for the ‘local option’ settlement.

The roots of the contention between the Manāṣīr and the dam authorities were, much like the Ḥamdāb and Amri, over the initial negotiations. The problematic property census of 1999 was rejected by the Manāṣīr Executive Committee and the unilaterally proposed resettlement sites were rejected by the democratically elected Manāṣīr representative bodies. The Executive Committee of the Manāṣīr appealed to the Constitutional Court to deny the 1999 census as a reference for disbursements of entitlements and demanded that it be revoked and replaced by a fair and transparent census. The court dismissed the appeal for lack of jurisdiction (Majlis al-Mut’athirīn, 2016). Following the split of the Joint Committee of

Affected People in late 1999 and the appointing of a Manāṣīr Committee composed of state loyalists, a split within the Manāṣīr community emerged and eventually led to the election of a different body that would be more representative of the Manāṣīr interests. Rejecting the state-appointed Manāṣīr Dam-Affected Peoples Committee, the Manāṣīr organised themselves to establish a representative body and over the months of April-May of 2004 elected a new Council of Affected People (*Majlis al-Mut'athirīn* - hereafter referred to as CAP) from the administrative units of Shirri and al-Kāb and appointed a Manāṣīr Executive Committee (*Lajna Tanfidhīya*- hereafter referred to as the MEC) with the CAP composed of members of the Manāṣīr migrants as well as local representatives. The CAP and MEC would struggle to gain formal recognition from the Dam Implementation Unit and after many failed attempts to gain recognition, would attempt to negotiate with the River Nile State government (Al Magdoun, 2007). The governor of the River Nile State (RNS) at the time was loyal to the DIU and refused to recognise the MEC, though other members of the RNS were sympathetic to the Manāṣīr cause and attempted to lobby on their behalf.

The political battles over recognition are lengthy and complicated. Askouri (2014a) notes that on July 22nd of 2004, the MEC held a meeting in Ed-Damer which was attended by legislators and executives of the state, in which the MEC gained the acceptance of the head of the political office of the NCP and the then Minister of Agriculture, Magzoub al-Khalifa. Despite this, however, the DIU insisted on the recognition by the governor who had denied this in complicity with the DIU. The DIU's reluctance to recognise the MEC as a legitimate representative body, as well as the nature of the interaction with the affected people, which escalated on multiple occasions into heated confrontations, further fuelled the core resistance movement. The state-appointed Manāṣīr Dam-Affected Peoples Committee quickly lost legitimacy amongst the Manāṣīr and would soon dissolve (Al Magdoun, 2007). Despite not being recognised by the DIU, the MEC wrote and addressed a letter to it in 2004 demanding that the construction work on the rejected resettlement sites be brought to a halt until a satisfactory agreement was reached. The demands went unheeded, and the Mukabrab project was initiated in May of 2004 after the China Water and Electricity Company was commissioned for its implementation (Dams Implementation Unit, 2007d). Construction works continued and the MEC was excluded from DIU's planning and execution. This did not deter the MEC which sought other measures to ensure a fair outcome for the Manāṣīr.

The CAP and MEC began lobbying for local alternative settlements around the reservoir. The Presidential decree no. 277 of 2003 which specified the locations of the resettlement for all the three affected groups had stated in the case of the Manāṣīr "the Mukabrab valley project and projects around the reservoir of the dam for the Manāṣīr group" (Article 3). This did not include any mention of specific locations or schemes, though the legal basis of the local option was already established.

Six possible locations for lakeside settlements were later identified as sites for the development of villages and resettlement schemes through governmental support. These were *Umm Sarih*, and *Abu Haraz* in the lower Manāṣīr areas near Birti and *al-Hawila*, *Umm Tinaidba*, *Umm Safaya*, *Kihaila Gharb* (west) and *Kihaila Sharq* (east) in the upper Manāṣīr

territories. The dam authorities, however, were not in favour of this option and were keen to see the Manāṣīr resettled into the schemes it was developing (i.e., the *Mukabrab* scheme in *Wadi al-Mukabrab* near Atbara and al-Fida scheme near Abu Hamed in the Bayuda desert 42 km away from the river see Figure 3-2 above). The DIU had already downright denied the possibility of life along the reservoir and had commissioned a consultancy study by the University of Khartoum which concluded the low potential of local option. This report declared that four of the proposed projects were completely unfeasible (Umm Sarih, Abu Haraz, Kihaila Gharb and Umm Tinaidba) and recommended detailed studies be made of al-Hawila and Kihaila Sharg (Majlis al-Mut'athirīn, 2016). Askouri reports that the executive committee rejected the report's findings, and alleged lack of professionalism (providing evidence). The DIU's attempts to deter interest in the local option through the report succeeded in the opposite, as distrust of the DIU grew and insistence on the implementation of local option settlement intensified (Askouri, 2014a, p. 643-655).

These conclusions would later be refuted by an independent study. The DIU's adamant opposition to reservoir-side settlement raised the Manāṣīr's suspicion as this was interpreted as a concerted effort to forcefully remove them from the area around the reservoir (Al Magdoun, 2007). At this point, tensions were high between the MEC and DIU, and the former held a press conference in which it announced that it had reached a final impasse with the DIU. After many failed attempts to negotiate the terms of compensation and resettlement with the DIU, the MEC took up the negotiation of the local option settlement with the RNS government and in 2005 submitted a proposal for an independent study of local option settlement. The MEC also surveyed in the summer of 2005 to assess the preference of settlement among the Manāṣīr, finding that a majority (about 7,782 families of a total of 13,335 families) opted for local option settlement and the remainder (5,553 families) chose the Mukabrab settlement (Askouri, 2014a).

The Manāṣīr decided to commission independent research and selected YAM Consultancy and Development Company led by Yahyah Abdel Majid, a former irrigation minister and an internationally recognised consultant (and indeed a visionary), to carry out the study. Despite the lack of cooperation from the DIU, which withheld vital information such as the dam's operating schedule and contour maps to the future reservoir, they released their findings in 2007. Not surprisingly these were the opposite of the University of Khartoum's conclusions. The YAM study reported that the artificial lake, according to the assumed operating rules, would result in new hydraulic factors that were in some cases better than the natural ones in the Manāṣīr area, opening new horizons for both irrigated and flood-recession agriculture, expanded possibilities for animal husbandry and new potential fishing in the lake (YAM for Development & Consultation Co., 2007).

The local option irrigated agriculture estimated by the report was 108,142 faddān in the six local option projects on both banks of the lake. Another finding was the suitability of the climate for winter crops during the high level of the lake (October to March). Further, contrary to the University of Khartoum report which concluded sedimentation would be a major obstacle for irrigated agriculture, it found that as storage begins in September when sediment

levels are at their lowest and since the key irrigated agricultural season is October-March, this would not cause problems for irrigation when the lake is at its highest level (300 meters).

In the meantime, from the end of the summer of 2005 on, tensions between the MEC and the DIU continued to escalate, resulting in a series of confrontations. First, the DIU presence in the Manāṣīr, with offices in Shirri and al-Kāb, was regarded as a violation of their liberties as they were accused of spying on the Manāṣīr. In November of 2005, the MEC presented the DIU with an ultimatum of closing their offices within 24 hours. When the ultimatum was not heeded, the offices were burnt to the ground. The same fate met the DIU office in Al-Kāb. A further incident occurred in December of 2005 in the oasis of Sani when a group of Manāṣīr nomads were prevented access to their lands by Chinese builders who were working on the erection of electricity pylons. The nomads appealed to the council and more than 4,000 Manāṣīr were mobilised to defend their nomadic brethren. They were met with the dam administrations' militia and a crisis was only averted by the swift and careful mediation of the Manāṣīr council. The incident would be recorded in the history of the Manāṣīr as a demonstration of tribal unity and solidarity. It also alerted the already vigilant Manāṣīr to the extent of the threats they faced and once again galvanised them in their opposition to the DIU.

Perhaps as a response to the threat of further violent confrontations presented by the Sani incident, the central government became open to negotiations with the Manāṣīr. In April of 2006 Presidential Decree No. 70,⁴ empowered the RNS to take action to implement the local option, i.e. the development of the identified six resettlement schemes along the reservoir. The decree allocated the land around the reservoir to the Manāṣīr through the River Nile State and called for studies and surveys for local option settlement projects to be conducted among other steps of implementation. The earlier decree no. 353 which had confiscated the lands around the reservoir and allocated them to the purview of the dam authorities was annulled, and the land was returned to the Manāṣīr. The wording of decree no. 70 stated that "the resulting lands from the Merowe dam" be allocated for the development of the local option and the decree in effect represented the legal reference for the development of the local option settlement (Al Magdoun, 2007). The interpretation of the term "resulting lands" was a contentious issue and though an interpretation was issued by the presidency (Al Magdoun 2007), I have not been able to locate it. In any case, the decree was interpreted by the Manāṣīr as effectively granting them the land around the reservoir.

The decree was accompanied by further decisions and directives issued by the new governor of the RNS,⁵ among them decision no. 36 formally recognised the MEC, and a further decision ordered the construction of al-Fida resettlement site to be postponed until further notice. Presidential decree no. 70 was soon followed by the signing of an agreement between the RNS and the MEC known as the Shariqa Hall Agreement on the 1st of June 2006. The

⁴ See Appendix C.

⁵ These include governate decisions no. 34-39 and directives no. 1 and 2 of May 2006

agreement marked a turning point in the Manāṣīr struggle and was interpreted (along with the decrees) as a victory and guarantee for the realisation of the local option which was now legitimised legally. It also enabled the Manāṣīr to develop their own administrative district⁶ (*Maḥallīyya* sing.), within the RNS named the *Maḥallīyya Ḥawwal al-Buḥāira* (administrative district around the reservoir). This newly created *Maḥallīyya* for the self-governance of the local option was further sub-divided into four administrative units⁷ (*Wiḥda Idārīyya*, sing.) of Birti, Shirri, Kabna and al-Kāb. Prior to this, there were two administrative units (Shirri and al-Kāb) which pertained to the administrative district of Abu Hamed. Despite all this, however, their hopes and optimism would prove to be a premature assessment of the temperament and power of the DIU.

Work on the construction of the rejected al-Fida settlement continued and the RNS did nothing to stop the DIU from commencing with the work. This represented the first break of the Shariqa Hall agreement. Considering this, the Manāṣīr decided to demonstrate in Abu Hamed on the 17th of March 2007. Tensions were high between the Manāṣīr and DIU once again and a further incident of confrontation occurred later that month in the Kirbakan valley. Under the pretext that the area was harbouring dissidents, the DIU sent 53 pickup trucks loaded with militiamen and weapons, 23 of which entered the village of Kirbakan while 30 surrounded the area. The locals blocked the road between the two mountains and armed themselves. Once again, the situation threatened to escalate rapidly and was only diffused without casualties after the careful mediation of the MEC which was airlifted to the site to convince the Manāṣīr, who were keen to fight the invading army, to allow the militia to retreat and made promises that they would work to ensure the Shariqa Hall Agreement would be respected. The government was worried that the Manāṣīr members of the armed forces and police would support their tribe and so retreated, however, the DIU continued its provocation and arrested six members of the MEC including those that played a pivotal role in diffusing the tensions. They were released after a legal appeal was made in the form of a lawsuit against the state.

As with the Sani crisis, the Kirbakan crisis led to renewed efforts at mediation and in June 2007, a new agreement was reached, known as the Friendship Hall agreement. The new agreement reaffirmed a commitment to honouring the Shraga Hall agreement and required the construction of the local option settlements if more than 500 families had expressed their preference for settlement in these sites. This was followed by a census conducted by the Central Bureau of Statistics which found that 68% of the Manāṣīr opted for local option settlements. As with the Shariqa Hall agreement, any hopes that this would result in favourable action were soon to be crushed.

⁶ States in Sudan are divided into administrative districts (*maḥallīyyat*, pl.) which are further sub-divided into administrative units (*Wiḥda Idārīyya*, sing.).

⁷ These four sub-units are further subdivided into village councils and each village council is further sub-divided into hamlets. The administrative district (composed of these four units) has its centre located in at-Tiwaina, on the east bank near al-Amarain and opposite the island of Shirri.

Despite the Friendship Hall Agreement, the issue of the problematic 1999 property census for compensation was still not settled. While the MEC rejected the validity of the census and demanded a new one, they prevented the commencement of a new census that was to occur in 2007 as it would precede work on developing the local option settlements. The Manāṣīr community was split at this point between those that chose al-Mukabrab and al-Fida and those that chose the local option. While the settlements of the former were complete, the latter still had no concrete homes to relocate to after the now imminent inundation of their lands. As such, the MEC demanded that the local options be developed first before the property enumerating census for compensation. The DIU responded with an ultimatum of accepting the 1999 census or relinquishing the right to compensation. The social fractures caused by those accepting compensation and resettlement packages, thus undermining the negotiation efforts of the MEC on behalf of the ‘local option-ers’, deepened. Hänsch reports how villages and families fell out over disagreements regarding the acceptance of compensation and resettlement and the widespread conflict within previously close-knit groups (2012, p. 220). The situation was tense as those who acquiesced to the options presented by the state were labelled ‘traitors’ or ‘karazai’. The term ‘karazai’ (synonymous with traitor) is derived from the Afghani president Hamid Karzai who was seen to have betrayed his people in favour of US interests. Despite these schisms and irrespective of all the complications along the path, “a dominant discourse, favouring life in the homeland, a struggle for the land and against resettlement, had won the day” (Hänsch, 2012, p. 220).

According to Ali Askouri, a prominent member of the Manāṣīr diaspora, the reason the Manāṣīr had for clinging to their land was the firm belief that the land on which they live is their own and their home. Indeed, land attachment in the context of Sudan is understood as the “anthropogeographic constant that glues a specific group of humans to a specific territory” (Ille, 2018, p. 43). Similar accounts of attachment to land are provided by Abd Elkreem (2018) in the case of the Nubians potentially threatened by displacement by the proposed Kajbar Dam through what he terms the “phenomenology of home”, and he elaborates how Nubian perceptions of resettlement equates it with a process of “un-homing”.

In the case of the Manāṣīr, Askouri argues that the depth of the attachment to the land is rooted in the association of their identity with territorial integrity, and that the land is a basis of security and social cohesion. He states the “Manāṣīr is a tribe and without their land, they lose their identity, home, history and belonging” (Askouri, 2014a, p. 632). A similar testimony is reported by Ali *et al.* (2019) where the nature of the Manāṣīr resistance is distinguished from that of the Amri and Hamdab:

“The case of the Manasir at its core is a case of a struggle for land. The political aspect of this is the right to self-determination. The Manasir, unlike the Amri and Ḥamdāb, is a tribe unto itself and you cannot be a tribe if you do not have a tribal land. It was the local people who formulated the issue as one of tribal honour in defending tribal lands” (Manāṣīr testimony cited in Ali *et al.*, 2019, p. 233).

The use of the term ‘tribe’ by the Manāshīr themselves in these accounts must be read in the context of political resistance, as it serves a politically unifying purpose of strengthening group identity, galvanizing sentiments of belonging to strengthen their resistance movement.

The popular saying among the Manāshīr ‘land is honour’—‘*al arḍ ‘ird’*’, was a slogan used by local option proponents during the socially contentious and divisive experience of resettlement choices. The saying was also documented by Salih in which an attendee during a group interview used the aphorism in a discussion on the meaning of land. An equally popular saying that was already documented by Salih in 1999 of ‘*al balad di fīyha al amān*’ was translated by him to mean ‘this area is secure’ (p. 123). The saying was also featured in the choice of local option resettlement and in this context may be better translated as the “homeland (*balad*) contains safety/security”. It captures an overlooked dimension of land in the Manāshīr, a dimension that was completely absent in any considerations of resettlement on behalf of the DIU’s divisive tactics: that of the social cohesion and security bestowed by the close kinship ties vested in the land (discussed further in Chapter 6).

Salih notes how this dictum was offered as a response to a question posed to a Manṣūrī (Manāshīr man) in ‘Asma about why he remains in the homeland who responded with the following:

“Land is scarce, the sharp rocks bleed my legs, but here one can borrow from brothers, relatives and even neighbours. We have grown up together, eat together, share the useful and bear the harmful. In other places it is easy to find land but not easy to find such people” (quoted in Salih 1999, p. 123).

Indeed, as Beck asserts, the choice of settlement location should be seen as a “deliberate choice”—which in the case of returning Manāshīr migrants, favoured the simple communal living and riverain lifestyle over the modernity and urbanisation of metropolitan centres. The “...utopian longing for a simple but close-knit, secure and autonomous life in their old homeland” (2012, p. 7), which he notes is still closely held even among those migrants who permanently established themselves in cities, is not far off from the inspirations behind the struggle to protect the homeland through the local option.

Although the episodes throughout the resettlement process and the deep social rift caused within the Manāshīr community threatened to undermine this social cohesion, any doubts as to the resilience of the kinship ties rooted in the homeland were dispelled in the way they bound together to rescue and restore their life along the reservoir in the face of total and complete isolation and neglect. In fact, as the next section illustrates, this social cohesion was a determining factor in enabling the survival of the catastrophic flooding and the defiant and self-reliant emergence of the local option against the odds.

3.2.4 The ‘*ghirāq*’ (drowning) and the emergence of the ‘local option’

The situation in 2007 through to 2008 was grim for the Manāshīr affected people, characterised by the social divisions over resettlement described above and continuous frustration of the

MEC in its negotiation efforts with the RNS for the realisation of the local option settlements as per the decrees and agreements. Work on the construction of two local option settlements (Abu Haraz and Umm Sarih in lower Manāṣīr) began in 2008, though progress was slow and repeatedly stopped by bureaucratic red tape. At the time of the flooding (*ghamr*, the event is also referred to by locals as *ghirāq*, drowning (see also Hänsch, 2019)), neither of these was ready to accommodate the local option-ers.

Meanwhile, the atmosphere in the Manāṣīr territories was to take an ominous turn as the complete withdrawal of state institutions was a signal of the events that would soon follow. As Hänsch describes the area of the Manāṣīr during the period of the flooding was isolated and shut off from the rest of the country, and it “...developed into a quasi-independent state within the state, claiming territorial sovereignty and building government-like structures to administer itself” (2012, p. 221).

In early 2008, the MEC soon realised that the DIU was going ahead with closing the dam gates and that the reservoir would fill imminently, and consequently instructed its people via the popular committees (*lajna sha‘abīyya*), the lowest level structures of formal local government with elected members, to carry out complete censuses of the properties in each village in the presence of witnesses to authenticate the enumeration of property (Askouri, 2014a; interviews I conducted with Manāṣīr representatives, 2017).

This alternative property census was meant to replace the rejected 1999 census, but the rising waters destroyed property before it was completed in all hamlets (see Appendix D for a sample). Each individual was given a copy of his belongings and claims of lands, date palms, fruit trees, crops, and fodder. By June-July, the MEC was certain that the DIU would fill the reservoir quickly enough to risk drowning them. On the dawn of July 23rd of 2008, the flooding of the villages and agricultural land began. People rushed to save their families and belongings to the tops of the hills. They raced against time to save what they could.

Hänsch documented the event in detail (2012; 2019). Her ethnographic work on the experience of displacement provides vivid imagery of the chaos which characterised the event. A snippet of what she witnessed:

“Sheep, goats, donkeys and house furnishings have to be left behind. Irrigation motors are submerged as nobody has time to pull the heavy diesel engines to safety. Soon, the Nile is encircling several houses on the western bank. Whole villages are turning into islands on which the inhabitants desperately push their belongings higher and higher up the hills, racing the rising river” (2012, p. 185).

On the island of Shirri, the villagers attempt to build a dam of sand-filled sacks, however, their efforts were in vain. The water broke through the sand dam and rushed to destroy everything in the village in the middle of the night. Very little could be salvaged as the priority was saving lives. The water engulfed the entire Manāṣīr area in a matter of months.

Neither the state nor the federal government raised a finger to support the Manāṣīr. In fact, throughout the ordeal of the flooding and the humanitarian crisis that followed, it was the CAP and the MEC which supported their communities by organizing aid deliveries and coordinating rescue missions. Contrary to the expectations of the DIU and the government, the experience did not break the Manāṣīr but strengthened the unity among those that stayed behind.

In early 2009, after the trauma of the floods across the Manāṣīr, the recently deposed president Omar al-Bashir visited the region and issued his directives for the reconstruction of the local option as per the dishonoured agreements. This lip service was considered a public relations stunt connected with the upcoming election, as work on the local option continued to falter. At the end of 2011, the Manāṣīr held a three-month sit-in at al-Damer, the capital of the River Nile State (RNS) to draw attention to the continued neglect by the formal state and to continue to demand their rights to fair and just compensation and resettlement. One outcome of the months of demonstration was the 'Road-Map'—*Khartat al-Tarīq* which proposed measures to address these issues (Majlis al-Mut'athirīn, 2016). The situation at the time of research was still in negotiations over the proposed plan for *Taswīyah*—(equalisation/settlement) whereby all affected people would be compensated equally regardless of the extent of their losses (key-informant interviews, 2018).

Restoration of life along the reservoir was in some places a slow and uncertain process, especially in the lower Manāṣīr territories where all evidence of their prior existence was completely obliterated. In these areas, "people find themselves in a kind of drifting state between the old life, now destroyed, and the new one, the direction of which remains unknown" (Hänsch, 2012, p. 195). Further upstream, the Manāṣīr begin reconstruction efforts shortly after the flooding, developing small and medium-sized agricultural projects just above their houses (many of which remained intact). Already in the first winter cultivation season of 2008-2009 following the flooding, efforts to establish joint agricultural schemes were organised through collective efforts (Hänsch, 2012). Drawing on the long-established tradition of cooperative labour, these schemes are made possible through the collective self-organisation of the Manāṣīr. In fact, there is a long history amongst the Manāṣīr of self-organised modernisation from infrastructural works to the establishment of schools and hospitals which, while enabled by the post-1970s administrative reforms under the government of Nimeiri, were realised "...with their own hands and their own means—but most of all by their own will and by cooperation" (Beck, 2012, p. 42). The same self-driven development would be driven towards the establishment of the local option in the absence of state support, discussed further in Chapter 6.

3.3 The Ethnography and History of Dār-al-Manāṣīr

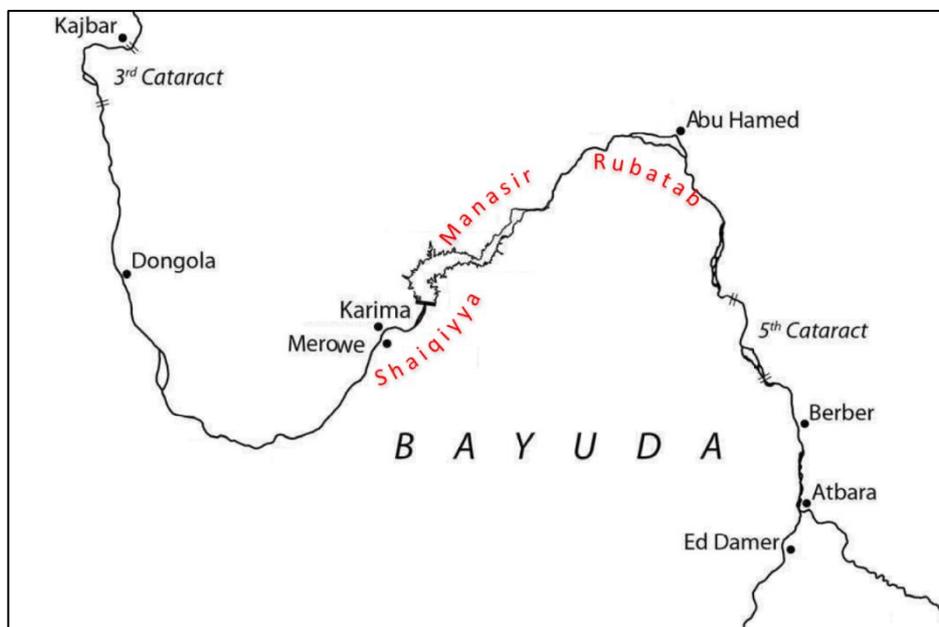
This section looks backwards at the historical *Dār al-Manāṣīr* before its dramatic inundation. It describes their traditional way of life along the fourth cataract of the Nile, which was irrevocably altered by the Merowe dam's reservoir. It first provides a general description of

the pre-dam geography of the area (3.3.1), the origins of the Manāṣīr tribe (3.3.2), ethnographic characteristics (3.3.3.) and their historical political administrative structure and territorial rights (3.3.4). This is followed by an overview of the settlement patterns and agricultural lifestyle of the Manāṣīr (3.3.5). Taken together, these sections provide the contextual baseline for the ethnographic evidence of the Manāṣīr’s post-reservoir existence in subsequent chapters.

3.3.1 A geographic description of Dār-al-Manāṣīr

Dār al-Manāṣīr refers to the *Dār* or the tribal territorial homeland of the Manāṣīr tribe which lies in the fourth cataract of the Nile River. As shown in Figures 2 above and 3 below, the river in this region takes a sharp turn away from its northern course and deviates south-west for 280 km before returning to its northern orientation, creating an S-shape with the Nubian Desert to the north of it and the Bayuda Desert to the south. The region to the right of the river when facing the natural flow is peculiarly referred to as the “east”—despite it lying in the geographic west as the river is now facing south-west—and likewise, the region to the left is referred to as the “west”, though it lies in the east. Beck comments how the river for the Manāṣīr was a “final point of reference, even cardinal directions lost their meaning in its shadow” (Beck, 2012, p. 8). They are positioned in the territorial map of the North Riverain Tribes between the Rūbatāb Tribe upstream in Abu Hamed, and the Shaiqiyya tribe downstream beyond Birti (see Figure 3-3 below).

Figure 3-3: The Manāṣīr territories, situated between those of the Rūbatāb and Shaiqiyya tribes.



Source: adapted from Kleinitz and Näser, 2012, p. vi

This region has been noted by travellers as very hostile to traverse, with rocky desert outcrops on the banks of the Nile and the rapids at the fourth cataract known notoriously as one of the

most difficult and treacherous of the entire river. Navigation by the river is impossible as the voracity of the fourth cataract was enough of a deterrent for invaders (Salih, 1999, p. 8). Further, the absence of connecting roads narrowed down the options of accessing the area to equally undesirable passages over 'hard tough zigzag' paths, through a 'gorge of sharp cut-rocks' on the left side of the river, or across 'broad stretches of white, loose sand' on the right. As Gray observed through his travels to the area during the first half of the 20th Century:

"Strange as it may seem, for an area lying between a river and a railway, there appears to be no trace, either in record or in local tradition, of any European having traversed this area on the 'East; bank. This singular circumstance only becomes understandable when Birti Island is passed. Hereafter the cataract becomes a wilderness, the river can no longer be followed either by camel or donkey and the isolated farmsteads, supported by cash-crops grown on the riverbed, are approachable only from the back-desert" (1949, p. 120).

This has led Gray to conclude of the Manāṣīr area that "it would appear to have been always a poor area, somewhat isolated, experiencing only the backwash of great events" (1949, p. 120). Indeed, it has been noted elsewhere that despite the railway system the Manāṣīr largely remained "...self-contained almost self-controlled..." (Innes, 1930, p. 190). Despite its relative isolation and seclusion, the Manāṣīr have carved their place in history as many notable British officials have met their demise in Dār-al-Manāṣīr. For instance, the murder of Colonel Stewart and the men of the River Column, related by Innes (1930, p. 188), as well as other British officers who had met their end in the Manāṣīr, among them General Earle, Colonel Eyre, Colonel Coveney and Lord Avonmore (Salih, 2012).

Innes describes the Manāṣīr as 'a land of contrasts' and notes that:

"[t]he publicity achieved by this country is no exception to its rule of contrast. In old days the caravan routes passed it by on either side, and even then, its people lived out of the world and almost untouched by-passing events. Only in moments of conquest and violence does its name find a place in the pages of history"(1930, p. 185).

The topography of the area has been described as "at once the most barren and the most beautiful"(Innes, 1930, p. 185)—the land scarcity in this 'barren rocky area' (Salih, 1999, p. 122) of the Manāṣīr is noted as one of its defining features. This difficult physical landscape has not deterred the Manāṣīr from their attachment to their land, being described as "clinging to pocket like patches of land" (Salih, 1999, p. 36). The affection of the Manāṣīr and attachment to the land is further captured in Innes' remarks:

"It is refreshing, after a trek through the adjoining Rubatab country, desolate because its people have left to find easier money elsewhere...to find here a country far more barren, demanding far more and yielding far less, whose young men still remain and cultivate every cultivatable acre" (Innes, 1930, p. 186).

Interestingly, the physical landscape and the irrigable arable area in this region differs from that of the surrounding areas, “Whereas usually in the Nile Valley this [irrigable area] is confined to the belt on the two banks on which the river has deposited its silt, in this cataract area, where islands are scattered like a flock of goats, the number of silt-covered river banks in any given 10 kilometres may be anything up to a dozen” (Gray, 1949, p. 120). Historically, Dār al-Manāṣīr consisted of 13 inhabited islands (Salih, 1999, p. 8). These are the islands of al-Ganawait, al-Takarna, Shirri, KidDIR, Sharrari, Sur, Us, Tibit, Dumaj, Boni, Araj, Dirbi and Birti. Of these, in the aftermath of the Merowe dam, only part of Shirri and a small part of Boni have survived (see Figure 3-1 above).

3.3.2 Origins of the Manāṣīr ‘tribe’

Before delving into the origins of the Manāṣīr, it is pertinent to qualify the terminology used to refer to this group—namely as constituting a ‘tribe’. The term ‘tribe’ as applied to groups in Sudan is problematic, (see Section 2.4, and Johnson, 2003). It is an inadequate translation of the emic term *qabīla*, which is used by people to refer to themselves. Salih always places the term in quotations when referring to the Manāṣīr as a ‘tribe’. He also notes that the structure of the ‘tribe’ is not static but fluid, a dynamic assemblage which shifts with conflicts, competition for material or immaterial resources, and political and administrative restructuring (Salih, 1999).

An important aspect of the *qabīla* or tribe is the ancestral record or the *nisba* which is an ancestry record of the patrilineal descent relationships tying members of the group to an apical ancestor (Salih, 1999, p. 20). The *nisba* is used by scholars to identify the origin of groups as well as to trace the relationships within and between groups. It also serves to delineate groups from one another as well as to demarcate the territorial boundaries of group rights vis a vis other groups. For example, the geographical boundaries of ‘Dār al-Manāṣīr’ designate communal rights of use, appropriation and possession to the members of the Manāṣīr *qabīla*. Though this dār regulation bears little weight under the current statutory system and the dominant category of state-sanctioned private ownership of land, the Manāṣīr hold to their territorial homeland and, as demonstrated by the discussion in the previous section, fight to defend it.

The Manāṣīr’s written and oral *nisba*, traces their roots to Al-Abbas, the prophet Muhammad’s uncle who lived in the sixth century, though it is highly inaccurate as they only count 11 ancestors back to Al-Abbas (Salih, 1999, p. 21). It is worth noting that the *nisba* has a functional purpose as it strengthens the sentimental loyalties amongst social groups, which in the context of Sudan, is more significant than loyalties to the state or institutions. This functional recognition of *nisba* not only strengthens ties within the group—through mutual respect, duties, obligations and rights—but also unites them against other groups (p, 20).

Tales of the origin of the Manāṣīr tribe and their settlement in the area vary according to the different (sometimes contradictory) recorded accounts of oral traditions. Hashim (2007) records the oral history of the Manāṣīr and finds the claim that the word ‘Manāṣīr’ is derived

from a mythical island in Egypt by the name of Manṣūra, from which the apical father of the tribe (the last common ancestor) originated. He argues that this follows the typical and common origin story of Arabised ethnic groups in Sudan which follows what he terms ‘the cliché of the fugitive ancestor’ of Arab origin escaping prosecution, settling, and mixing with the native ethnic groups. The theory of Manāṣīr origin in an unidentified town of Mansura in Egypt was also found in the oral traditions recorded earlier by Jackson, though he dismisses it and argues that the more likely origins lie in the name of the group’s founder “Mansur el Kahli” (1926, p. 3). Jackson mentions that the Manāṣīr claim to be descendants of al-Zubeir Ibn al-Awwam, a member of the Kuraysh tribe of Mecca in Saudi Arabia proper and that they are offshoots of the Arab nomadic tribe known as the Ababda, as well as of the Kawahla tribe which is originally from Kordofan in central Sudan. The story he relates is that their settlement in the area followed after some time of wandering in the desert between Birti and Abu Hamed in search of more favourable climatic conditions, though he casts doubt on this stating “...it seems highly improbable that the Manāṣīr would have exchanged the plenty of Kordofan for the scarcity of their present country” (1926, p. 4). According to Innes, “... at some time the Monasir [sic.] Arab, of Beja origin, saw fit to make his home here, presumably being too tired to go further, for no other attraction is apparent, and that he has been there since” (1930, p. 186). The Manāṣīr are identified as ‘semi-nomadic’ as there are Manāṣīr who up to this day, continue to live the nomadic lifestyle. As remarked by Jackson, “...even amongst members of the same family it is quite common to find that one will be a nomad and another a sedentary Arab” (1926, p. 5); this finding is still valid to this day.

It is perhaps likely that the Manāṣīr are a conglomeration of various minorities who have historically become associated with the territory (Salih, 1999, p. 20), a conclusion corroborated by the finding of Hashim’s record of oral history that the Manāṣīr are a ‘*talāgīt*’ (collection) of different ethnic groups (2007, p. 212). The tribal structure of the Manāṣīr is documented in detail by Salih (1999, pp. 20-22) and Hashim (2007, p. 219). Salih’s study of the complex segmentation of the tribe leads to the classification of the Manāṣīr as falling within three major groups, each composed of further sub-clans. The major groups are: *Manāṣīr proper*, *indigenous Manāṣīr* and *adopted Manāṣīr* (1999, p.21); this claim is further corroborated by Hashim (2007, p.212). According to Salih, the first group of “Manāṣīr proper”, claim descent from a migrant Arab apical ancestor by the name of *Manṣur* from which the Manāṣīr derive their name and is composed of seven sub-clans (1999, p. 20). Hashim, on the other hand, finds among his informants of tradition bearers that the name Manāṣīr is ascribed through the origin of the *Waḥabāb*, one of the major sub-clans within this “Manāṣīr proper” group, who trace their origin to the *Jazira al-Manṣūrīyya* (or the island of *Manṣūrīyya*) in Egypt (2007, p. 213). The second group of “indigenous” Manāṣīr, claim their origin from the neighbouring tribe of the *Shaiqīyya* according to Salih, though Hashim finds that two of the five identified sub-clans within this group claim origin in other indigenous tribes (Nubian and ‘*Anaj*). The third and final group of “adopted” Manāṣīr is composed of seven sub-classifications of “recruited tribal minorities living among the Manāṣīr people” (Salih, 1999, p. 21). Among these ‘adopted’ Manāṣīr is al-Fūqqara, which is further divided into four sub-clans: the al-‘Abābsa, al-Fadinia, al-A’masib, Takkanin (p.22). This subgroup of Fūqqara is the

clan which is featured in the ethnographic research in the hamlet of al-Fūqqara elaborated in Chapter 5.

Note that the term 'clan' as it is used by Sudanese scholars (e.g., Salih 1999; Zain, 1996) refers to a sub-group within a 'qabīla' or 'tribe' whose members are united through the perceived or actual relations of kinship and descent. The term 'indigenous' as used by Salih (1999) in this typology of the 'Manāṣīr tribal structure' does not reflect and should not be confused with the anthropological concept of indigeneity applied in other contexts. It is a term that Salih employs to distinguish the three major groups of the Manāṣīr described above.

3.3.3 Ethnographic characteristics of the Manāṣīr

The Manāṣīr have been described as 'semi-nomadic' ((Jackson, 1926)) as they have practised both nomadic lifestyles in the desert valleys on the left bank of the river as well as settled agricultural lifestyles along the banks of the Nile (see Section 3.3.5. for Manāṣīr settlement and agricultural lifestyle). This practice dates to the time of the Turkish-Egyptian regime (1821-1881) during which farmers escaped the state taxes by fleeing to the desert hills. Rather than permanently residing on the banks, many Manāṣīr seasonally commuted between the desert and floodplains with some of their kin permanently residing along the riverbank (Hänsch, 2019, p. 66-67). In the 1990s it is estimated that 28,000 Manāṣīr lived on the riverbanks practising irrigated agriculture on the *sāqiya* land and approximately 2,000 nomadic Manāṣīr (Beck, 1999a, p.5 cited in Hänsch, 2019, p. 69). The scarcity of land in the narrow arable floodplains between the Nile and the rocky desert outcrops and the high population densities of the Manāṣīr necessitated a practice of migration among the Manāṣīr which has been well documented (Beck, 1999b). In 2006 (before the displacement and resettlement caused by the Merowe dam) an estimated 20,000 of the total 50,000 Manāṣīr permanently or temporarily lived outside Manāṣīrland, in the cities of Khartoum, Ed-Damer or Kassala (Hänsch, 2019, p.69).

At the village and hamlet level, the organisation of social life to a large extent revolves around the irrigated *sāqiya* lands and the social relations of production that are embedded within it (see Section 3.3.5 below). Kinship networks and family relationships along the lines of patrilineal descent emerged around the *sāqiya*. On average the *sāqiya* sustained five families on its six-to seven faddān of land (Beck, 1997a, p.84, cited in Hänsch, 2019, p.73). Settlement patterns within hamlets were typically clustered with patrilineal kin-folk living in close proximity. Typically, married women join their husband's kin group and share in the group's agricultural duties. The gender division of labour is largely consistent from the pre-dam to the post-dam era. Women are largely responsible for sheep and goat rearing activities and their labour contributions on the irrigated *sāqiya* lands support their livestock activities, such as weeding the fields and thereby gathering fodder for their animals. The centrality of milk to the Manāṣīr diet has long been supported by women's traditional livestock-rearing practices. The agricultural duties of men revolve around the cultivation, irrigation and harvesting of the *sāqiya* crops (see Section 3.3.5 below).

Men and women at the village level occupy different social spaces as the conservative Muslim etiquette restricts the unsanctioned mixing of the sexes. Mosques represent important village institutions and local forums which are largely dominated by men. These male spaces continue to play an important function in rural social life. Increasing the social and political influence of Islam in rural Sudanese life has been a central ruling strategy of the recently deposed Islamist government (Abd ElKreem, 2018).

3.3.4 Political administrative structure and territorial rights of the Manāṣīr

Salih details the historical political administrative structure of the Manāṣīr and its relationship to the tribal structure (1999, p. 20-35). The Manāṣīr's territorial rights to their current Dār were arguably precarious in the period prior to the Turkish-Egyptian rule (1821-1885). Writing as early as 1926, Jackson notes the evidence of this in the politics between the Manāṣīr and the neighbouring Rūbatāb and Shaiqīyya. The latter two groups frequently taunted the Manāṣīr for being 'interlopers' and he claims that it was not until the coming of the Turkiyya (period of Turkish-Egyptian rule) that the Manāṣīr's collective rights to their territory were confirmed (Jackson, 1926, pp. 4–5). His testimony points to the politics of tribal claims to land, and the intimate relationship between territorial claims and political administrative authority. Likewise, Salih alludes to the formalisation of the *Dār al-Manāṣīr* during the 1820s under Turkish-Egyptian rule, when the area of the Manāṣīr was formally unified under a single administrative unit known as *Khat Wadi Gamar*, which belonged to the administrative district of Berber (1999, p. 67). The appointment of a *Sūlaymān wad Gamar* as shaikh for the entire Manāṣīr territory, which was subsequently subdivided into shaikhdoms or ethno-territorial structures, helped solidify the tribal territorial dār. The political-administrative basis of tribal territorial claims established by Turkish-Egyptian rule survived in various forms during the Anglo-Egyptian Condominium and post-colonial governments up until 1969 when the system of native administration was abolished (Salih, 1999, pp. 23, 67).

During the Anglo-Egyptian condominium (from 1899-1956), the administrative structure took the form of a series of shaikhdoms headed by the *ʿumda*, or tribal leader, of the Manāṣīr. While Salih (1999, p. 24) identifies five shaikhdoms each for the settled and nomadic Manāṣīr, according to Beck (2021, personal communication) there are, in fact, six settled Manāṣīr shaikhdoms (Birti, Birti Jaal, Sharari, Shirri, Salamat, Silaimaniyya) and the three nomadic Manāṣīr shaikhdoms of (Kabana, Hamamir, and the Kujubab and Khubara as one).

Each shaikhdom, headed by a shaikh, was composed of several village councils, with each village council, in turn being made up of several hamlets. The shaikh was the primary authority for the settlement of property issues, such as the verification of land and date palm ownership required for the application of formal registration and taxation purposes (Salih, 1999, p. 23). The shaikhs also played a key role in the early period of British colonial rule, being involved in the land settlement expeditions and registration of land property; this register has largely survived through the postcolonial governments.

Administrative reforms implemented under the socialist government of Ja'afar Nimeiri in the 1970s (particularly the Local Government Act, 1971) abolished the colonial system of native administration of colonial administration and replaced it with a modernised system of decentralised governance. The new administrative structure dethroned the *'umda* and shaikhs of their influence and established a decentralised system from the central government down to the regional state, province, district, rural and urban councils and finally to the village and nomad councils. This new system disempowered the shaikhs and empowered a new elite composed largely of civil servants (Hänsch, 2019, p.68).

Prior to the 1970 reforms, the Manāṣīr belonged to the administrative district of Berber. Following further administrative reforms in the 1980s, the Manāṣīr established themselves around the island of Shirri, under the Rural Department of Shirri (*Majlis Rīfī Shirri*). After 1989, nationwide administrative reforms introduced administrative districts, with Shirri District established first, and al-Kāb District following shortly after. All the communities located between Birti and Kabna pertained to the Shirri district, while those between al-Hiba to Umm Safaya belonged to al-Kāb District, and the district in Shirri was the administrative centre (Hänsch, 2019, p.88).

Notwithstanding the critical import of political administrative authority for the legitimacy of territorial claims, Salih points to another key factor in strengthening this legitimacy, that of tribal legends. Tribal legends illustrate the relationship between territory and kinship, "... they describe the 'blood' ties in relation to territorial attachment or local contiguity..." (1999, p. 85). As he argues, "the Manāṣīr tribal legends rationalise the existing factual territorial settlement pattern, social dominance, land tenure and are used as rationale for inter-clan and intra-clan relationships" (p. 87). He gives an example of a legend which takes place in the first half of the 17th century in which King Usman wed Hammad of Birti grants land to a *faqīr* (holy man) from the Hammatoyab clan—classified as belonging to the 'indigenous' sub-group of the Manāṣīr (p. 21)—in the Manāṣīr area after the later cures the former of a curse (pp. 87-88). Though impossible to verify such legends, he claims that they "...are always used as a base to justify the existence, rank and role of different clans" (p. 88).

As the ethnographic accounts in the subsequent chapters will illustrate, the enduring connection between territory and tribe played a central role in supporting and sustaining the resistance against forced displacement and the community-driven establishment of the local option following the flooding. Throughout my fieldwork, stories of the fight for the local option, particularly the more dramatic episodes of confrontations with the state highlighted above, were relayed in ways which were reminiscent of Salih's reading of the 'rationalizing' effect of tribal legends.

3.3.5 Manāṣīr settlements and agricultural lifestyle

Settlement patterns were structured into hamlets, usually in close proximity to one another. Each hamlet represents a group of households that are often connected through kinship networks. Clusters of hamlets make up village councils, with varying numbers of hamlets in

each village council. The village council of Kabna, for example, 1999 was made up of 10 hamlets. Within each hamlet, the 'family' (*usra*) as a kinship unit is distinguished from the 'household' (*bayt*). While the former includes the nuclear family composed of a husband and wife and their offspring, the latter is a type of kin-based economic unit, which produces and consumes cooperatively and is made up of more than one family (Salih, 1999, p. 16).

As an agricultural community, the Manāṣīr have developed various cropping patterns and land use systems to match their physical and social environment (*ibid*, pp. 45-48). Three main agricultural activities of crop production, date palm cultivation and animal husbandry predominated in the area. The agricultural activities depended on different classifications of land and associated patterns of use that have co-evolved through customary and statutory systems of governance. There are four main land classifications that are differentiated by their physical characteristics, location and uses. This section introduces these different categories of land while a more detailed account of the categorical and concretised formulations is presented in Chapter 5. These are the riverside lands or '*jarf*', the upland waterwheel irrigated land or '*sāqiya*', the inner upland irrigated land between the *jarf* and the *sāqiya*, known as the '*ashau*', and finally the upland reclaimed lands. While (Haberlah, 2012, pp. 49-50) and Salih (1999, p. 37) both identify the three land classifications of *jarf*, *sāqiya* and *ashau*, the inclusion of the classification of reclaimed lands is only made by Salih.

These four types of land vary in the soil grade, uses and costs of irrigation. The *jarf*, immediately adjacent to the river was of the highest soil quality as the deposits of silt from the river meant that they required no additional fertilisation and little to no irrigation and as such "the harvest from the *jarf* land was in many ways a gift from the Nile" (Beck, 2012, p. 10). Cultivated mainly by women, the *jarf* lands were used to sow various types of beans (*lūba*), millet (*dukhn*), various vegetables and fodder (Salih, 1999; Beck, 2012). The *ashau* land immediately above the *jarf* was traditionally designated for the cultivation of date palms and was a narrow strip of land no wider than 20 m (Salih, 1999; Haberlah, 2012). The proximity of these lands to the Nile banks made them ideal for date cultivation as the deep penetrating roots of the date palms could access the water tables (Salih, 1999; Haberlah, 2012). The *sāqiya* lands were located further up and primarily used to cultivate seasonal grains (winter wheat and barley, summer sorghum) cash crops and vegetables (Salih, 1999; Beck, 2012). Reclaimed lands were usually of the lowest quality to begin with, and involved a lengthy and arduous process of land levelling and soil rehabilitation through various methods (Salih 1999).

The agricultural cycle was made up of three main seasons: winter (*shitwī*, November to March), summer (*ṣaifī*, March to July), and flood (*damīra*, August to October) seasons with specific crops sown in each season (Salih, 1999, p. 46). In the era of the traditional ox-drawn *sāqiya* (waterwheel), the most important cultivation season fell between the months of August and October, known as *al-misaur*, which immediately followed the flooding of the river and therefore coincided with the *damīra* season. During this time the river's elevation made it relatively easy for the ox-drawn *sāqiya* to lift for irrigation (Beck, 2012, p.22). Sorghum (*miraig*) was the crop of choice during this season as the temperatures were too high for the cultivation of wheat or barley. The winter (*shitwī*) season was welcomed through the

cultivation of fast-maturing barley (*sha'ir*) followed by wheat (*gamih*). The start of the river's descent meant that the *jarf* flood lands were uncovered and could be cultivated. These lands were used by women to grow pearl millet (*dukhn*) and various types of legumes. After the wheat harvests from the *sāqiya* lands in April, the start of the hottest summer (*ṣaiḥ*) season meant that the water levels were too low for the oxen to adequately irrigate a *sāqiya*. As such it was either left fallow or used for the cultivation of small plots of vegetables, while the cultivation of the *jarf* lands continued. Following the transition away from the ox-drawn waterwheel and the adoption of the diesel irrigation engine, the *sāqiya* agricultural calendar was no longer dependent on the river's levels and on "how much water the drawing oxen could lift" (*ibid*, p. 23). The possibility of year-round cultivation meant that winter wheat and barley could be grown alongside flood season and summer sorghum as well as other cash crops and vegetables such as broad bean, okra, jute mallow, lentil, dill, fenugreek and chickpea.

Sorghum was preferred not only because it was a dietary staple but also due to the large stalks which were used as fodder for the animals (Salih 1999, p.46). Animal husbandry of goats and sheep provided the essential dairy and meat products for household consumption as well as an important source of income. In the absence of grazing lands, crop residues and fodder were cultivated to sustain livestock production. Date palm cultivation had a special status in the Manāṣīr, described as their 'most cherished possession', valued not only for its economic contribution but also as a symbol of social prestige and wealth. Furthermore, these hold a special spiritual significance as the mention of date palms in the Quran and the belief that these palms exist in heaven increases their value among the Manāṣīr (p. 47).

A key feature of the agricultural lifestyle in the Manāṣīr was the free access to the Nile's waters through the "peasant's traditional irrigation system" which consisted of their own cooperative appropriation of water for cultivation (Beck, 2012, p. 10). The *sāqiya* property relations and relations of production were intimately entwined with the cooperative efforts required for irrigation, discussed further in Chapter 5. It is important to acknowledge this free access to water when considering the advantages of the 'local-option' settlement discussed in subsequent chapters. Relocation to the government-built resettlement sites of al-Mukabrab and al-Fida would amount to a loss of the "autonomous and consensual realisation of opportunities" and subject them to the "large and centrally controlled systems ...that controls their life chances—even if only by neglecting them" (*ibid*, p. 10).

3.4 Conclusion

This chapter has provided a contextual baseline for the ethnographic research elaborated in the subsequent chapters. It described the historical lifestyle of the Manāṣīr along the fourth cataract of the Nile River—a lifestyle which has been radically transformed by the Merowe dam. It has further illustrated the experience of the Manāṣīr's struggle to determine the course of their future in the face of the existential threats posed by the dam and the social values of land as a source of identity, social cohesion and security expressed through the

struggle. Their valiant efforts of resistance and triumphant establishment of their 'local option' settlement on their own terms and by their own will illustrates the profound attachment to land and the meaning it holds among the Manāṣīr. Following an elaboration of the case study research methodology in the next chapter, subsequent chapters explore how this attachment to land is ever present and underlies the land tenure adaptations to the post-reservoir reality.

Chapter 4: Research Methodology

4.1 Introduction

Dam-induced displacement and resettlement are prevalent social phenomena heavily studied across multiple disciplines. Yet despite extensive research on most aspects of the issue, there is very little research on the instances where the displaced peoples are not formally resettled but rather 'stay behind' or remain on the edges of their flooded lands without the sanction of the state. Specifically, the establishment of informal settlements, the land tenure dynamics of adaptation to the post-dam situation, and the processes of agricultural adaptations have not been sufficiently investigated. This study draws on the experience of the Manāṣīr who have been displaced by the Merowe dam, and who resettled themselves along the shores of the dam's reservoir, to examine land tenure adaptations in the aftermath of dam-displacement without formal resettlement.

The case study methodology and ethnographic data collection methods elaborated below focus on the experience of a single hamlet located at the tail end of the dam's reservoir to examine how these dynamics develop at the micro-level of the hamlet. The hamlet of Kabna al-Fūqqara was selected because of its distance from the body of the dam: its partial inundation renders the dynamics of land tenure adaptation explicit, as the old historical land property system coexists alongside the post-reservoir adjustments. The in-depth ethnographic approach was adopted to gain rich descriptive detail of how these adaptations were negotiated and pursued amongst the hamlet's inhabitants. Interviews beyond the hamlet and secondary published data from Hänsch (2019) were used to contextualise the findings from al-Fūqqara within the wider local option Manāṣīr and arrive at a wider understanding of how the local option Manāṣīr relate to the land after being forcibly displaced but not formally resettled.

The remainder of this chapter is structured as follows. The first section (4.2) elaborates the case study research design by first providing some definitions and principles (4.2.1) before outlining how these principles were applied in my research (4.2.2.). The second section (4.3) elaborates the primary and secondary data collection methods pursued to address the research question, elaborates the ethnographic fieldwork process (4.3.1), and presents some reflections on my positionality (4.3.2.). The data analysis methods are presented in Section 4.4 and the limitations of the research are discussed in the final Section 4.5.

4.2 Case study research design

Due to the exploratory nature of the research question and the broad social phenomenon of interest, that of land tenure adaptations in dam-displacement contexts where formal resettlement is rejected in favour of self-directed (re)settlement, this research used a case study research design. Before outlining the different elements of my case study research

design, it is helpful to provide the definitions and principles of case study research which inform my design. Drawing on Thomas' (2011) review and synthesis of the methodological literature of case study research, this section highlights the common elements which define a case study and then highlights the key components, considerations and 'layers' of case study research which he identifies. These are the *object*, *subject*, *purpose*, *approach and methods*, and *process* of case study research.

4.2.1 Definitions and principles

Case study research has many applications reflecting the diversity of disciplinary fields from which they originate (Gerring, 2004, Swanborn, 2010). Whilst this diversity has led to differing opinions and disagreements regarding the definition and principles underlying case study research, some commonalities across case study research help arrive at a definition that informs the current research (Thomas, 2011; Simons, 2009).

One significant commonality is captured in Simons' (2009) definition of a case study as "an in-depth exploration from multiple perspectives of the complexity and uniqueness of a particular project, policy, institution, program, or system in a 'real life' context" (p.21). Similarly, Swanborn defines the case study as an approach to researching a social phenomenon in depth by focusing on one specific instance studied in its 'natural context' (2010, p.30). Rather than being seen as a method, many scholars emphasise that a case study research approach employs a variety of methods (Stake, 1995; Simons, 2009; Thomas, 2011) and "exploits several sources of data" (Swanborn, 2010, p.22).

Case study research design is characterised as 'intensive', where the complex interactions of many factors are examined in one or a few cases. This is distinct from 'extensive' research, which examines a small number of variables in a large number of cases (Ragin, 1995; Thomas, 2011; Swanborn, 2010). This 'intensive' study is, as Swanborn puts it, it is "...the study of phenomenon or process as it develops within one case" (2010, p.9). The phenomenon or process of which the case is one local manifestation is the focus of the analysis. The definition highlights the central distinction made in case study research design between the *object* (phenomenon or process) and the *subject* (case), with the former providing the "analytical or theoretical frame" through which to view the latter (Thomas 2011, p. 517; Wieviorka, 1992). Therefore, the object is not to be confused with the case but is "the means of interpreting it or placing it in a context" (Wieviorka, 1992, p.160).

The *purpose* of case study research is closely related to the *object* and, in turn, influences the choices around the *approach*. How different authors refer to the purpose of a case study differs depending on the research design.

For example, Stake (1995) identifies "instrumental" cases in which there is a driving "...research question, puzzlement, need for general understanding" (p.3), which can presumably be gained through studying a particular case. If the purpose of the study is *instrumental*, then the case study is a means to an end, to a greater understanding of a

broader social phenomenon. Therefore, the research is “...instrumental to accomplishing something other than understanding the case itself” (p.3). This is distinct from what he terms “intrinsic” cases whereby the purpose for doing the study is simply to study the case. The purpose behind *intrinsic* case study research is not to learn about a general problem or phenomenon but to understand the case itself, which is “given” and not chosen for any reason (Stake, 1995, p.3).

Merriam (1988) identifies three types of case study research which reflect different underlying purposes of the study as ‘descriptive’, ‘interpretive’, or ‘evaluative’. Bassey (1999) distinguishes between theoretical studies (whether ‘theory seeking’ or ‘theory testing’) and non-theoretical (‘storytelling’, ‘picture drawing’). Bassey (1999) emphasises that in theory-testing research, the object may be set at the outset whereas in theory-seeking research it may be developed throughout the study (Thomas, 2011, p.516).

The *subject* is the case itself and is selected “...because it is an interesting or unusual or revealing example through which the lineaments of the *object* can be refracted” (Thomas, 2011, p.514, emphasis in original). The choice of the subject is therefore a deliberate one to develop an understanding of the wider phenomenon or process of interest (Swanborn, 2010).

Disagreeing with many who claim that a case may be selected for ‘representativeness’ (such as Stake, 1995; Yin 2009), Thomas argues that the dynamic of the relationship between the subject and the object must be at the heart of selection. Since it can never reasonably be said to represent a representative sample from a broader collection, the selection of a case cannot rest in typicality (2011, p. 514). The value in the rich and detailed exploratory narrative of the ‘intensive’ approach of the case study comes at the cost of a trade-off in the capacity for generalisation (Hammersley and Gomm, 2000, p. 2).

Thomas claims there are three legitimate reasons for subject selection. The first is *local knowledge* of the researcher regarding the subject and their familiarity with the context and case itself. Second, a subject can be chosen because it is a *key case*, where there is an inherent interest in the case because it represents a key or critical example of the broader phenomenon of interest (the *object* of research). Finally, it may be selected because it is an *outlier case*, which similarly may illuminate and exemplify aspects of the analytical object of the research. (Thomas, 2011, p.514)

The approach taken to the case study largely determines the choices of the appropriate methods. Whether a study employs ethnographic methods of participant observation, interviews, surveys, historical archive analysis, or any of the diverse available methods will be led by the study's object, purpose, and approach. The choice of methods will, in turn, lead to the choice of the most appropriate *process* (Thomas, 2011).

The researcher often determines the operational process of case study research following the subject selection and the setting of parameters made at the start of the research to delimit this subject. These boundary considerations (of person, place, event, institution, or any of a range of singular phenomena that can be studied in their complexity) determine the research

process. The two most significant considerations are first, whether the case is 'single' or 'multiple' (Stake 2005, p. 445, cited in Thomas 2011, p.516) and second, what the *shape* of the case study will be.

Where the case is singular, then it can take various shapes depending on its approach to time. Thomas identifies three kinds of studies which use time differently: *retrospective*—which looks back at the history of the social phenomenon to study it “in its historical integrity”; *snapshot*—which studies a phenomenon within one defined period; and *diachronic*—which shows how changes occur over time in a particular phenomenon of interest. This last type of study is also referred to as 'longitudinal' in the literature because data is collected at two or more 'collection points' and the researcher's interest is in the changes occurring between them (p. 517).

Thomas notes that while the summary of the key considerations around the subject, object, purpose, and approach to a case study implies a sequencing of choices to be made, in practice these choices often occur simultaneously as the choice of object, subject and approach are intimately linked. The remainder of this chapter elaborates on the case study research design of this present thesis.

4.2.2 How these principles were applied in this study

The complexity of factors and forces at play in local peoples' land tenure adaptations following the partial inundation of land by a dam's reservoir necessitates the intensive approach of a case study as it enables the monitoring of the changing rules, understanding, and practices around claiming and using land among inhabitants of a particular hamlet. Focusing on a single hamlet also allows for a deeper understanding of the inhabitants' changing expectations (for example, regarding their interpretations of existing customary norms around land claiming, use and possession), attitudes (for example, the security of post-dam land tenure and various strategies to strengthen security) and decisions (such as the concrete practices of claiming and clearing land for cultivation). Furthermore, the case study approach enables the description of how these influence one another, for example, how changing expectations regarding the application of customary norms can influence changes in the concrete decisions of claiming and using land. Therefore, insight into the complexity of factors influencing post-dam land property adaptations is best gained through a case study approach.

The case study approach adopted for this research draws on the experience of the Manāṣīr who have been displaced by the Merowe dam and resettled themselves along the shores of the dam's reservoir, to examine land tenure adaptations in the aftermath of dam displacement without formal resettlement. As such, the subject was selected primarily for what Thomas (2011) termed a 'key' case as the uniqueness of the '*maḥalliyyīn*' or local option Manāṣīr's, self-directed (re-)settlement along the shores of the Merowe dam's reservoir provides an opportunity through which the object of research can be investigated. As the historical land tenure system of the Manāṣīr is well documented (Salih 1999; Beck, 2003, 2012), it is a 'key' subject through which the process of land tenure adaptation following

displacement can be investigated. It was further selected for what Thomas identifies as ‘local knowledge’, as my prior familiarity with the subject and shared culture and language with the affected people (being of Sudanese descent) made it a suitable choice.

The decision to focus on the case of a single hamlet arose out of the desire to understand the micro-local level of inhabitant’s adaptive responses within the six months which I had to conduct the primary field research. As such, within the local option Manāṣīr, the single case of the hamlet of Kabna al-Fūqqara in upper Manāṣīrland, which is located towards the tail end of the hamlet, was chosen because the partial inundation of upper Manāṣīrland has led to a situation where the old land tenure co-exists alongside new post-dam adaptations. The assumption I had when selecting al-Fūqqara as a case was that the partial inundation and coexistence of the historical system alongside post-reservoir adaptations would make visible the processes of adaptation. Therefore, the case of the hamlet of al-Fūqqara was likewise selected as a *key case* through which the processes of land tenure adaptations can be examined. Furthermore, my familiarity and pre-existing relations with the inhabitants of the hamlet (having initially visited the hamlet in 2014) informed its selection based on *local knowledge*, as it greatly facilitated access during fieldwork (conducted in 2018).

To sum up, the critical considerations of case study methodology described above as they are applied to this research: the subject of the local option Manāṣīr and the single case of the hamlet of al-Fūqqara are selected for ‘key’ and ‘local knowledge’ reasons to investigate the object of land tenure adaptations post-dam displacement without formal resettlement. The case of al-Fūqqara is *intrinsically* interesting for the rich exploratory narrative it enables, and it is also *illustrative* of the dynamics of land tenure adaptations post-dam displacement in the absence of formal resettlement. The case study approach further combines *descriptive* and *interpretative* elements as it describes the development of dynamics in a single hamlet in detail and contextualises these with other data on developments elsewhere in the Manāṣīr to arrive at an interpretation of how local land tenure rights and relations adapt. Furthermore, it combines theoretical and non-theoretical components as the descriptive utility of the analytical framework property described in Section 2.5 is tested in its ability to ‘paint a picture’ or ‘tell a story’ of the changes in the most immediate level of the hamlet of al-Fūqqara. Of the three identified approaches to time in singular case studies, which shape the nature of the research, I combine a *retrospective* and *diachronic* approach. The *retrospective* approach, looking at the historical land property system of the Manāṣīr in the hamlet and beyond, aids in the *diachronic* approach to determine how this land property system has adapted after the inundation of land caused by the Merowe dam reservoir.

The initial explorations of land property transformation in the hamlet of Kabna al-Fūqqara were guided by the analytical framework of property elaborated in Section 2.5. The primary level of analysis was initially construed to be the ‘micro-level’ of hamlet inhabitants and their interpersonal relations as they pertain to land property in the post-dam context. Of the three layers of social organisation in which property finds expression (see Section 2.5), the initial focus of the analysis was social practices within property relationships, or how people concretely responded to the loss of land under the reservoir by establishing rights over new

lands. Yet, the personal interactions at the micro-level proved to be inextricable from the 'meso-level' of institutional dynamics around post-dam land tenure. It became quickly apparent that the institutional layer cannot be excluded as it provides the legitimizing counterpart to social practices. Concrete social practices take place against the backdrop of institutionalised rules and norms, and complex interactions and dynamics between the two layers make it increasingly difficult to maintain rigid analytical distinctions. Furthermore, the interactions and dynamics between concrete and categorical layers become a key analytical focus, and interviews with key informants beyond the hamlet of al-Fūqqara, as well as secondary data from Valerie Hänsch (2019), were required to contextualise the findings at the wider level (see Section 4.4). The ideological dimension of property is engaged with to a lesser extent in this research. However, its relevance undeniably lies in the competing ideologies of state-driven development and the necessary sacrifice of land for the 'common good' on the one hand, and local ideological associations of land with 'home', belonging, rootedness and identity.

4.3 Data Collection Methods

The case study approach elaborated above necessitated drawing on various sources of data for the analysis of changes in the land property system in the aftermath of dam displacement. Primary and secondary sources of data were drawn upon to establish an understanding of the historical (pre-dam) land property system of the Manāṣīr and contextualise the adaptations in the post-dam period.

I knew early on that an ethnographic approach would be most suited to investigate these dynamics of adaptation in a single hamlet, however no amount of literature on conducting ethnographic research (Robben and Sluka, 2007) would have prepared me for the actual experience in the field, elaborated further below. Primary data was collected during ethnographic fieldwork through participant observation, semi-structured and unstructured interviews, and casual conversations, particularly among the inhabitants of the Fūqqara hamlet, with a few key informants interviewed beyond the hamlet (see appendix E for all the inhabitants of al- Fūqqara hamlet inhabitants and see Appendix H for a list of all interviews conducted throughout the fieldwork period).

Secondary data from published ethnographic research on the Manāṣīr was consulted before, throughout, and after the six-month ethnographic fieldwork period during which primary data was generated. The main sources of this were a detailed ethnographic manuscript by Abdelrahim Mohamed Salih (1999) titled "The Manāṣīr of Northern Sudan: Land and People" and published research by Professor Kurt Beck (2003; 2012) and Dr Valerie Hänsch (2012; 2019). These helped establish an understanding of the land property system of the Manāṣīr before the disruptions caused by the dam's reservoir.

The focus on immediate adaptations to land at the hamlet level is complemented with a wider (albeit less intensive) review of institutional dynamics through an investigation into the transformed nature of land disputes and their resolution. This was investigated primarily

through key-informant interviews with prominent members of the *Majlis al-Mut'athirīn* (Council of Affected People, the representative body of Manāṣīr affected peoples), members of the rural court in al-Kāb as well as the presiding head of the court, along with interviews with various disputing parties.

The following section describes the methods and experience of collecting primary data through ethnographic fieldwork in the Manāṣīr (4.3.1) and offers reflections on my positionality as a researcher (4.3.2.).

4.3.1 Ethnographic Research Methods and Fieldwork

This section outlines the primary data collection methods of participant observation and unstructured and semi-structured interviews and presents reflections on how I experienced and negotiated my way in the field and navigated the various challenges and opportunities. It also explains how the research design was updated and revised throughout the fieldwork experience.

4.3.1.1 *Ethnographic Fieldwork*

The ethnographic research was conducted between November 2017 and April 2018. I worked with my father who acted as a co-researcher, shaping my questions, and enabling greater access to male community members than would otherwise have been possible. While much of this time was spent in the hamlet of Al-Fūqqara, neighbouring hamlets were frequently visited, along with visits to al-Kāb and Shirri village councils. During these six months, I embarked on a total of five visits to the Manāṣīr, using the hamlet of Al-Fūqqara as a base (each for two to three weeks) with a brief hiatus in Khartoum to consolidate my findings, review my data and revise my research approach.

Reading about ethnographic research before fieldwork was hardly sufficient preparation for the long months spent in the Manāṣīr. The challenge of collecting data whilst adapting to a novel and unfamiliar environment, trying to gain acceptance and familiarity, learning to read social cues and interpret social situations, and other challenges meant that a different type of learning was required—learning by doing. In some ways, it felt as though the instrument or tools through which I was conducting research was my entire being, who I was and whom I had become as a result of my life experiences. I kept two journals whilst I was in the field, one personal to 'remind' myself of who I really was as I tried to fit in and accustom myself to the traditional Sudanese setting, and another to record the observations, discussions, and insights as it pertained to the research I was there pursuing. The only book on ethnographic research I consulted during fieldwork brought me joy and diminished my isolation: "The innocent anthropologist: Notes from a Mud Hut" by Nigel Barley (1986). The loving presence of my father was also a source of strength and inspiration and helped me stay rooted as I pursued 'fitting in'.

By testing out the research methodology of semi-structured interviews during the first and second phases of fieldwork, the limitations of this approach soon became apparent and were

refined. The initial schedule to direct the semi-structured interviews reflected my original research questions and was comprised of a total of 14 questions. The schedule was translated into Arabic and in the initial period, I followed them in the interviews. However, I soon found them limiting, and switched to a more unstructured approach, as my research questions continued to evolve throughout my time in the field.

In the Fūqqara hamlet, I was hosted by Hashim and Halima, who became my adoptive Manāṣīr parents. I spent most of my nights with them, often sleeping in the courtyard with Halima, while Hashim slept in separate quarters of the home with my father. In the early mornings, I would spend the first few hours between dawn and morning tea transcribing and consolidating the previous day's observations and discussions and planning the activities for the day ahead. After breakfast with Halima, her mother, and sisters, I would then typically set out to visit specific people or fields with my camera, tape recorder, pen and notepad in my pockets. Depending on the nature of the social context I found myself in, I would select either to jot down notes or observations, record conversations with informed consent or simply commit things to memory until I could record them at a later time. In the evenings, I would charge my laptop during the few hours of electricity provided by the hamlet's diesel-powered generator whilst typing findings and reviewing my research notes. Whilst I spent most nights with Halima, occasionally I would pack an overnight bag or simply take my toothbrush and spend the night with other friends and relations I made in the hamlet, but I would always return 'home' to Halima's house.

4.3.1.2 *Sampling Methods*

After gaining social bearings as to the present members of the hamlet and their kinship relationships with one another, a selection of key families and households began whereby frequent visits and the establishment of bonds facilitated their subsequent feature as case studies. As it became clear that the hamlet was composed of three different branches which made up the sub-descent groups, cases were selected from each of these three sub-descent groups, introduced in Section 5.3.1 (refer to Tables 5-3, 5-4 and 5-5 for details of these cases).

The basis of selection was not random, as while I attempted to gain access to all members of the different sub-descent groups, I sought a range of families and households with which I could build rapport and trust.

For example, it was particularly challenging to gain access to some members of one of the three sub-descent groups, that of Al-Digair. Hafza Niaman and her husband Ahmed al-Hassan would have been a desirable case-study social unit, but I was unable to overcome the social barriers presented by my being hosted by Halima, with whom Hafza had some personal issues. As such, all my attempts to build a relationship with her were thwarted, and I inevitably had to give up.

Eventually of the 29 households in the hamlet I selected purposively, I settled on an opportunistic sample of 11-case study social units consisting of 21 households. Through these land tenure adaptations and change could be investigated and observed (Appendix E

describes these 11-case study social units and the 21 households and sets them in the context of the total 29 households present). This enabled a more grounded investigation of the adaptations of land rights at the local level.

4.3.1.3 *My father as a research companion*

My father acted as a research assistant, confidant, and companion during fieldwork, and helped me make sense of what I was uncovering while in the hamlet through long conversations in the early hours of the mornings and evenings. While I largely relied on my understanding of Arabic in the field and conducted all my interviews and discussion in Arabic, I would often consult my father for help in translating specific terms or phrases or his interpretation of certain statements. The dialect of Arabic spoken among the Manāṣīr was unfamiliar to me initially, and so I relied on my father and asked for explanations from respondents until I became familiar with the lexicon. My father played a highly supportive role by translating and interpreting the researched social phenomenon adding additional layers of insight and complexity to the shared understanding we were composing.

From the first contact we made in Khartoum with Hashim Tayfour, our guide and host in Kabna, and making our first arrangements to travel to Kabna, to the last time we rode the small riverboat together across the Nile leaving Kabna, my father was involved in every step of the fieldwork process. I sought his advice and guidance on aspects of the research and the challenges encountered, from the mundane and trivial concerns on how to navigate the social conventions in conversations and daily interactions, to the more substantial concerns of the research design and conversations through which we reflected on what we observed and discovered together. In Al-Fūqqara, my father quickly became well acquainted with the men of the hamlet while I got to know the women. The strictly conservative gender norms of the Manāṣīr meant that men and women largely occupied separate social worlds and as a woman researcher, my insight into the life of men would be limited. Had it not been for my father's presence, I would not have had such rich insights into the men of the hamlet, their daily lives, the casual conversations they have among themselves, the most prominent characters or indeed any aspect of their social world. Each evening my father and I regrouped and shared how we had spent our day. Here he would relate to me what he had observed and heard from the men, and I would tell him of my day participating in the lives of the women. These evening de-briefing sessions were very valuable both in terms of the view into the world of men which he relayed through his experiences and in broadening my understanding of my own experiences with the women. His insights went far beyond merely relaying what he had seen as he offered invaluable reflections, interpretations and leads which he advised I follow up on.

My father also played an essential role as an intermediary. One occasion which highlights this well occurred during our second visit when we accompanied Hashim to the Manāṣīr administrative district (*Maḥallīyya Ḥawwal al-Buḥāira*) on the day of the annual budgetary meetings. The meeting was attended by representatives of all the Manāṣīr village popular committees (*lajna sha'abīyya*—the elected local government bodies) and various administrative officers. While we could not attend the meeting, we were introduced to

various officials afterwards and in the late afternoon gathering in the home of the *ʿumda* (the current descendant of the traditional leadership of the Manāṣīr, though the title currently bears no political authority) along with the governor prefect of the Manāṣīr. The conversation which ensued between my father, the *ʿumda*, the prefect and Hashim stretched well into the night. On this occasion, I just sat back and listened as they conversed and debated many aspects of Sudanese social and political life and discussed various aspects of the Manāṣīr's experience and future development plans. I am certain that I would not have been privy to such a conversation nor participate in any way had it not been for my father. I also sensed how the present member's respect and admiration of my father (who had an incredibly impressive wealth of knowledge and life experiences) grew and this high esteem they held for him undoubtedly facilitated further access. The *ʿumda* for example was keen to link up at a later date in his offices at the agricultural development bank in al-Kāb, an offer which I took him up on. A possible disadvantage of this may be that my father's presence may have shaped people's responses, particularly around the less glamorous and more controversial aspects of land rights, for example, the proliferation of post-dam land disputes.

4.3.1.4 *Phases of the ethnographic fieldwork*

Looking back at the fieldwork period, I can identify four overlapping phases. The first phase was one of introduction and integration, where the aim was to introduce myself and research interests to the inhabitants, build good relations, as well as developing a general understanding of the physical and social landscape of the hamlet. The second phase was one of scoping the different households in the hamlet, identifying key social units and selecting a sample of case-study families. It consisted of mapping out the genealogies of the hamlet's inhabitants, understanding and pinpointing the kinship relations and building detailed social profiles. My host Halima, who was an essential key informant, was vital in the early stages of this phase and with the leads I gathered from her I was able to approach the families with some background knowledge and dig deeper. The third phase was the intense data collection period, during which I made daily arrangements to spend time with female members of the different key families identified, visiting their homes and agricultural plots, building detailed social profiles and mapping their pre-dam and post-dam land-property holdings. This phase built on the second phase and developed into a more targeted approach as I became more familiar with the rhythm of hamlet life and felt more comfortable navigating my way through it. I would arrange to visit the women representatives of the selected case-study social units days in advance and have my week planned with post-breakfast, lunch and late afternoon appointments. Occasionally, opportunities would align themselves in such a way as to enable a spontaneous and unplanned rendezvous. The final phase was one of identifying and consolidating gaps. During the final phase of the fieldwork, I revised all the collected data and the case-study profiles identifying gaps and loose threads to tighten on the final visits. With the questions that arose during the review of the data, I'd return to the field with a specific set of objectives, recognizing that while no attempts to cover new territory would be explicitly made, I was always open to the opportunity if it presented itself. However, during the fieldwork period, these phases were not distinct or clear-cut but rather were simultaneously operating as opportunity and practical circumstances dictated.

Gaining access and building social ties

Entry into the hamlet was facilitated with the indispensable help of Hashim Tayfour, a native of the hamlet. Hashim guided us to Al-Fūqqara through the Bayuda desert on our first journey, expertly navigating the harsh terrain, and hosted us in his home with his wife Halima on this and all subsequent field visits. Being associated with Hashim and Halima had many advantages, as they were both highly respected. Furthermore, as their adult children had migrated to the capital, they had the time and space to host me and, in many ways, I came to feel as though they were my adopted Manāṣīr parents. Hashim and Halima played a very important role in the fieldwork process, and I am greatly indebted to them. They recommended people to speak to, shared stories over morning and evening tea and were always ready to assist me. Various Manāṣīr friends also played critical roles and among these Tajuj, who frequently took me on tours to the neighbouring hamlets, and Bukheita who spent an entire evening by the lamplight sketching out the hamlet's map presented in Section 5.2.

The initial approach adopted on the first visit to the hamlet was one of introducing myself to the inhabitants and explaining the aims and objectives of the research. This was done carefully to build trust and allow them the opportunity to question me to their satisfaction. News of our arrival spread quickly and the next day I found myself at a large gathering over breakfast in one of the households of Al-Fūqqara located in the upper hamlet post-dam extension, belonging to a woman referred to by all as 'al Haja'. Curious female members of the Fūqqara and neighbouring Nawāwīr hamlet brought their dishes to eat communally in the Fūqqara household. This first meal was a great opportunity to present and introduce myself and begin establishing connections with those present. Fostering good relations was an essential prerequisite to the ethnographic fieldwork as I was intending to live among the community for a few months. It also presented an opportunity to understand the social landscape a little better as the congregation over breakfast represented five families across the two hamlets and I began the long and challenging task of understanding the complex web of kinship relations. Deciphering the kinship ties in Al-Fūqqara was a challenge, as the family tree I attempted to sketch and repeatedly updated would look more like a bush than a tree due to the prevalent practice of consanguineous marriages (marriage among parallel cousins). Further, keeping track of names and people was an initial challenge as it was common for more than one person to have the same name, and many are named after their deceased kin members.

Mealtimes are usually communal affairs involving more than one household. Women of each household prepare two trays of their daily meals, one for their husbands to be taken to the mosque where the men gathered to eat all three meals communally, and one for themselves, usually taken to a close relative and shared among women members of close kin groups. Throughout my stay with Halima, most days I had breakfast at her mother's house (referred to endearingly by everyone as Mama Zeina) across the hamlet. Halima would prepare Hashim's tray and after he left with it to the mosque, we would make our way to Mama Zeinab's house. However, on this first breakfast occasion of the first visit, the gathering at Sabiha HajGaly's (referred to by all as al-Haja) house in the upper hamlet (where the new post-

dam houses were constructed) was joined by women beyond the immediate kin group as it included women from the neighbouring hamlet of al-Nawāwīr. There were five families represented in total. Graced with such a congregation, I took the opportunity to test out my interview questions and conducted an impromptu focus group discussion.

Casual conversations would be the primary means through which information about the intricacies of village-level land relations would be gathered. I learnt quickly that a formal interview protocol - asking questions from a notebook with a tape recorder running - would not work, as villagers became reserved and shy and gave short answers. However, if engaged in a casual conversation over a meal, tea or some daily activity, the conversation would be unrestrained and replete with vital information. Thus, much of the data regarding the detailed social profiles, kinship relationships, occupations, livelihood sources, family structures and history were made available through these types of casual conversations. More importantly, the data on the land reservations and current post-dam landholdings of the hamlet's members were also gathered through these types of casual conversations.

The ethical implications were assessed, and prior informed consent has been sought before the decision to include the names of respondents in the research. This follows the convention in earlier studies such as Salih (1999) - participants wanted to be identified and it was judged the material was not sensitive. However, I was careful to get explicit, informed consent for their inclusion.

I quickly became aware of the fact that my interest in them was always met in equal measure with interest in me. This was clear from the very first meal at Sabiha's household, where the group of women did not shy away from interrogating every aspect of my childhood, upbringing, and present life circumstances - an interrogation ritual that would become a common aspect of all future encounters. Responding to such inquiries and hoping to foster and maintain good relations was a careful diplomatic exercise of positioning myself as a migrant Sudanese, emphasizing the commonalities we shared and being careful not to be too forthcoming with my personal opinions and worldviews where they diverged from the norms that I picked up on. As such, it offered the opportunity to fine-tune my behavioural codes of conduct and build rapport based on the prevailing social conventions and Islamic conservatism.

The initial gathering of women over breakfast was the first opportunity to test the interview questions and was followed by more focused attempts of sitting with one household at a time throughout the first visit. However, soon after repeatedly receiving very limited responses to questions that were designed to elicit more explanation, I realised that this was not the best approach. The change in demeanour, as I pulled the interview sheet from my notebook and proceeded to ask questions, was markedly more reserved than the free-flowing conversation that preceded this moment. It signalled to me there was a sense of suspicion among people, and I later reflected on the sensitivity of the issue. Confronted with a formal-looking paper (with typed-up Arabic text) with questions on property holdings before and after the dam, might for many be too reminiscent of the controversial and disputed property census process.

Naturally, people curtailed their responses to a single word or phrase answers and began to censor themselves or provide generic responses that referred to the entire hamlet rather than their specific circumstances. As such, the ethnographic approach developed into one of daily participant observation expeditions and casual conversations with inhabitants about their life before the dam, the lands they farmed and the post-dam adjustments that were observable. This development was eased as my integration into the hamlet became more solid and as my confidence in relating with the inhabitants grew stronger.

4.3.1.5 *Ethnographic inquiry into land tenure issues*

The sensitivity around land tenure issues in the aftermath of forced displacement meant that people were not willing to be very forthcoming concerning their current land holdings, and almost no one would be willing to disclose this to an outsider when being asked outright. As such participant observation methods were necessary to understand the post-dam land reclamations. Accompanying the women to their fields, observing where they collected their fodder and engaging them in casual conversations were the primary means of gathering data on the post-dam land tenure relations.

The main point of entry into a case-study social unit was always a female member of a constituent household with whom I built some rapport. In fact, in some cases, I never even met or interacted with the male members of the social unit. The strict conservative gender norms made it impossible for me to build the same level of rapport with men as I was able to with women and as such, I depended greatly on the womenfolk of each social unit. Building good relations with the female members of the case-study social units was achieved through frequent visits, whether pre-arranged—such as having lunch or breakfast with them or spontaneous—dropping in or visiting them while they were cutting grass. Each day would be spent with women representatives of the case-study social units with whom I had built a relationship. As our familiarity and rapport were more established, I was able to more easily inquire into the land adaptations their household and kin group made in the aftermath of the flooding and gain insights into the adaptive process.

The research design evolved during the entire fieldwork period through an iterative process of reflection and revision as I discovered the shortcomings of my initial framings and made necessary adjustments. For example, generic and similar responses to the initial questions about access to land established a new understanding of a 'given' social reality and enabled me to formulate more targeted questions to fit the experiences of the individual families being interviewed. Here too, long conversations and reflections with my father were indispensable.

Subsequent visits allowed for greater integration into hamlet life. As they became accustomed to my presence, casual conversations over tea or meals offered the most fruitful opportunities for informal open-ended interviews. The participant observation methodology developed over these subsequent visits and consisted of engaging in the various daily activities of the women. The most important of these activities was accompanying the women to their reclaimed highland land plots where they daily harvested fodder for their goats and conversed

with them while they worked. These morning and afternoon expeditions to the plots were crucial to uncovering the dynamics of post-dam land reclamation as they offered the opportunity to ask about what was directly observable. Furthermore, throughout my time I discovered that women were often more candid and open to discussing the process by which rights to their lands were customarily asserted and acquired than men, especially in these contexts outside of a formal interview setting. This might have been due to my positionality as a female researcher and the ease with which relations with women could develop in contrast to the more formal, controlled interactions with men. I developed a level of acceptance with the women that I soon ceased to feel like an outsider and was included in their social world to the extent that I even became privy to the circulating gossip.

4.3.2 Positionality

My positionality as a female researcher of Sudanese origin meant that I was regarded as being both an 'outsider' and 'insider' in different regards. Undoubtedly an 'outsider' to the close-knit and closed off Manāṣīr society there was nonetheless a latent familiarity as an 'insider' in some regards due to the shared Sudanese background and my paternal roots in Dongola, a northern Sudanese riverain tribe. The shared wider cultural background was an indispensable asset, which greatly facilitated rapport building and integration into the host community.

Considered an outsider in the Manāṣīr local option, which was already highly sensitised considering the tense political battle for local option settlement described in the previous chapter, it was understandable that an atmosphere of caution, suspicion and secrecy shrouded any exposition of land issues. This presented an obstacle to the explicit investigation of land property as distrust, suspicion and secrecy were the common reactions to any questions around land rights—particularly as tenure to any newly claimed land in the post-reservoir hamlet was highly insecure in the context of the resistance and forced displacement and still pending negotiations over resettlement and compensation.

My gender, and shared cultural background, meant that I was bound by certain gender norms that were to determine the course of the fieldwork experience in various ways. In the highly conservative society of the Manāṣīr, women are expected to adopt certain codes of conduct and appearance, which I was to adhere to throughout my fieldwork experience. A prime example of how my gender affected the ethnographic encounter was through the limited access to the members of the opposite gender. Negotiating male spaces was almost impossible without a male intermediary. My father's presence opened these spaces in ways that would not have been possible otherwise and I was uniquely positioned to understand the male perspective. For example, my father spent a lot of time at hamlet's mosque where the men would gather to share their meals and 'hang out' chatting over tea throughout the day. He relayed his observations and conversations in this important male space and pointed out key men whom I should try to interview.

My positionality was undoubtedly enhanced by my father, whose charisma and ability to build rapport as well as his love and enthusiasm for traditional rural Sudanese life would bode

favourably among the inhabitants. I understood this more fully as I encountered men from other hamlets who had met my father at the mosque in Al-Fūqqara. (The mosque in Al-Fūqqara was one of the two mosques in Kabna and as such men from the surrounding hamlets would gather there, particularly for the Friday prayers). On many occasions in which I met men from Al-Fūqqara and other hamlets, my introduction to them would be followed by them relaying how they had met my father at the mosque, and I could see the impression that the meeting had left on them. Their interactions with me would be much more friendly and accommodating, and the relationship would assume a greater familiarity that otherwise would not have been possible. I remember one man from the Nawāwīr hamlet who opened up to me once he realised the man he had met at the mosque was my father. It was incredible to realise the effect my father could have on people. Indeed, my father's infectious joy and wonderful character would lead to him being frequently described by others as '*ṭayīb*'—kind, good-natured, by the people who had met him. This assessment of my father by the inhabitants influenced their attitude toward me and facilitated my acceptance.

Approaching men on my own, however, especially young and unmarried, was virtually impossible and indeed attempting to arrange an interview without an aide or intermediary was a challenging feat. When this access was negotiated (usually through the help of Hashim, the male head of the household which hosted our stay) it was always under the auspices of a formal interview or conversation, contrary to the experience with the women in which casual conversations and informal gatherings would prove to be the most useful ways of gathering data. Again, while I could not participate in the casual conversations and interactions of men, my father could. and as he shared his experiences, I was able to gain some measure of understanding. On other occasions, it would be socially acceptable to approach and relate with older men so long as I was also in the company of another woman. Tajuj, a young woman from the hamlet of Nawāwīr who became a good friend, was an indispensable guide on many occasions and played an important role in facilitating access to men both in Al-Fūqqara and beyond.

As a result of these gender barriers, the deep connections I could form were confined to the women of the village, with whom I spent most of my time and was able to observe them as they were, without the pretence of politeness or the arduous social conventions of formal interactions. It is in these settings that casual conversations gave deep insight into the intricacies of how land access was claimed and negotiated as property among the inhabitants of the village, though only after some time and enough trust and familiarity had been built.

The process of becoming accepted was apparent as my relations with other members of the hamlet deepened and I was invited to meals and to spend the night in different households. My level of acceptance reached a point where gossip was shared with me and where I was certain there was less and less self-consciousness among the inhabitants. The ease with which I engaged in their daily gatherings and activities, though challenging at first, gradually grew as I became more accustomed to the way of relating.

4.4 Data Analysis Methods

I consulted secondary data before, during, and after the months of ethnographic fieldwork in the form of published ethnographic research on the Manāṣīr to contextualise my primary data collection. Drawing mainly on Salih's (1999) study, this secondary data was read through the analytical framework of property elaborated in Section 2.5. The resulting analysis (see Section 5.2.) identifies the features of the historical pre-dam land property system of the Manāṣīr and outlines the categorical (legal institutional) as well as the concretised (actual social practice) dimensions of their land property system.

Primary data collected through fieldwork was also analysed using the analytical framework of property. At different intervals during the fieldwork, collected interviews were transcribed during a brief hiatus back in Khartoum, and preliminary analysis directed the course of further visits to the hamlet. Following the end of the fieldwork period, the transcription of interviews continued, and field notes were organised into NVivo, a qualitative data analysis program. This data was then coded according to the different categories of land property and the different selected households in Al-Fūqqara hamlet to track changes in the categories of land that existed before the reservoir and shed light on how new categories of land emerged.

The analytical framework of property, and particularly the distinction between categorical and concretised property relations, was an instrumental tool in deciphering the adaptations in land property relations. This was also a key method of distinguishing between the normative ordering of land relations as relayed in the verbal expositions of customary rules and the actual ways in which people related to land.

4.5 Limitations

There are various limitations and conceptual weaknesses in the original research design which must be acknowledged. Various decisions made early in the research process made it difficult to adapt and widen the scope beyond the boundary decisions of the initial case study design. The selection of a single hamlet on the tail end of the reservoir was informed by assumptions that it would be a valuable case to understand local-level dynamics of land tenure adaptation as the historical system continues to have relevance. However, the level of depth in describing the historical system of the hamlet of al-Fūqqara and the post-reservoir adaptations does not enable deep insights into the broader dynamics of land tenure adaptation. The retrospective redesign of my research aims and objectives partly account for the conceptual limitations and apparent inconsistencies throughout this research.

The case-study methodology employed to investigate the identified research problem of post-dam land tenure adaptations posed certain limitations. First, the research design of an intensive case study limits the ability to make generalised conclusions about a phenomenon, although it does offer valuable insight into the manifestations of a phenomenon in a particular instance. Second, there is the potential danger of 'capitalising on chance' (Swanborn, 2010,

p.31) or incorrectly interpreting findings specific to the selected case as having broader significance. Despite claims by some that case-study research can be the basis of 'bottom-up' theory development (Glaser and Strauss, 1967; cited in Swanborn, 2010), testing based on more research (beyond that of the exploratory case study) is required for that theory to be considered valid (Swanborn, 2010). Third, whilst the exploratory research approach offers greater flexibility and room for discovery, it is inherently more vulnerable to being steered by the personal and situational biases of the research process, and results are prone to be influenced by these biases. This is an unavoidable consequence of taking a more exploratory research approach and is mitigated throughout the research process through continuous self-reflection.

The limitations inherent in the exploratory research approach of an intensive case study are compounded by practical limitations of fieldwork and primary data collection. To do justice to exploratory research, one requires plenty of time to explore the various aspects which emerge from the data. However, due to the lengthy preparations and time spent coordinating fieldwork activities, only six months of the allocated one year of fieldwork was actually spent in the village. This poses a related limitation of not witnessing the different cycles of seasons across an entire year. Indeed, my departure before the harvest of the crops grown on the old (pre-dam) registered *sāqiya* lands poses significant limitations to the rigour of the research. For example, observing how the crops were harvested and divided would have lent considerable insight into the concrete rights and obligations as they pertained to these lands.

I sought to mitigate these constraints by preparing as much as possible in terms of familiarity with the literature on past studies in the *Manāṣīr* context, and networking with key informants outside the hamlet, to contextualise the findings of *al-Fūqqara*. Finally, various other limitations were encountered during my time in the hamlet. For example, as I spent most of my time with the female members of the hamlet, participant observation was confined to the social world of women.

Furthermore, a significant limitation was the fact that it was only possible to undertake in-depth ethnographic work in one hamlet in the limited time available. The pre-requisite time involved in building trust and familiarity with communities in the tense post-dam context, and the limits of time and resources necessitated the focus on one hamlet at the expense of a more extensive case study design. My attempts to visit other places confirmed my suspicions that familiarity was a time-consuming necessity I could not build in all hamlets to the same degree. Property issues are particularly shrouded in secrecy and difficult to penetrate as people are typically suspicious of questioning outsiders. As I could not cover the variation in the different villages in my data collection, I was unable to contextualise the case study based on my own experience. I sought to mitigate these factors and limitations by drawing on secondary data to contextualise the primary data I gathered.

The interdisciplinary basis of this research presents its own limitations which must also be acknowledged, as it helps explain some conceptual weaknesses that are apparent throughout. First, although the research is informed by anthropological theories and concepts, it is

produced out of the interdisciplinary field of Development Research. As I draw on anthropological literature of property, I settled on and arguably over-relied on the analytical framework of property described in Section 2.5 at the exclusion of other relevant theories and conceptualisations. For example, although I recognised the significance and relevance of property and political authority literature (for example Sikor and Lund, 2010) I decided to limit the scope of research to capturing dynamics of change within the confines of a single partially inundated hamlet, for which the framework I settled on seemed most appropriate. Second, I acknowledge the lack of interrogation of the policy-oriented anthropological literature on resettlement planning and procedures as this case of self-directed settlement did not fit in with this body of work. This limits my ability to draw out wider conclusions from the findings from al-Fūqqara and to make explicit policy recommendations. Nonetheless, the research highlights important insights that are relevant for policy development.

In this chapter, I have outlined the main characteristics of a case study approach and shown how my own research reflected these. I have also discussed my sampling strategy, methods and positionality in detail and reflected on the limitations of my research. In the next chapter, I begin to share the results of my analysis, looking specifically at the historical (pre-dam) land property system of the Manāṣīr, drawing on secondary literature to contextualise the historical land system of the hamlet of al-Fūqqara.

Chapter 5: Historical land property system of the Manāṣīr and the pre-dam hamlet al-Fūqqara

5.1 Introduction: is land ownership in the Manāṣīr rhetoric or reality?

This chapter draws on secondary ethnographic data on the historical land property system of the Manāṣīr (Section 5.2) to contextualise the pre-dam property system of al-Fūqqara hamlet in Kabna (Section 5.3). Apart from one in-depth ethnography by Abdelrahim Salih published in 1999 and the work of anthropologist Kurt Beck,⁸ most of the ethnographic research of Manāṣīr addresses the recent threats to their way of life brought about by the Merowe dam. Following the announcement of the dam's construction, several archaeological salvage projects began, along with anthropological initiatives to document the soon-to-be destroyed ways of life of the area's people.⁹ Anthropologist Valerie Hänsch spent over 14 months conducting fieldwork research among the Manāṣīr throughout the critical time of their forced displacement, documenting their experiences with the sudden flooding, as well as their self-directed salvage, rescue and re-establishment (Hänsch, 2019). The dimension of ethnographic inquiry that has not received very much attention may be the most important to the people themselves: the extent and manner by which property systems have been affected by the dam.¹⁰ It is in this sense that Salih and Beck's contributions to documenting and analysing the pre-dam property system of the Manāṣīr, and indeed Hänsch's (2012; 2019) account of the Manāṣīr's experience with displacement and their efforts in 're-emplacing' themselves (to borrow de Wet's (2018) phrase, see Chapter 2) serve as an essential baseline for the study at hand.

The complexity of land property systems reviewed in Chapter 2 is considerably more complex in the case of the Manāṣīr. As this chapter and subsequent chapters highlight, the coexisting customary and statutory systems create a situation where the discernment of what property actually means, particularly to those who 'live' it, cannot be adequately captured from how it is represented in formal state registers and cartographic land surveys alone. Existing theories

⁸ Kurt Beck has studied the migration patterns among Manāṣīr male youth (1999b) and share-cropping relations of the Manāṣīr (2003), among other aspects of Manāṣīr life published in German (1997a, 1997b, 1999a). Beck also supervised the PhD research of Abdelrahim Salih who looked at the human-land relationship of the Manāṣīr (1999). Salih's published manuscript "The Manāṣīr of Northern Sudan: Land and people" detailed ethnographic account is heavily relied upon as a historical baseline of land property relations of this thesis.

⁹ Among these, the Humboldt University Nubian Expedition (HUNE) field research between 2004 and 2008, consisted mainly of archeological research though its research aims included the documentation of the culture of present-day (pre-dam) inhabitants of the area. Under this research project, various ethnographic works were produced, some of which were compiled by Kleinitz and Nāser (2012), including contributions by Beck (2012) and Hänsch (2012).

¹⁰ With the exception of Ille's (2018) recent contribution which considers the various dimensions of land alienation experienced by the dam-displaced Manāṣīr.

of property are too narrow and obfuscating to be wholly applicable to the analysis of local lived land property relations because of the emphasis on categorical state-based property systems (see Chapter 2). Furthermore, most studies of land property rights do not sufficiently address the relationship between categorical property and concretised property. The former refers to rights and obligations recognised and represented by legal and communal institutions, while the latter refers to the social practices and actual experiences of ‘real’ people (see Section 2.5).

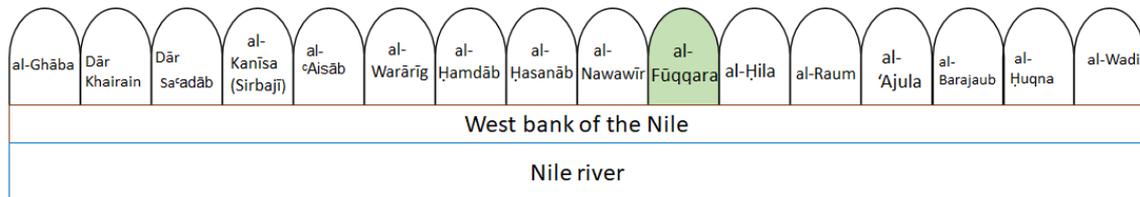
Through his ethnographic account of the human-land relationship and the historical development of property and inheritance among the Manāṣīr, Salih (1999) grapples with the concept of property as it is presented by various disciplines, highlighting the difficulty of its study. His analysis consistently points to the inherent confusions that emerge, namely between (1) what property actually is to those who live it, (2) what economic theorists propose it is, and (3) how colonial land registration officers and post-colonial land policies informed by these theories, have attempted to represent it through legal and institutional means. The confusion he uncovers leads him to the question: “Is land ownership in the Manāṣīr a rhetoric or reality?” (1999, p. 6). His approach alternates between these three layers of analysis (practical/lived, legal/institutional and theoretical/ideological), emphasizing how they diverge in their understanding of what property is, aiming all the while to arrive at a theory of property which is contextualised. This, he argues, needs to be tied to wider debates around property. Indeed, these three layers identified by Salih neatly correspond to the three layers of social organisation in which property finds expression (ideological, legal-institutional, and social practice) in F. von Benda-Beckmann, K. von Benda-Beckman and Wiber’s (2006) analytical framework of property outlined in Section 2.5.

This chapter’s reading of Salih’s findings through the lens of the property framework demonstrates its descriptive and analytical utility. First, light is shed on the subtle gap between ‘rhetoric and reality’ by distinguishing between “categorical property” and “concretised property”, particularly in the case of people who have had both forms of property ruptured (as displaced people, and the case at hand). Furthermore, the framework helps in navigating between different categorical constructs of property – as viewed by the three co-existing legal systems of state law, customary law, and Islamic inheritance law – and in identifying the social units and the rights and obligations they hold with regard to the constructed valuables in their environment. Such a precise analysis of the property dynamics enables a closer account of land property adaptations in the aftermath of the inundation caused by the Merowe dam’s reservoir.

The hamlet of al-Fūqqara – where the bulk of fieldwork for this study took place – is one of Kabna village council’s 16 hamlets (see Figure 5-1 below for Kabna’s hamlets). Kabna is located at the western edge of the reservoir bank (see Figure 5-2 below for the location of hamlet in relation to Merowe dam and the body of the reservoir), at the upper limit of the Merowe dam’s reservoir. Its distance from the dam meant that it was spared the total inundation that was experienced in the areas further upstream (see for example, Birti as described by Hänsch 2012; 2019). Kabna’s 16 hamlets are separated by valleys that were created by the flood

waterways, referred to as *wadi* or *khaur* (although a *wadi* is considered generally wider than a *khaur* the terms are typically used interchangeably by locals). The village council of Kabna is one of the 38 current village councils that make up the Manāṣīr territory under the post-dam administrative restructuring and creation of the Administrative District for the local option – “*Maḥallīyya Ḥawwal al-Buḥāira*”.

Figure 5-1: Sketch of hamlets in Kabna Village Council, highlighting the main study area: Kabna Al-Fūqqara.



Before outlining al-Fūqqara hamlet’s pre-dam historical land property system, the first section of this chapter (5.2) draws on secondary data to describe the historical land property system of the Manāṣīr. The section provides the relevant context for the detailed ethnographic accounts of al-Fūqqara hamlet elaborated in subsequent sections. Section 5.3 describes the historical pre-dam land property system of al-Fūqqara hamlet as recounted from the memories of the current inhabitants. It first introduces the main inhabitants and the three constituent sub-descent groups to which they belong before identifying the social units which comprise the cases selected for the in-depth examination of post-dam land property adaptations in the following chapter (Section 5.3.1). This is followed by a description of their historical (pre-reservoir) land property rights and relations (Section 5.3.2). The different categories of land property in the hamlet under legal pluralism are identified and the concretised rights around these are described.

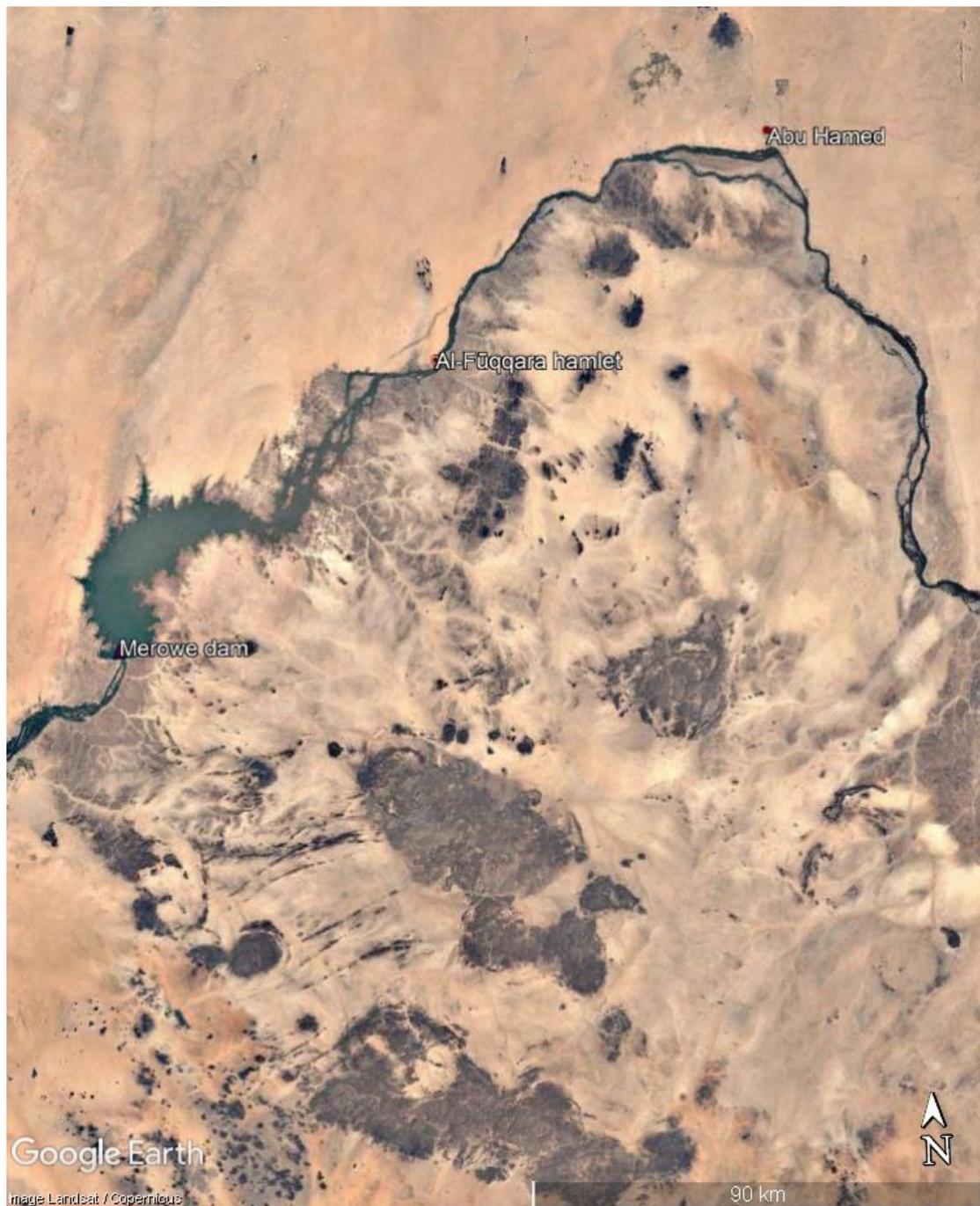
5.1 Historical (pre-dam) land property system of the Manāṣīr:

The first part of this section outlines the historical land property system of the Manāṣīr at the *categorical* layer or how land *ownership* was construed under the prevailing conditions of legal pluralism (5.2.1). This is followed by a discussion of historical land *possession* and patterns of use in the literature to illustrate the *concretised* dimension of pre-dam property relations (5.2.2). Concretised property relations are illustrated through the various strategies of land use and the unique sharecropping relations of production. Although categorical and concretised property are distinct, they interact in complex ways, as illustrated through a discussion on land disputes.

5.1.1 Categorical Land Property under legal pluralism

There are four key categories of land or ‘units of land use organisation’ as Salih calls them (1999, p. 2), amongst the Manāṣīr; these are the seasonally disappearing *jarf* land, the irrigated uplands of *sāqiya* and *ashau* lands, and the reclaimed lands beyond these.

Figure 5-2: Location of Al-Fūqqara hamlet on the tail end of the reservoir.



Source: Google Earth

Date palms are important ‘property objects’ grown on the *ashau* lands between the *sāqiya* and *jarf* lands. These land categories were conceptualised and administered differently by the different legal/institutional frameworks of customary law, Islamic law, and statutory law. Despite the different uses of the *sāqiya* and *ashau* lands (the former used to cultivate seasonal grain crops and the latter to grow date palms), the similarities in their administration under the plural legal orders warrant their consideration as one category for this analysis. Table 5-1 below summarises some of the main characteristics of these lands.

Table 5-1: Some characteristics of the four main types of land in the Manāṣīr and their ownership and use as per the three prevailing legal/ institutional orders

	Jarf	Ashau	Sāqiya	Upland reclaimed
Proximity to the river, location	Beside	Further up and between the <i>jarf</i> and <i>sāqiya</i>	Above the <i>ashau</i>	Furthest, beyond ' <i>darb al-sulṭān</i> ': the imaginary line separating the houses (above) from the <i>sāqiya</i> (below)
Width	0-2m during flood season, 10 – 40 m during summer and winter season	20 m wide strips of land densely covered with dates	40-60 m wide,	Variable
Produce	Legumes, vegetables, fast-maturing crops, fodder	Dates	Seasonal crops such as winter wheat and summer sorghum, vegetables, legumes, fodder	Seasonal crops such as winter wheat and summer sorghum, vegetables, legumes, fodder
Irrigation method	Natural, or sometimes irrigated through waterwheel (<i>sāqiya</i>), and after 1960 through diesel pumps	Irrigated through waterwheel (<i>sāqiya</i>), and after 1960 through diesel pumps, although deep roots of date palms penetrate the water tables and do not require much irrigation	Irrigated through a water wheel (<i>sāqiya</i>), and after 1960 through diesel pumps,	Irrigated through a water wheel (<i>sāqiya</i>), and after 1960 through diesel pumps
Ownership and use per custom	Rotational system of rights, divided, allocated and cultivated seasonally	Coexisting <i>aṣil</i> —original owner and <i>miswaq</i> --cultivator rights on a single plot	Coexisting <i>aṣil</i> —original owner and <i>miswaq</i> --cultivator rights on a single plot	Customarily reclaimed and allocated among co-sharing members according to the customary method of ' <i>takhlīf</i> '
Ownership and use per state law	Not applicable, unrecognised by state law, which considers it unregistered state land	Registered as freehold private property, taxed accordingly Coexisting <i>aṣil</i> —original owner and <i>miswaq</i> --cultivator rights on a single plot	Registered as freehold private property, taxed accordingly Coexisting <i>aṣil</i> —original owner and <i>miswaq</i> --cultivator rights on a single plot	State lands on which occupants may apply for a leasehold license title, acquiring usufructuary rights
Ownership and use per Islamic law	Inherited according to Islamic laws (generally observed)	Inherited according to Islamic laws	Inherited according to Islamic laws	Inherited according to Islamic laws

These land categories are conceptualised as 'master categories' or specific categories of 'property objects' with different rights and obligations attached to them (F. von Benda-

Beckmann, K. von Benda-Beckmann and Wiber, 2006, p. 18). The master category means different things under different legal/institutional orders; for example, the *jarf* or *sāqiya* land may be customarily governed in very different ways from statutory stipulations. In other words, the statutory legal framework may specify a *sāqiya* as owned by a specific social unit, whereas the same *sāqiya* may be customarily allocated to different social units. The following section unpacks each of these categories or ‘units of land use organisation’, describing the nature of the property object and the bundles of rights that social units can potentially and actually hold with regard to them.

Three different legal systems coexist in the Manāṣīr area: customary, statutory, and Islamic. Each applies to the categories of land property in ways that are different in some respects and overlapping and similar in other ways. Statutory law has evolved through the different periods of political rule, and the current legislative framework builds on earlier colonial land policies, retaining many of their features. Under the British colonial administration, the Land Survey and Demarcation Ordinance of 1905 and the Land Settlement and Registration Ordinance of 1925 were formulated to register lands along the river. A large portion of *ashau* and *sāqiya* lands in the Manāṣīr were registered under these laws during this period, and land registration under these colonial ordinances is still cited as proof of ownership and classified as ‘freehold private property’—*milik ḥurr*, or ‘registered land’—*masajala* (Salih, 1999, pp.112-120). According to Beck (2003), most of the land in the Manāṣīr is freehold and the concept of full private ownership of land is over 200 years old. However, this concept of ownership in the Manāṣīr is arranged very differently from the individual private ownership to which the British colonials were accustomed (Salih, 1999). Salih details colonial registers' difficulty translating the complex local land use system into official registration (see 5.2.1.2 below).

Post-colonial legislation, most notably the Unregistered Land Act of 1970 and the Civil Transaction Act of 1984 vested ownership of all land not previously registered within the state and made provisions for the granting of usufruct land rights through nationally based leasehold titling and registration. Lands registered for usufruct rights under these laws are referred to as ‘leasehold land’—*mīrī*, or *ḥakūma* (literally: government). Whilst ‘freehold land’ refers to *sāqiya* and *ashau* lands that were registered before 1925, ‘leasehold land’ refers to reclaimed land to which the occupants applied for and were granted a usufruct license (Salih, 1999, p.115). Salih differentiates between ‘leasehold lands’ registered before 1970, of which there is a substantial amount in the Manāṣīr, and those registered after 1970, of which there were only a few at the time of his research in the late 1990s. The process of registering rights to reclaimed lands in the Manāṣīr involved several institutions, including the popular committee and the Departments of Agriculture, Land and Water (Salih 1999, p.115-116 and 118-120). Salih notes that “there is no actual difference between land use in this category and the freehold registered plots” (p.116). Similarly, Beck acknowledges that while some lands are officially ‘state-land’ leased on a long-term basis, it is practically treated as freehold property by the Manāṣīr (2003, p. 160). For example, registered rights included a necessary license to withdraw water from the river. Though the registered right for such a water license was often

in the name of a single individual, this was of little to no importance to the way in which the rights were concretely distributed (Beck, 2012).

During the British cadastral surveys, the complex local ownership structures were adjusted to the requirements of registration as “...the system of land registration and ownership transfer rules did not easily fit the reality of land use” (Ille, 2018, p. 28). As such, the relevance of these statutory legal categories of ‘freehold’ and ‘leasehold’ land to the social practices under customary law is very questionable (Salih, 1999; Ille, 2018).

Salih defines customary law as “...a set of social rules that communities and people are accustomed to, accompanied by the belief that respecting these rules is compulsory” (1999, p. 197). These rules are not static and evolve over time in relation to the wider social context in which they are embedded. Contrary to statutory laws which are developed and administered with national economic objectives such as the development of commercial agriculture in mind, the application of customary law is situational and done with a consideration of the ‘immediate social consequences’ (Ille, 2018, p. 30). As illustrated in subsequent chapters, this flexibility and embeddedness of the customary system were central and highly visible in the adaptive responses following the inundation of land by the Merowe dam’s reservoir.

The customary land tenure system underlies and co-exists alongside the aforementioned statutory system. This system permeates across all four categories of land in the area and deviates significantly from the statutory classifications at the local level. For example, the

“...definition given to the term land in different statutory laws can hardly fit the way the Manāṣīr people understand it...[who] assumed that since the land they live on was passed on from their grandparents, it automatically belongs to them regardless of the formal definition of land” (Salih, 1999, p. 106).

Islamic law also coexists with these two legal orders and deals mainly with matters of inheritance and transmission of property. Custom also determined the social relations of production, particularly the customary sharecropping arrangements as per the “*taddān* contract” discussed further below in Section 5.2.2.2.

Table 5-2 below summarises the different ways that customary law and statutory law specify the social units, property objects and rights and obligations with regard to the aforementioned categories of land; the following sections deal with these in greater detail. Furthermore, since Islamic law exists alongside customary law and mainly deals with matters of inheritance, it is not represented in the table below.

Table 5-2: Elements of property constellations of the categorical land property under customary and statutory legal systems

Elements of property constellations	Categories of property under customary law			Categories of property under statutory law		
	Sāqiya & Ashau lands	Reclaimed land	<i>Jarf</i> lands	Sāqiya & Ashau lands	Reclaimed land	<i>Jarf</i> lands
Social units	Co-heirs group households/ families co-croppers / share-croppers	Cooperative unit Household /group of users	Co-owners House holds/ families	Heirs of the registered freehold title holder	Registered leasehold title holder	Not recognised by state law
Property object	Share in land share in the harvest share in date palms	Share in reclaimed land	Share in rotating <i>jarf</i> land	Registered <i>sāqiya</i> plot Registered <i>ashau</i> plot Registered date palms	The registered plot of reclaimed land	Not recognised by state law
Rights and obligation	right to use and cultivate right to water/ irrigate right to share in products	Right to cultivate Right to sell	Right to use, cultivate Right to rent	Rights of ownership to freehold title holders	Right to use/ cultivate (usufruct rights)	Not recognised by state law

5.1.1.1 *Categorical land property: Jarf land*

The riverside *jarf* land refers to the seasonally appearing land which is adjacent to the river's edge. As shown in Table 5-1 it consists of narrow plots that vary in size depending on the fluctuations of the river and is the land upon which farmers practice recession agriculture (so-called because they plant on the very fertile land the river exposes as it recedes). They also vary considerably depending on the riverbed's physical nature and the year's season. Whilst the land is submerged during the flood season, it is exposed during the summer and winter, revealing a valuable layer of highly fertile soil. Although a portion of a riverside land may disappear for a while due to this natural fluctuation, when it reappears, no matter how much time has passed, the land owners have a right to claim it.

The area of the land changes with the water level, while the physical nature of the riverbed affects the deposition of the river's sediment and silt. Rocky patches in some areas leave no room for silt deposition, whereas other less obstructed areas can create a *jarf* of up to 40 meters in width. Women usually cultivated these lands immediately after they appeared and required little to no irrigation or fertilisers due to the rich silt-enriched soil. The main crops that the women grew on these lands included cow beans, pigeon peas, and some creeping vegetables such as cucumber, pumpkin and watermelon. As animal husbandry was primarily the activity of women in the Manāṣīr, these lands also provided fodder for their goats.

Customarily, *jarf* land is owned by many co-owners who cannot all cultivate a plot simultaneously due to its small size (Salih, 1999, pp. 116–118). As such, cultivation of a *jarf* plot shifts each season from one group of co-owners to another on a rotational basis. In other words, the *jarf* right holders cultivate a different part of the *jarf* land each season. As explained in Section 5.3.2.4 below, within al-Fūqqara, this rotational cultivation system also ensures that co-owners of *jarf* land in a hamlet get a turn in cultivating the most favourable plots of the *jarf*—those unobstructed with rocks and therefore rich in silt deposits. Consequently, rather than the property object being a specific physical *jarf* plot itself, it is a recognised share in a *jarf* land area. The *jarf* land is usually measured each year from where the *sāqiya* ends vertically to the point of the descended river and then parcelled out into tiny strips. Each co-owner knows how many shares they have, which varies depending on the size of the appearing *jarf*, as this varies with the fluctuations of the river. For example, a social unit may hold rights to one-third of the *jarf*, in which case they would receive ten *dūra*^c (a customary measurement unit of land used to allocate *jarf* land shares, see Section 5.3.2.4) if the total *jarf* is measured to be thirty *dūra*^c. The shares are proportionally related to the total area of the appearing *jarf*.

Ownership of *jarf* land is not recognised under the statutory legal system as the state considers the area to be both of negligible size and also rapidly shifting due to the Nile's fluctuations and the nature of the cataract (p.99). Therefore, it is governed entirely under customary and Islamic laws. The customary law ascribes ownership by prescription. Therefore, to maintain ownership and not lose this right, *jarf* right holders always rent *jarf* land that they cannot cultivate either in cash or in kind (i.e. for a share of the harvest). Islamic law governs the inheritance and transfer norms of these lands..

5.1.1.2 *Categorical land property: Sāqiya and Ashau land*

The *sāqiya*, or upland irrigated land, was the most significant category of land for crop cultivation. The word '*sāqiya*' refers to the traditional ox-drawn waterwheel used to irrigate plots of land before the introduction of diesel irrigation pumps in the 1960s (Salih, 1999; Beck, 2012). The land of the *sāqiya* is a form of heritable property that is categorically co-inherited by all the eligible descendants of the original registered owner, typically the great-grandfather of a hamlet.

The *ashau* land, located between the *sāqiya* and the *jarf* land along the riverbank, was used for the cultivation of date palms as well as seasonal crops. Its location by the riverbank makes it ideal for date palm cultivation as its deeply penetrating roots can access the water. Like the *sāqiya* land, the *ashau* land is commonly held by a group of co-heirs. A key characteristic of the *sāqiya* and *ashau* land are the rights of inheritance or *warītha*, which are attached to them. These lands can be conceived of as the heritable property of a large number of eligible heirs and are locally often referred to as '*warītha*' to reflect this shared nature of ownership at the categorical level.

Figure 5-3: Image of traditional ox-drawn *sāqiya* in Sudan circa 1906



Source: Bristol Archives/Universal Images Group via Getty Images¹¹. Sudan, the Printed caption reads: 'A Sakia [sic] (Native Water Wheel). Published by G N Morhig, The English Pharmacy, Khartoum. Copyright 216', [c.1906]. 2003/222/1/1/45. (<https://www.gettyimages.in/detail/news-photo/sudan-printed-caption-reads-a-sakia-published-by-g-n-morhig-news-photo/1195746780>)

Due to the inability of all heirs to practically make use of the land these categorical *warītha* rights are distinguished from the more concrete *bi ma‘aīshi* (for subsistence) rights of use for subsistence enjoyed by those who remain in the hamlet (see Section 5.2.2 for more details). The latter category is *possession* whilst the former is *ownership*. Throughout this research, the category of *sāqiya* land is referred to using the emic term *warītha* to refer to the categorical ownership rights bundled into these lands.

The customary system by which land was divided among co-inheritors kept the plot of land undivided but rather divided the shares to the land using a traditional measurement known as *‘aḍum* or bone. Typically, a *sāqiya* plot consists of 12 bones and “each partner knows how many bones he owns and takes his share from the crop according to the number of bones he possesses” (Salih, 1999, p. 99).

Both the *sāqiya* and *ashau* lands were governed by the customary system of dual ownership in which each plot had two different rights of ownership attached to it: the right of the original owner (*ḥaqq al-aṣil*) and the right of the cultivator (*ḥaqq al-miswāq*). The customary system of rights granted the *aṣil* one-third of the date palms planted by the *miswāq* and half of any

¹¹ License will be sought for publication.

palms that spring up by themselves from seed. The *aşil* does not cultivate the land at all but rather relies solely on his share of the profit from date palms. The *miswaq* is therefore the real beneficiary of the land as he cultivates it without paying rent to the *aşil* and as long as he continues to cultivate, he cannot be dispossessed of his right (Salih, 1999, p. 100).

This dual ownership system posed a real challenge for the formal land registration activities of the colonial land settlement commission, as it did not fit in smoothly with the freehold land ownership the statutory law recommended. Freehold ownership enables the owner to sell, lease, rent or mortgage a property object and yet the customary law prohibits such activities unless all the co-holders have agreed. Nevertheless, the British land registration authorities reached a compromise where both the *aşil* and *miswaq*'s rights were registered in official documents. Separate provincial registers were drafted for each, one for the 'original' or original title (*sijil al-aşil*) and the second for the title of cultivation (*sijil al-miswaq*) (Salih, 1999, p. 94). As such both the *aşil* and *miswaq* were not only dealt with by customary law but also recognised and formalised under state law (El Mahdi, 1979).

However, "although, both rights are registered, considered as wealth, and transmitted in accordance with the commands of the Islamic inheritance law, basis and the relation between the two rights are dealt with according to the prevailing customs" (p. 199). Therefore, despite formal registration, it is customary law that governs the relationship between the two types of owners (p. 107). Nevertheless, formal state law recognised ownership through a formal legal document and the *sāqiya* and *ashau* lands are considered 'freehold registered land' in the Manāşir—classified by Salih as the 'freehold registered waterwheel uplands' (1999, p. 112). Both lands were registered under the Land Registration and Survey Ordinance, or with land legislations issued prior to the 1970 Unregistered Land Act (Salih, 1999, p. 112)

The two rights could be vested in the same social unit, or different social units, depending on the land in question. Formal registries specified the categorical *sāqiya* and *ashau* lands by detailing the information of the plot, its location, the name of holders (*aşil* and *miswaq*), their village of residence, the nature of possession, ways by which the land was acquired, land mortgage, shares in each plot, deductions, and classes of land (p. 94). The number of sharers on a single plot was often too many for the colonial registries to include in one form, so they rather registered *sāqiya* and *ashau* lands in the name of a deceased person, such as the 'heirs of A'. This was to avoid violating customary and Islamic laws of inheritance (p. 99).

The formal registration of date palms faced a similar problem posed by inheritance due to the co-ownership of palms and the fact that "...people share date palms and distribute the product on the day of harvest. An individual may own half a stem of a date palm and nothing of its shoots" (p. 102) (explained further below). This made the administrative tasks of tax collection very difficult—a challenge that was overcome by nominating an overseer or *sammād* from among the owners of each plot responsible for tax collection.

5.1.1.3 *Date palms*

Date palms were historically grown on the *ashau* lands which stretched about 20 meters in width between the *jarf* and *sāqiya* lands, as the roots of these palms could easily access the water table. However, from the 1980s on their cultivation has expanded to the *sāqiya* land on a large scale (Beck, 2021, personal comm.), arguably reflecting the great importance they hold for the Manāṣīr. Indeed, they were “... considered to be a most cherished possession and an invaluable item of economic security, a basic source of cash and returns and an essential symbol of wealth” (Salih, 1999, p. 47). The average lifespan of a date palm is 75-90 years, although in some cases, they can live for as long as 150 years. Their longevity can make them almost as important as land rights in terms of their generational connections to a place.

Categorical rights to date palms have their basis in the three legal/institutional orders of state law, Islamic law and customary law. As the date palms were taxed, they were also registered as property under the formal statutory system, which distinguished between fruit-bearing and non-fruit-bearing palms as only the former was taxed. Islamic law determined the rules of inheritance and customary law allocated rights to the different social units involved in the production process. The division of the harvest followed the customary law whereby 1/3 of the harvest was designated for the landowner, 1/3 for the irrigator and 1/3 to the cultivator. The usual customary practice in the case of inheritance was to keep ownership of the palms intact and held in common by the co-heirs while distributing the harvest of the palms, though in some instances the palms themselves were distributed (p. 47).

The date palms themselves were also owned commonly by co-heirs and were subject to the *warītha* system, and the harvest of dates was usually distributed among them in accordance with Islamic laws of inheritance and the customary relations of production. Those with shares in the date palms gather during harvest or send representatives and redeem their shares from the total harvest of fruit:

“On harvest day neighbours and kin are assembled to assist in harvesting dates. At the end of the day, each one is given a few kilograms of date fruits. A pollinator¹² of the date trees [sic.] has an essential share in the product. Customarily, he is to be given the largest bunch in case of short trees. He obtains two bunches in case of tall and wild trees” (p. 48).

Though ownership of palms is customarily recognised and respected, there was a custom of sharing the products of date palms such that even members of a village or hamlet who held no rights to date palms benefited greatly from this resource. According to Salih:

¹² The act of pollinating and harvesting is known as *al Guru'a wal Gutu'a* (Salih, 1999, p.48) The pollinator must select high-quality pollen grains to pollinate each palm.

“one needs no permission to pick fresh dates to eat, though both Islam and statutory law stand against this custom and classify it as an illegal act. Another curious custom related to date trees [sic.] among the Manāṣīr is *tamūr al-habūb* referring to the fruits of the date that fall due to the wind. Children and women are entitled during the ripening season to collect fallen date fruits for all purposes” (1999, pp. 47-48).

5.1.1.4 *Categorical land property: Reclaimed lands*

Reclaimed lands are lands that were previously not cultivatable due to their location or physical nature but were made useful for agriculture through the process of ‘reclamation’. This involved land levelling, improving soil conditions, and a host of other activities (described below). Under statutory law, these lands are categorised as ‘unregistered government lands’ to which those who reclaim it could apply for a usufruct license from the state and be granted a leasehold title (in which case they are referred to as ‘leasehold lands’). Registration for the license can be sought by an individual, or a group can seek a license collectively for an agricultural cooperative. The government can repeal this leasehold title whenever it deems necessary. Registration for usufruct rights is applied for via the regional states through a lengthy bureaucratic process that involves multiple administrative bodies along with special land committees at the provincial level. For example, it involved the Department of Agriculture, the Department of Survey for mapping and demarcation, the Department of Public Health, the Nile Water Corporation, the Provincial Land Allotment Committee and the Registry Office (pp. 118-119).

While there is little distinction between the way lands of this category are used and those of ‘freehold registered’ land, the legal status under state law is different. Unlike the privately owned lands of the *sāqiya* and *ashau*, the legal recognition of ownership on reclaimed land “is reduced to a license of land use that is revocable when the government invokes Section 8 of the 1970 Act” (p. 116). Further, the legal status of reclaimed lands differs from the freehold registration of *sāqiya* and *ashau* lands in that each plot has only one title and there are no rights of cultivation or original land rights (i.e. there is no *aṣil* or *miswaq*) and the occupants occupy it; as such the legal documents are also different. However, similar to the *sāqiya*, *ashau* and *jarf* lands, they are inherited and distributed according to Islamic and customary law (p. 115).

Two widely acknowledged customary laws govern how a right-holder may acquire reclaimed land. These are known as ‘*ḥaqq al-quṣād*’ or translated as ‘right of the adjacent/opposite’ and ‘*wuḍ i’yad*’, literally translated as ‘placement of one’s hand’ (pp.201-204). The *quṣād* rule is a widely known customary rule in other parts of Sudan, though in other territories, it applies only to newly accumulated land alongside the riverbanks or newly formed islands. However, in the Manāṣīr this rule also applies to the reclaimed lands in the outermost unoccupied uplands. It gives the priority of claiming land adjacent to a specific plot of land to the owner of that land (i.e. the owner of a plot of land has the first rights to unoccupied land directly adjacent to his own). The ‘*wuḍ i’yad*’ rule is similar to the law of prescription, whereby the

right to a plot of land is granted on the basis of peaceful uninterrupted use (El Mahdi 1979, p.47 cited in Salih 1999, p.204). The contradiction between these two customary laws is a major source of disputes among the Manāṣīr (see examples of disputes in Appendix G).

Most reclaimed lands are located beyond the *sāqiya* at the outermost boundaries of the hamlet, above the road that divides the *sāqiya* from the houses known as '*darb al-sultān*' (Salih, 1999, p. 131). This reclamation process differs depending on the nature of the land, for example, rocky lands require levelling the land and removing rocks, whereas sandy or salty lands require strategic cropping to improve soil quality, such as soil tolerant crops or nitrogen-fixing legumes (p. 137). Reclamation further includes the establishment of proper drainage conditions, improving soil through applying crop residues, manure, or silt, developing irrigation infrastructure, and other measures to improve the quality of the land. Salih provides an example of a large-scale land reclamation effort in the Manāṣīr on land which was traditionally known as Al-Firsib al-Rahamab and was historically customarily owned by two sub-groups of the Manāṣīr (pp.132-137). In the 1970s, the idea to establish a small agricultural cooperative project on the land emerged. However, it was only officially registered and licensed as an agricultural cooperative in the 1990s to make use of the credit and tax exemptions provided by the state.

The total area of the project was reclaimed and rehabilitated through a communal effort and spanned approximately 300 faddān. Men from surrounding villages contributed their labour and other efforts to construct a 3.5 km irrigation canal, in order to irrigate an area of 45 faddān. Although this was licensed as leasehold land for the agricultural cooperative under statutory law, the shareholders customarily divide and pass it down to their heirs. Salih notes that the shares in the agricultural society (while heritable) is different from the share in land ownership. There was a total of 120 shareholders in the land, and he describes the details of the allotment of shares among them (p.133).

Once reclaimed and rehabilitated, this land was customarily divided and distributed through a customary method of '*takhlīf*', which enabled fair distribution (Salih, 1999, pp. 133-136). According to Salih: "All shareholders were required to attend and accept the process of land allotment. A simple lottery method, considered fair, was used. Whenever the allotment was finished, it became valid and irrevocable" (p.134).

As will be discussed in Section 8.3 the endurance of this agricultural cooperative (referred to as al-Firsib) and the model of large-scale reclamation of land through communal effort led to the establishment of other similar projects in the post-dam period.

5.1.2 Concretised property relations

Concretised property relations are the relationship between actual social units, i.e. individuals, families or groups, and the actual property objects, such as specific plots of land or palms. As these relations operate at the level of social practice and are therefore discernible through ethnographic observation in particular contexts, this section is limited to a discussion

on the various factors behind the concretised deviations from the categorical rights highlighted above. Chapters 6 and 7 below provide a more detailed analysis of the concretised land property relations based on my ethnographic research in al-Fūqqara. This section seeks to illustrate what the distinction between categorical and concretised property relations looks like in the context of the Manāṣīr's land property relations.

There are three essential factors to consider in understanding concretised land relations in the Manāṣīr. First, the deviation between categorical property under customary and statutory laws and the reality of the actual lived property relationships that Salih observed is identified by him to be a symptom of land scarcity, demographic pressures, inheritance rules, the custom of not selling land, and the high social value of land held among the Manāṣīr (1999 p. 167). These factors result in what he terms 'land fragmentation' (*tafatut*) and 'land scattering' (*tashatut*) in the Manāṣīr (pp. 167-190). Second, the sharecropping relations of production contribute to a complex web of concretised property relations. Third, the dynamics of land disputes and their settlement represent important ways that concretised and categorical property interact.

5.1.2.1 *Land scattering and land fragmentation*

'Land scattering' and 'land fragmentation' are closely related phenomena which are hardly unique to the Manāṣīr, but are common throughout riverain North Sudan (see for example Awad, 1971). The former is a symptom of bilateral inheritance in which one inherits land in different villages from different relatives, resulting in ownership of dispersed plots or parcels of land over a large area. The latter (also a symptom of inheritance) is the division of land into small parcels so that several separate parcels can be found within one plot of land (p.167). The concretised property relations can be seen in the counterstrategies used to address land fragmentation and scattering.

Various such counterstrategies exist and Salih identifies three main ones. First, the *mūbādala* system is a land exchange system in which "...peasant X from village A who has a plot of land in village B may exchange his land with peasant Y from village B who has a similar plot in village A" (p.173). Salih points out that this strategy is limited to freehold registered land because the law of prescription (*wuḍ i'ṣyad*), which allows for continued uninterrupted use of a plot to be lawfully prescribed and registered as leasehold, prevents the exchange of unregistered lands and riverside lands due to fear that they would be lost. Second, the *mūdāyara* (rotational) system involves co-users rotationally cultivating a parcel of land according to specific agreed-upon time cycles. Instead of physically dividing a parcel of land, co-users may agree to divide the time spent using the land, i.e. as one unit cultivated rotationally for a period. While one co-user works on the parcel of land, the others either leave, engage in local off-farm activities, or work as sharecroppers with those with abundant land. Third, the *ma'aīshi* (subsistence) system is one in which not all landowners receive shares in a jointly owned plot of land, allowing some to be eligible users of the plot as a single operational unit. When the landowner dies, the land is subdivided and distributed equally among the married resident sons. He observes that, while it does occur, a married resident son being denied his share of his father's

registered land is unusual. The *ma'aishi* system is a customarily negotiated process of land possession for subsistence use. It does not reflect actual land ownership, as stipulated by the *waritha* system of inheritance (p.173).

Salih provides three case studies of land fragmentation, the first at the level of a hamlet's *sāqiya* (pp.175-184), the second at the level of the household (pp.184-186), and finally, an example of land fragmentation in the *jarf*, riverside lands (pp.186-190). The counterstrategies used in all three cases resulted in concretised property relations that deviated from the categorical rights and relations stipulated by the plural legal institutions. The example of the registered *sāqiya* plot in the small hamlet of al-Mitaira, which *categorically* under customary and Islamic laws of inheritance, should be inherited by a large number of co-inheritors but, in actuality, is *concretely* held and used by a small number of resident male descendants is detailed in Appendix F.

5.1.2.2 *Sharecropping relations of production*

Salih highlights the difficulty of assessing land relations in the Manāṣīr, which is characterised by the various rights held by various social units in a single plot of land. He notes how the relations of production (what he calls the “production formula”), which “...enables others to enter as co-owners, sharecroppers, water suppliers, etc.”(p.170) is one of the factors which contribute to this complexity. The various ways in which people relate to land “as a group of heirs, co-users, co-sharers of an irrigation unit, sharecroppers etc.” (p.171) highlights the accruing of concretised rights over time into a single plot of land. The sharecropping relations of production in the Manāṣīr are therefore an important dimension of the concretised property relations (Beck, 2003; 2012; Salih 1999, pp.148-151).

Whilst Salih (pp. 148-151) discusses these relations mainly from the economic perspective as a production system which enables the combination of the various factors of production (land, labour, and other resources), Beck (2003; 2012) emphasises that sharecropping arrangements amongst the Manāṣīr are intricately woven into the fabric of their society, reflecting what he refers to as a “culture of sharing” (2003, p.153). He argues these arrangements are not so much about rent or wages as economists often construe them to be, but rather are viewed among the Manāṣīr as a “partnership”: a means through which scarce complementary resources can be brought together for the benefit of all partners involved.

Beck (2012) describes the complexity of these relations during the era of the traditional ox-drawn *sāqiya* and how they adapted with the introduction of the diesel-powered irrigation engine. His account highlights the customary separation of cultivation/irrigation rights from ownership rights in the *sāqiya* and illustrates how these are rarely vested in the same social units but are rather spread out across different units, making cooperation a necessity (Beck, 2012, pp. 18-22).

Many social units contributed to the functioning of the traditional *sāqiya* but key among these included the person driving the animals (*aurattī*), the owner of the oxen (*sāhib al-baqqar*), the landowner (*sāhib al-arḍ*), the workers in the field (*tarābla*, sing. *turbāl*) and the owner of the

waterwheel (*sīd ad-daulāb*). The number of people benefiting the traditional *sāqiya* could range up to 50 or more, as it was "...the centre around which the work and the entire life of several households along the river were organised" and involved other economic activities such as timber-rafting, date cultivation, and animal husbandry (p. 21). Furthermore, it was sustained through a number of other actors whose services were compensated through harvest shares or cash payment, including the potter (*baqdāwī*) who produced the scooping vessels, the mechanic (*baṣīr*) who set up and repaired the *sāqiya*, and the local religious figure (*shaikh*) who provided blessings.

The *taddān* contract was the convention used to calculate the shares of the harvest which the different participating social units are entitled to. The landowner (who was typically also the owner of the waterwheel) was conventionally entitled to one-twelfth of the total harvest and the remaining harvest was split equally between the owner of the oxen and the workers in the field. If the *turbāl* provided the fodder for the animals, they received two-thirds of the harvest and the oxen owner only one-third. The *aurattī* was typically a young boy related to the family between the ages of six to eighteen. The concretised form of the categorical customary conventions laid down by the *taddān* contract is illustrated by an example recalled by a former owner of a team of draught oxen, of three *sāqiyas* (Al Huqna, As-Sunaiti and al-Harāz) pulled by his and other teams of oxen (Beck, 2012, p. 16-17).

With the introduction of diesel pumps in the 1960s sharecropping relations persisted "the *taddān* contract...with its combination of water, land and labour appeared to be simply grafted onto the new technology" such that the owner of the oxen was replaced by the owner of the pump (*sīd al-bābūr*) (Beck, 2012, p. 33). However, since the traditional "fifty-fifty" shares between the irrigation provider and the workers were seen to be an appropriation of surplus value by the pump owner, it eventually became a common practice that the irrigation units are co-owned and shared by groups of land users and costs of the pump are shared according to the shares in the land (Beck, 2012 p. 33-35). Nonetheless, the sharecropping contracts and relations continued to be a central component in the organisation of agricultural production (Beck, 2003). As such the *bābūr* and the system of irrigation continued to play an important role in determining the social relations of production and the distribution of the different 'sticks' of the bundle of rights to the different social units involved (Salih, 1999; pp.144-146; Beck, 2012).

There is a "bewildering variety in share agreements," according to Beck (2003, 162-165), ranging from work *fi'n-nuṣṣ* (fifty-fifty), where one party supplies land along with either water or labour, to agreements based on water, irrigation equipment, and labour. The parties of the standard sharecropping arrangement are the farmer supplying labour (*muzārʿi/turbāl*), the landowner (*sīd al-waṭa/sīd al-arḍ*), and the irrigation owner (*sīd al-bābūr*). In a typical sharecropping arrangement, the labourer provides fertiliser and manure, and both sides share the cost of the seed. Although the cultivator is responsible for land preparation, it is frequently carried out with communal labour. The cultivator oversees paying for the labourers' meals, while the owner of the machinery is in charge of supplying water to the main channel and the cultivator is in charge of irrigating through side channels.

Close relatives, such as brothers, fathers and sons, and in-laws, are frequently involved in sharecropping arrangements. The relationship is based on a contract that the individuals involved established, therefore it differs from working on the family farm (Beck, 2003, p.165). There have been long-standing, or even inherited, share agreements, all of which, despite having changing terms, are all terminable by any partner at the end of each season. If a partner withdraws or dies before the season is over, the contract stipulates that they must be replaced by their inheritors. Family generosity is a defining quality of domestic labour ties, but sharing responsibility is at the heart of sharecropping relationships. If one partner neglects their obligations, the other is free to enforce contractual penalties, such as hiring wage labour to accomplish some disregarded tasks or getting water from another pump and deducting the costs from the neglecting party's harvest-related shares.

This "bewildering variety" noted by Beck (2003, p.162) also includes the numerous distinct forms that sharecropping takes over a person's life. Young single males enter a different kind of contract than young men who are married. If his family and financial circumstances evolve, he may be able to climb the "sharecropper ladder" (p.164) and contribute to the upkeep of the engine (in the form of a three-quarters-to-one-quarter share agreement) and even become a shareholder in the business. Other agricultural tasks, including threshing, where the thresher receives 1/15 of the yield, have comparable share arrangements. Harvesting is done by communal labour, and the sorghum grain is given to the field's owner while the straw is given to the harvesters to use as animal feed. These instances, according to Beck, demonstrate the sharecropping system's central relevance in Manāṣīr society, where even situations that are not sharecropping in the traditional sense are grouped together under the "conceptual umbrella" of share contracts (p. 162).

This sharecropping system has endured the flooding of the Merowe dam in parts of upper Manāṣīrland (discussed in Section 8.2.1.) and the culture of sharing which permeates Manāṣīr society is retained in various ways in the post-dam Dār al-Manāṣīr.

5.1.2.3 *Land disputes*

Land disputes and their settlements are important processes through which the categorical and concretised layers of property intersect. In many instances, they represent how the concretisation of land rights occurs as disputed possession of land may gain legal institutional (whether customary or statutory) legitimacy through the course of a favourable settlement. This can in turn validate the concrete occupation and use of land and result in the recognition of categorical rights. Due to space limitations, detailed cases of historical disputes in the Manāṣīr which exemplify these processes are presented in Appendix G. This section discusses the general dynamics of how disputes arise and how they are settled in the area.

Land disputes were historically common in the land--scarce Manāṣīr. The scarcity of land meant that it was highly valued and coveted, and it was also the root of many disagreements and disputes. Salih identifies various sources of land disputes among the Manāṣīr. These include the "proliferation of rights and interests" in each plot of land that represents a bundle

of rights distributed to a variety of social units; the scarcity of arable land and demographic pressures; the system of inheritance and co-ownership; the situation of legal pluralism and the “paradoxical aims and overlapping duties of institutions” involved in land matters which “multiply the ambiguity of tenure systems” (1999, pp. 224-225).

Most disputes are settled customarily through the customary mechanisms of negotiation, mediation, arbitration and adjudication. Negotiation is the first step of any dispute settlement where “...conflicting parties directly attempt to find a settlement acceptable to all through bargaining and compromise” (p. 222). Where mediation fails or where the dispute is around legal rights, the next step of arbitration “...requires a formal agreement to include a third party, or a tribunal or arbitrators, to hear both sides of the dispute and reach a final and binding solution” (p. 223) This usually takes the form of a council of conciliation or ‘*majlis al-ṣulḥ*’ which is nominated by the native court or judge. However, where these mechanisms fail to reach a settled agreement, formal mechanisms of dispute settlement through civil and federal courts are employed. Yet there is a popular saying among the Manāṣīr ‘*darb al-ḥakūma mā laihū amān, wal yāba al-ṣulḥ nadmān*’ –translated as ‘the governmental route has no guarantees and whoever refuses *ṣulḥ* (or customary mediation) will regret it’ (p. 226). As will be illustrated in Section 8.4, the proliferation and emergence of novel post-dam land disputes are still predominantly dealt with through customary mechanisms of mediation.

The following section shifts the focus to the historical land property system in the hamlet of al-Fūqqara.

5.2 Al-Fūqqara hamlet and its land property relations before the dam

In the hamlet of al-Fūqqara, the old pre-dam life of year-round *sāqiya* cultivation, seasonal *jarf* land use and the luscious strip of date palms on the *ashau* land between the *sāqiya* and *jarf* is now a distant memory. Since the reservoir was filled, the once lush date palms are reduced to a few dead, standing and fallen relics, the historical agricultural lands now appearing only partially when the reservoir waters recede. The only surviving infrastructure of the old hamlet is the mosque and a few houses. Nevertheless, close social ties between its inhabitants have endured. The following introduces the main inhabitants of the hamlet and the three constituent sub-descent groups to which they belong (5.3.1) before describing their historical (pre-reservoir) land property relations (5.3.2).

5.2.1 Who are al-Fūqqara?

As is typical in the hamlet settlement patterns among the Manāṣīr, the inhabitants of this hamlet are linked through kinship ties, sharing a common ancestor (Al Digair Mohamed Ahmed al-Fakih). The three sub-descent groups, however, unlike a typical hamlet, do not all belong to the same patrilineage, an issue discussed further below.

A clue into the common ancestors of al-Fūqqara hamlet is their name, “Fūqqara”—the plural of *‘faqīr’*, or a person of recognised religious authority—refers to a group of people that constituted the traditional religious elite. The current inhabitants are the descendants of these holy men, describing their ancestors with pride in their social status as “highly respected old *shaikhs* that travelled to different areas to teach Quran and offer religious healing” (Halima). According to oral tradition, al-Fūqqara are descendants of the ʿAbābsa, referring to a clan of the descendants of the prophet Mohammed’s uncle ʿAbbās, which migrated from the Arabian Peninsula and integrated into the existing Northern River Sudanese tribes. As one current descendant explained: “we aren’t originally Manāṣīr, our people are al-Fūqqara, and they are the ʿAbābsa. The ʿAbābsa are in different tribes. There are some in the Jaʿalyīn and some in the Rūbatāb” (Hashim).

As evidence of this migration, one may consider the locations of the graves of their forefathers:

“The grave of our great grandfather is in Mughrāt (an island close to Abu Hamad), the grave of our grandfather Sidahmed is the only one here in al-Fūqqara graveyard...and there are some of our great-great-grandfathers that are buried in an island near port Sudan called Sanjalīb. This all shows that before we finally settled here our forefathers came from elsewhere, that is how we have so many rights in so many places” (Hashim).

The story of al-Fūqqara’s migrating and travelling ancestors explains the scattered settlement of different branches of the clan in the different hamlets across the Manāṣīr territories:

“al-Fūqqara are everywhere, from the Shalal (near Abu Hamed) we have people that moved to Ganawait, and from there some of us settled here in Kabna, and then some went to al-Raum, some Fūqqara even went to Birti, these are known as Ḥamadtayāb, and there were some Fūqqara even in Us” (Hashim).

In all the places where members of this religious elite settled, they acquired land rights through purchase, gifts/transfers, or in exchange for religious services. As such, the members of the al-Fūqqara (see Figure 5-4 below, for the main branches of the Fūqqara descendants and Figures 5-5 to 5-7 for the sub-descent groups) understand their rights to be scattered in many different areas and they claim to have land rights in the hamlets of al-Raum, al-Hiba al-Sharqiya, and Dār Khairain among other places. This may be conceived of as the categorical property rights of the Fūqqara descendants even though they are not concretely realised.

Of the Fūqqara that settled in Kabna, the earliest recorded member is al-Digair Mohamed Ahmed al-Fakih (G1).¹³ The current members of al-Fūqqara hamlet are made up of three sub-

¹³ For ease of reference, in the genealogical diagrams in Figures 5-4 to 5-7, the apical forefather al-Digair Mohamed Ahmed al-Fakih is considered as the first generation (G1) and his three sons the second generation (G2), their immediate progeny the third generation (G3), and so on.

descent groups corresponding to the descendants of al-Fakih's three sons (G2): Sidahmed, Mohamed and al-Digair, represented in Figure 5-5, 5-6 and 5-7. These three would be the '*jiddūd*' or grandfathers of the current generation of Al-Fūqqara.

The current inhabitants of the Fūqqara hamlet are descendants of the ancestors represented in green in Figure 5-4 below, as these are the forefathers who historically maintained a presence in the hamlet. Details of the hamlet's inhabitants and their kinship relations are presented in Appendix E.

It is important to keep in mind throughout the reading of what follows that the Fūqqara continually uphold the ideological construct of lineage in their testimonies and recollection of their oral history. Repeatedly, they assert to outsiders like myself when speaking of themselves: '*niḥna ahl wāḥīd*'— 'we are one family/lineage' and '*jiddūdna wāḥīd*'— 'we share the same grandparents'. It is certainly the case that the members of the hamlet are kin-folk undoubtedly related to the three grandparents (*jiddūd*) which represent the three sub-descent groups (Sidahmed, al-Digair and Haj Galy) described below. However, one of the three sub-descent groups—the descendants of al-Digair's only daughter—belongs to an entirely different patrilineage. Nevertheless, the inclusion of this branch within the Fūqqara's *warītha* system is representative of the 'ideological layer of social organisation' in which property finds expression (F. von Benda-Beckmann, K. von Benda-Beckmann and Wiber 2006). At the micro-level of the hamlet, this is the ideological construct of the *ahl*, or extended family. The *warītha* lands are divided into thirds among the three sub-descent groups that comprise the *ahl*.

Categorical rights to the *warītha* lands are created and consolidated through various counterstrategies. Al-Fakih's son al-Digair had a single daughter Fatma, (referred to as Bit al-Digair) and passed away before he could bear any more children. Under Islamic and customary laws of inheritance, 'girls do not inherit on their own'— '*al bit mā bi tāriḥ barāha*', but inherit half of what their brothers inherit. Since Bit al-Digair had no brothers, she was co-inherited with her paternal cousins. This was expressed as '*awlād amahā saddū laiha al-zarība*'— 'the sons of her paternal uncle (*awlād am*) sealed the *zarība*'. A '*zarība*' is a goat-enclosure or stable, and used in this context — the term '*sidd al-zarība*' (literally translated as 'sealed/secured the goat enclosure') is a metaphor which reveals the counterstrategies employed to safeguard the *warītha* land rights (symbolised by the wealth of the livestock) and keep the wealth secured within al-Fūqqara.

Furthermore, one of Bit al-Digair's paternal cousins (HajGaly, son of Mohammed) married her father's widow to further consolidate the wealth of Al-Digair's lands. This marriage was one of the counterstrategies which the Fūqqara employed to prevent land from entering another lineage, as the widow is entitled to 1/8th of the inheritance under Islamic law. HajGaly's marriage to his uncle's widow also accounts for the sizeable share of categorical rights to the *sāqiya*, as his father Mohammed promised his entire inheritance to the son who would marry the widow. As Mama Zeinab, the wife of one of HajGaly's sons explains: "Our rights here are more than the Fūqqara's". Mama Zeinab, now in her late 80s, married into the Fūqqara,

though not related to them by blood, which is why she refers to her branch of the family as separate from the Fūqqara.

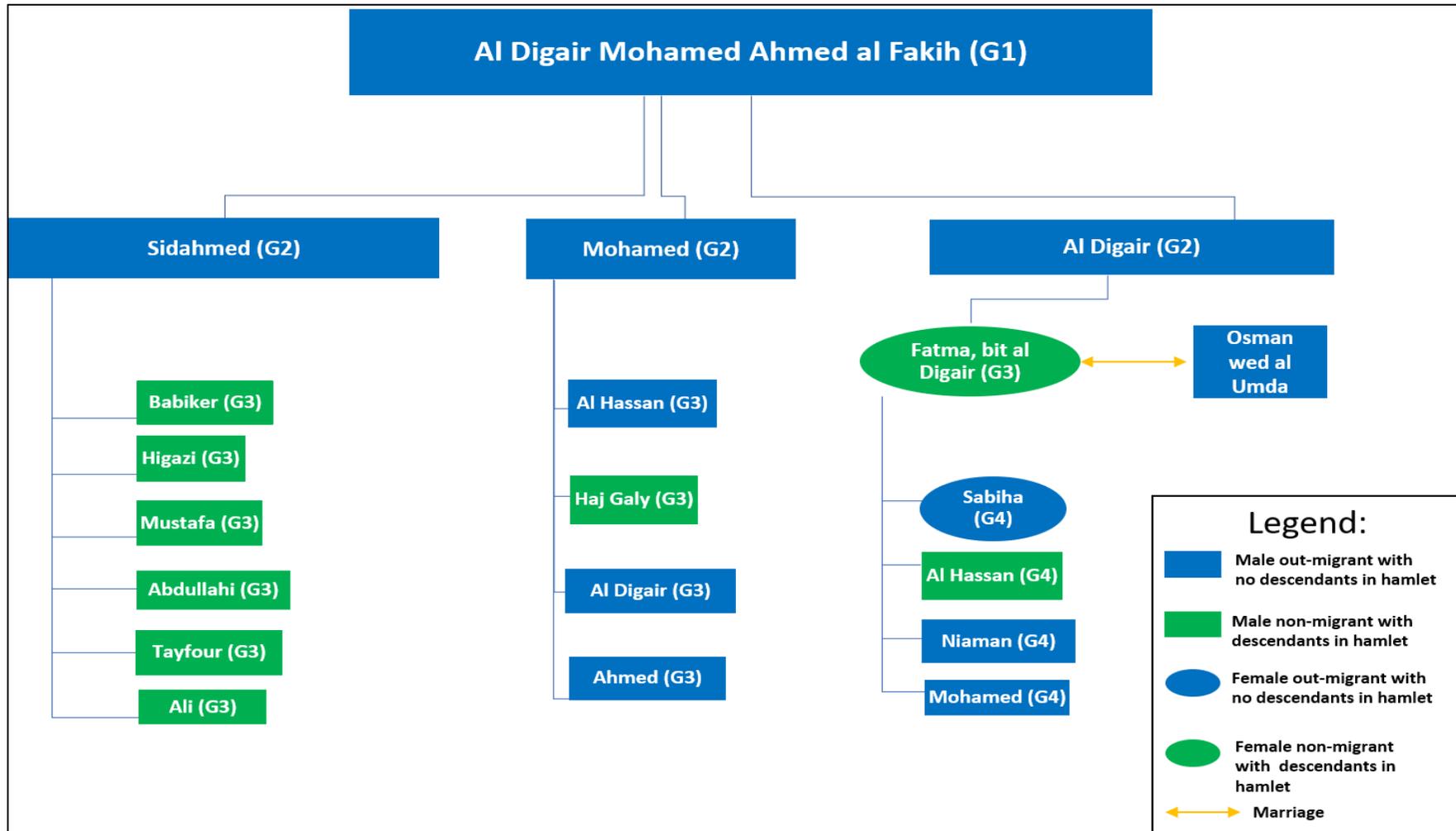
The many stories of Bit al-Digair from the older members of hamlet who remember her describe a strong woman who broke the gender norms in various ways. For example, she participated in the mosque activities (a male domain) during Ramadan, “all the men would bring their tray of food to the mosque and eat together and Bit al-Digair would bring her tray with her cousins” (Hashim). Her unique status as an only daughter was later complemented by her prestigious status as the wife of the *‘umda* or traditional leader of the Manāṣīr, Osman wad Gamar.

The story of the marriage between Bit al-Digair and the *‘Umda* Osman was a source of great pride to the current inhabitants, evinced in the way and frequency with which it is retold. Perhaps the most unique aspect of this marriage was the ability of the Fūqqara to negotiate the terms of the marriage in their favour:

“The Fūqqara never used to give their women away to be married to outsiders. When the *‘umda* came and asked to marry Bit al-Digair, they said they would agree only if three conditions were met. The first was that the residence of the new couple would be based in the al-Fūqqara hamlet and not in the *‘umda*’s hamlet of al-Salamat. (This was a major break from the tradition of patrilocal marital residence among the Manāṣīr). The second was that the *‘umūdiya*’ would be in her children (i.e. the appointment of the next *‘umda* would be one of her sons). The third condition concerned the registration of property in the form of land in al-Salamat and slaves owned by the *‘umda* in her name”. (Hashim)

With these three conditions met, the marriage was sanctified. The ability of the Fūqqara to negotiate these terms of the marriage represent further ways in which land was prevented from entering other lineages.

Figure 5-4: Genealogical diagram of Al-Fūqqara, depicting the three sub-descent groups (G2) to which the hamlet’s current inhabitants belong.



Note: All represented in this diagram are deceased

5.2.1.1 *The three sub-descent groups:*

This section introduces the ‘social units’ selected as cases to track the transformations in the *property constellations*, or how these identified *social units* hold different *rights and obligations* with regards to the various pre-dam and post-dam *property objects*. It further locates these social units within each of the three sub-descent groups highlighted above.

While the analytical framework of property enables us to conceive of households or groups of individuals who share the same stream of benefits from specific property objects as ‘social units’, it is important to note that individual members within these groups or households often have differentiated categorical rights and obligations with regards to the objects of property in question, even if they concretely seem to share them. For example, the social unit of a household may be cultivating and benefiting from a plot of land which is only the wife's legal claim – and so the husband's benefits are deriving from his wife. In this case, his entitlement to property would be referred to as “*yisūq fauq ḥaqq marrathū*—he cultivates on the land of his wife”. The same goes for wives who derive their rights to cultivate—whether categorical or concrete—via marriage to their husbands. This becomes clear when the husband dies and the marriage is without children. If no brother marries the widow, she runs the risk that she is chased from the land with the words: “*ḥaqqik raḥ amshi ahlik*—your right has passed away, go to your people”. She may claim the widow's inheritance stipulated by Islamic law as 1/8th, but not more.¹⁴ These examples are not captured adequately at the broader ‘social’ dimension, and so demonstrate the limits of utility of the frame employed. The frame remains nonetheless valid for the purpose of this research, which in part, remains on how the transformation of land tenure arrangements have been affected by the Merowe dam's reservoir across Fūqqara. As such, this study acknowledges the differentiation of rights amongst individuals within a single household and but explores in much greater depth the rights which follow from the adaptive responses of households, or groups of households (social units) following the inundation of the land they live on and cultivate. The analytical category of social units thus serves to aid in the analysis of the post-dam adaptations in the hamlet.

The descendants of each of these three ‘*jiddūd*’ (Sidahmed, Mohamed, and al-Digair) are far too many to all live off the land. Only a fraction of the descendants have remained in the hamlet. Those that remain are referred to as the ‘*amsāk al-aʿgāb*’ or the ‘guardians/holders of the wealth’. The term ‘*aʿgāb*’ is a difficult term to translate perfectly, though generally referring to material wealth, most commonly associated with land, palms, trees, and other physical properties; it also connotes various forms of social wealth associated with the maintenance of family bonds. While categorically, the land rights of al-Fūqqara belong to all eligible heirs of each sub-descent group under Islamic laws of inheritance, the practical impossibility of all heirs to share in these lands has led to the custom of prescribing use rights

¹⁴ I acknowledge Prof. Kurt Beck for these words and this insight.

only to those heirs that are established in the hamlet, as in the *bi ma‘āshi* counterstrategies described in Section 5.2.2. above.

Therefore, only those considered ‘*amsāk al-a‘gāb*’, physically present in the hamlet, hold concrete possession and use rights. Nonetheless (and as will be discussed in Section 5.3.2 below), the bulk of these ‘concrete’ right users still imagine the land as the heritable property of all heirs and thus claim they would always select meeting their duties as ‘guardians’ of the land rather than consider selling or disposing of it. As illustrated further in the forthcoming discussions, particularly in the analysis in Chapter 8, this key characteristic of the inalienability of the *warītha* lands at the categorical level strongly influences how these lands are treated in the aftermath of the dam.

5.2.1.1.1 The Sidahmed sub-descent group (SD):

Sidahmed had six sons, as shown in Figure 8 below, and as such, his descendants represent the largest sub-descent group of the three Fūqqara sub-descent groups. The five selected case studies from this sub-descent group represent social units that are made up of one or more households of immediate kinfolk sharing the agricultural production and consumption activities involved in the main activity of goat-rearing. These members of the case-study social units are identified with a red asterisk beside their names in Figure 5-5 below. It is important to disclaim that these genealogical diagrams are not definitively representative of all the members of each sub-descent group but rather are generally representative. For example, some members of the fifth generation (G5) and sixth generation (G6) are excluded from the diagrams, especially in cases where they are of primary or secondary school age, or unmarried. For ease of reference, each social unit is identified by the name of the main male descendant of the Sidahmed sub-descent group linked to— whether alive or deceased — and the wife of the male descendant who represents the centre of the social unit. Table 5-3 identifies these social units further and offers some basic descriptors.

Table 5-3 Sidahmed sub-descent group case-study social units

Sidahmed Social Unit Code	Male head of main household unit	Female head of main household unit	Members of the main household unit/other constituent households of social unit
SD1	Hashim Tayfour (G4)	Halima HajGaly	Hashim and Halima and their five children. The children (all young adults) have recently all out-migrated.
SD2	Ali Sidahmed (G3) (deceased)	Zeinab Soubah	Moatasim Ali Sidahmed (G4) his wife Hanniya, and their four young children Mohamed Ali Sidahmed (G4) his Asma and their four children
SD3	Ahmed Mustafa (G4)	Aisha Ahmed	Ahmed and Aisha and their 4 children.
SD4	Suleiman Higazi (G3) (deceased)	Al-Mina Tayfour (G4) (deceased)	Mohamed Osman Suleiman Higazi (G5) and his wife Khadija Issah Higazi (G5) and their five children Ikhlas and Higazi Suleiman Higazi (G5) – siblings who were unmarried at the time
SD5	Mohamed Mustafa (G3) (deceased)	Hiqmallah al-Hassan	Hiqmallah and her unmarried two sons and one daughter: Faisal, Farooq, and Manal. Tawfiq Mohamed Mustafa and his wife Hala

5.2.1.1.2 Al Digair sub-descent group (DG):

Like the Sidahmed case studies above, the three selected case studies from this descent group represent social units comprising one or more households of immediate kinfolk sharing the agricultural production and consumption activities. These members of case-study social units are identified with a red asterisk beside their names in Figure 5-6 below and summarised in Table 5-4. Like the above, each social unit is identified by the name of the (alive or deceased) main male descendant of al-Digair sub-descent group and the wife of the male descendant.

Figure 5-6: Genealogical diagram of al-Digair sub-descent group.

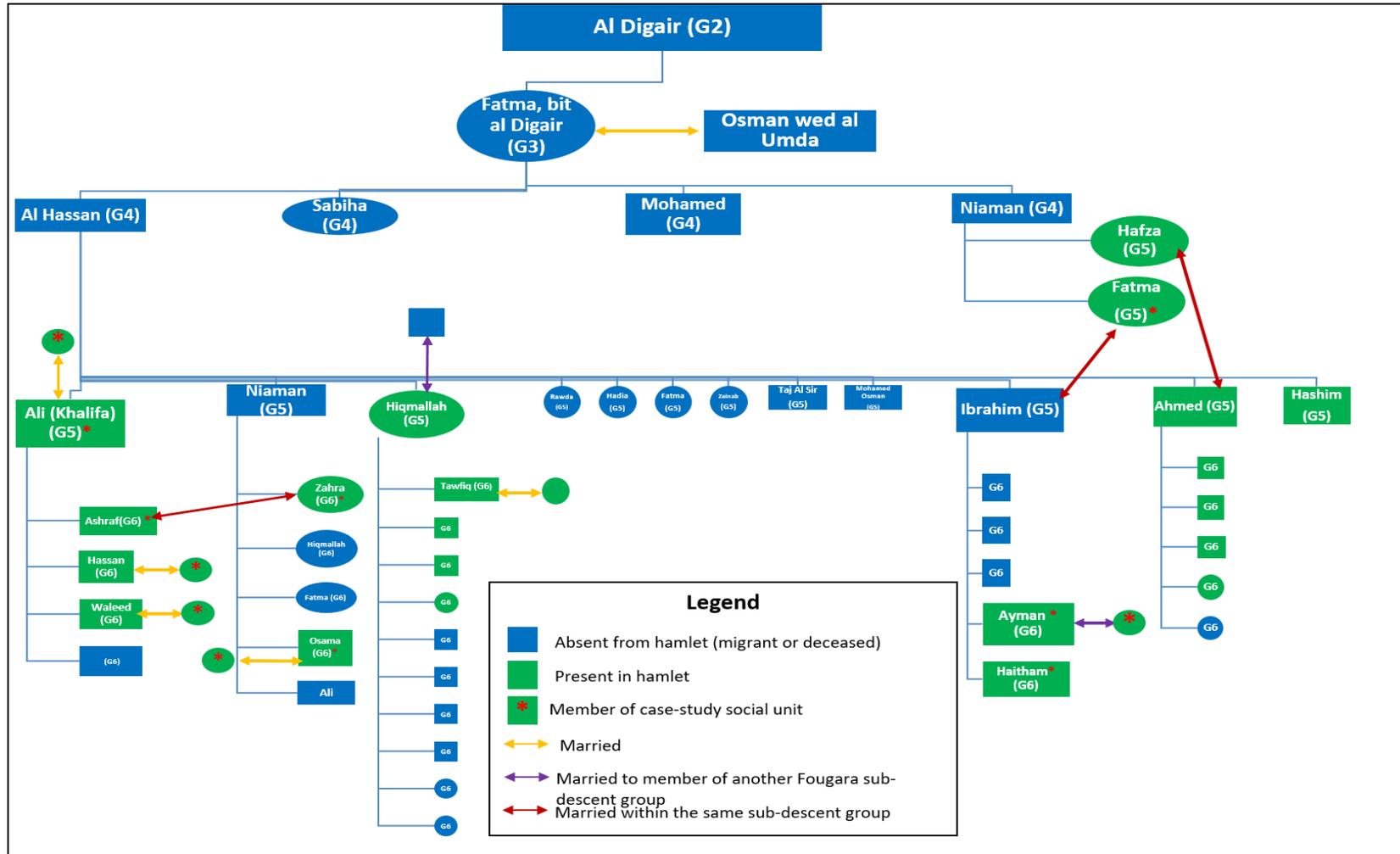


Table 5-4: Al-Digair sub-descent group case-study social units

Al Digair Social Unit Code	Male head of main household	Female head of main household	Members of the main household unit/other constituent households of social unit
DG1	Ibrahim al-Hassan (G5) (deceased)	Fatma Niaman (G5)	<ul style="list-style-type: none"> • Fatma Niaman (widowed) and her two resident sons, Ayman and Haitham • Ayman is married to Alawayia Ahmed Mustafa and lives nearby • Her son Haitham, divorced, is a teacher in the Kabna School
DG2	Khalifa al-Hassan	Khadija Himeyda	<ul style="list-style-type: none"> • Khalifa and his wife Khadija (s the sister of his first wife and the maternal aunt to his children). • Khalifa's son Ashraf and wife Zahra live nearby with their five young children. • The nearby households of his sons Hassan and Waleed and their wives Intisar and Ikram respectively. • Khadija and her daughters-in-law Ikram, Zahra, and Intisar cooperate in the agricultural activities involved in goat tending.
DG3	Osama Niaman al-Hassan	Muzdalifa AbdelGasim	<ul style="list-style-type: none"> • Osama and Muzdalifa and their five young children.

5.2.1.1.3 HajGaly sub-descent group (HG):

Similar to the case study social units above, the three selected case studies from this sub-descent group represent social units comprising one or more immediate kinfolk households. These members of case-study social units are identified with a red asterisk beside their names in Figure 5-7 below, and summarised in Table 5-5. In line with the above, each social unit is identified by the name of the (alive or deceased) main male descendant of HajGaly sub-descent group and his wife.

Figure 5-7: Genealogical diagram of HajGaly sub-descent group.

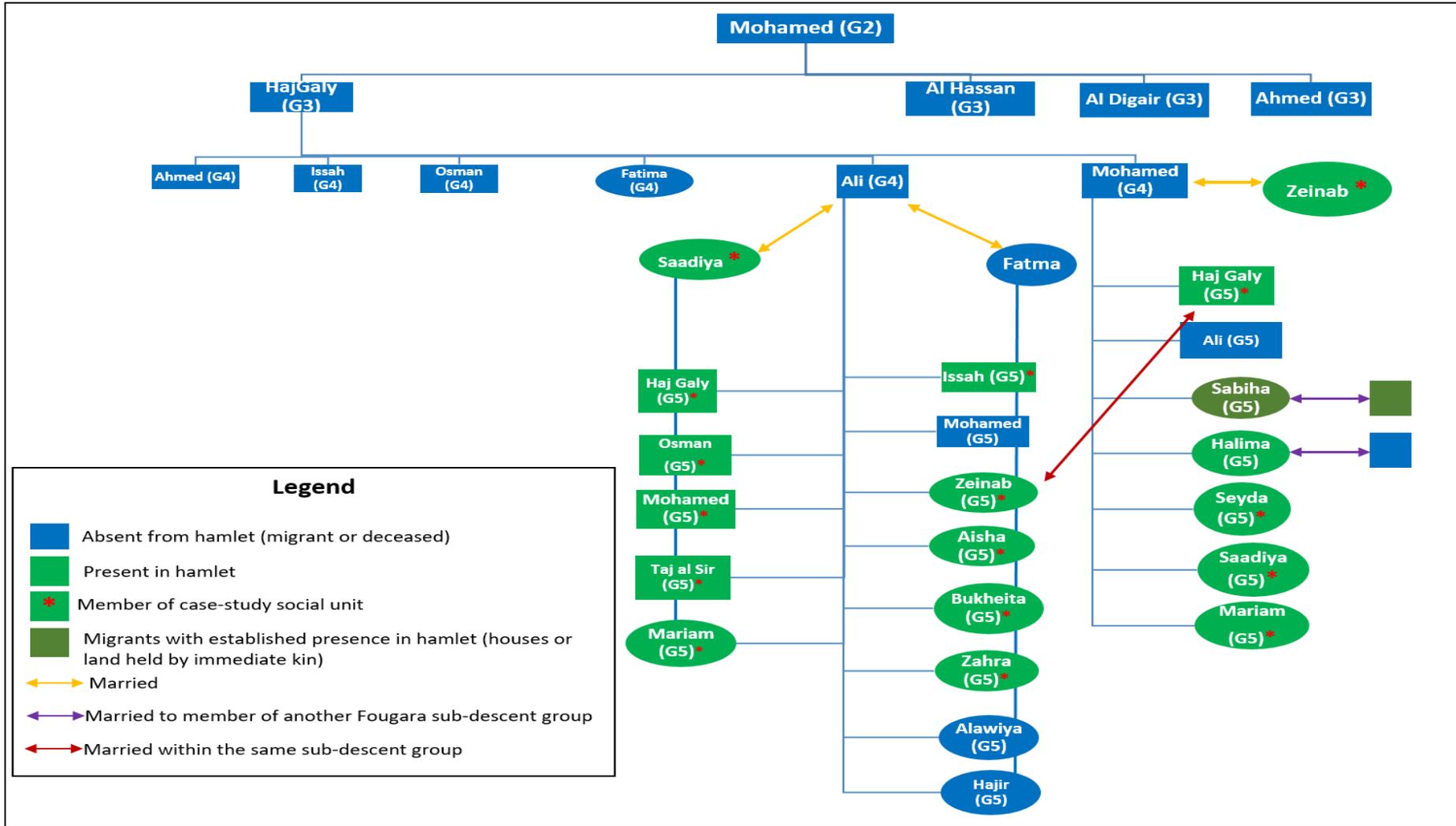


Table 5-5: HajGaly sub-descent group case-study social unit households and members

HajGaly Social Unit Code	Male head of the main household	Female head of the main household	Members of the main household unit/other constituent households of the social unit
HG1	Ali HajGaly (deceased)	Fatma Ahmed Ali (deceased)	<ul style="list-style-type: none"> • Aisha, Bukheita and Zahra—adult middle-aged, unmarried daughters • Issah—temporary migrant with a base in the hamlet, his daughter Mesa’ living with her paternal aunts as she completes her secondary schooling
HG2	Ali HajGaly (deceased)	Saadiya Issah Siddiq	<ul style="list-style-type: none"> • Saadiya and her (unmarried) 3 sons and 1 daughter • Saadiya’s married son HajGaly and his wife Safa
HG3	Mohamed HajGaly	Zeinab Ahmed Ali	<ul style="list-style-type: none"> • Zeinab and her 3 adult middle-aged, unmarried daughters (Saadiya, Seyda and Mariam) • Her son HajGaly and his wife Zeinab (also known as Zeinouba) and their 4 present children.

The following section outlines the pre-dam land property relations of al-Fūqqara among these three sub-descent groups (SD, HG, and DG) as they relate to the *warītha* lands at both categorical and concretised layers of property (see Figure 5-8 and 5-9 and the corresponding Table 5-6 below).

Figure 5-8: Main categories of land in the pre-dam hamlet of Al-Fūqqara.



Note: The satellite image captured during the low-reservoir season when the reservoir has receded to its pre-dam levels is a close approximation of what hamlet looked like prior to the Merowe dam

Table 5-6: Key to Fūqqara pre-and-post-reservoir households and structures represented in Figure 5-9 above

1	Osman Babiker	24	*Mosque	47	Ahmed al-Hassan	70	HajGaly Ali HajGaly
2	Ahmed Tayfour	25	Higazi Sidahmed	48	Hamid al-Hassan	71	Issah Higazi
3	Ali Mustafa	26	Osman Tayfour	49	Taj al-Sir al-Hassan	72	Faroug Moh. Mustafa
4	Mohamed Mustafa	27	Al Sir Tayfour	50	Ashraf Khalifa al-Hassan	73	HajGaly Ali HajGaly
5	Osman Ali Higazi	28	Tayfour Sidahmed	51	Ahmed Mustafa	74	Osman Ali HajGaly
6	HajGaly Mohamed HajGaly	29	Hashim Tayfour	52	Osama Niaman al-Hassan	75	Saadiya Ali HajGaly
7	Babiker Hassan Babiker	30	Abubakr Tayfour	53	Higazi Sidahmed	76	Hassan Babiker
8	Ali Mohamed HajGaly	31	Mahjoub Tayfour	54	Issah Higazi	77	Babiker Hassan Babiker
9	Ibrahim Taha	32	Moh. Tayfour	55	Abdullahi Sidahmed	78	Wasil Hassan Babiker
10	Mohamed Hassan Babiker	33	Mohamed Mustafa	56	Tayfour Sidahmed *2 nd wife	79	Salih Hassan Babiker
11	Salih Hassan Babiker	34	Mustafa Sidahmed	57	Adul. Tayfour Sidahmed	80	Mohamed Hassan Babiker
12	*Flour Mill (Ta ^c ūna)	35	Tawfiq Moh. Mustafa	58	Mohamed Osman HajGaly	81	Mahjoub Tayfour Sidah.
13	Ali Tayfour Sidahmed	36	Moatasim Ali Sidahmed	59	Moh. HajGaly	82	Higazi Sulieman Higazi
14	AlDigair Tayfour Sidahmed	37	Mohamed Ali Sidahmed	60	Ali Moh. Hajgaly(rebuilt 8)	83	Sulieman Higazi
15	Moh. Os. Sulieman Higazi	38	Ali Sidahmed	61	Abdullahi Sidahmed	84	Moh. Os. Sulieman Higazi
16	Ali Tayfour	39	Abdullahi Sidahmed	62	HajGaly Moh. HajGaly	85	*Flour Mill (Ta ^c ūna)
17	Sulieman Higazi	40	Ali Higazi	63	HajGaly Moh. Ahmed	86	Waleed Ali al-Hassan
18	Moh. Tayfour Sidahmed	41	Hassan Khalifa Hassan	64	*Date orchard of HajGaly	87	Osama Niaman al-Hassan
19	Hassan Babiker	42	Khalifa al-Hassan	65	Ali HajGaly *1 st wife	88	Mawaai Khalifa al-Hassan
20	Osman HajGaly	43	Al Hassan Osman	66	Issah Ali HajGaly	89	Moh. Ibrahim al-Hassan
21	*Khalwa—religious school	44	Ibrahim al-Hassan	67	Mohamed Ali HajGaly		
22	Issah HajGaly	45	Ayman Ibrahim	68	Ali HajGaly *2 nd wife		
23	AlFakih Ali Sidahmed	46	Haitham Ibrahim	69	Osman Ali HajGaly		

5.2.2 Pre-dam land property relations in al-Fūqqara

Before the Merowe dam, the main categories of land used by the hamlet's inhabitants roughly correspond to the categories of land identified by Salih and described in Section 5.2 with one minor exception. In addition to the typical irrigated uplands of the *sāqiya*, and *ashau*, in the Fūqqara a third category of irrigated lands was identified and referred to as the *idayg* and was located between the *sāqiya* and *ashau*. This is a peculiarity of the hamlet of al-Fūqqara, as I was unable to find any mention of *idayg* elsewhere in the Manāṣīr. The repeated testimonies of al-Fūqqara concerning these lands raised a major conundrum for me as I could not corroborate this with others or even discover the origins of the term and category. At the risk of insisting against their repeated reference to these lands, I honoured the fact that there is such a category of land in al-Fūqqara, and they distinguish it from the *sāqiya* above and *ashau* below.

As in the rest of the Manāṣīr, reclaimed lands above the registered *sāqiya* and seasonally appearing *jarf* lands that lay closest to the Nile River (see Figures 5-8 and 5-9 above). This section outlines the uses and divisions of these four categories of land among the three sub-descent groups of the Fūqqara.

5.2.2.1 *Date Palms on the Ashau land*

Perhaps the most devastating loss experienced in Kabna, and indeed across all the Manāṣīr lands, is the inundation of the remarkable date palm groves that once lined the riverbanks. "The date palms in the past were so many and they were so beautiful!" (Ikhlas). They spanned the entire hamlet and stretched from Khaur al-Birtait to Khaur al-Nawāwīr. The density of the date palm thatch cover provided a cool shade where the men spent all their afternoons drinking tea and socializing. As one man reminiscing about these afternoons remarked: "The shade of the date palm can never be compensated" (Bakri). The experience of this loss is felt deeply among those who remember the beauty and benefits of these palms: "when you remember it you cry" (Ikhlas). "Date palms that would open one's spirit" (Khadija). With the loss, the unique social relations and system of rights that evolved around these property objects were also lost forever.

Although the ownership of date palms usually corresponded to the categorical rights in the *ashau* land, this was not always the case. Those who wanted to plant date palms but lacked access to land would reach an agreement with a landowner: "if you didn't have a space, you plant your off-shoot on my land and then give me a share of your dates afterwards" (Zeinab Ali). The divisions in such cases would be determined by the customary laws similar to those of the '*aṣil*' and '*miswaq*' rights (as elaborated in Section 5.2), whereby the landowner receives one-third of the harvest while the irrigator and cultivator take the other two thirds. If the irrigator and cultivator are different social units, each receives a third.

Regardless of whether a family or household owned date palms, they almost always had some share of the inheritance (*warītha*) in date palms. As Sabiha explains:

"Our fathers in the past knew where their date palms were and who didn't have date palms but had *warītha*. Those with *warītha* but no palms would come on the day of harvest or send someone to collect their share."

The inheritance was divided along the lines of Islamic laws “...the woman whose husband is dead and has kids gets an eighth, and the two women get as much as one man...like that, it’s based on the Quran”. The *warītha* was always vigilantly adhered to no matter what the total harvest amount was like “If it was a lot, they divided using baskets or sacks. If it was a little, they divided it still, even if it was with cups” (Sabiha).

The *warītha* of dates connected the Fūqqara to many different hamlets as their inheritance rights were scattered across the multiple hamlets where their forefathers had rights to the land or had planted date palms. In addition to the palms planted in the Fūqqara, the al-Digair descendants, for example, had *warītha* in the date palms located in the hamlets of al-Salamat and al-Raum. These inheritances came to them from their grandfather, the *‘umda*. Sidahmed’s grandchildren had *warītha* in Dār Khairain and al-Hība al-Sharqīya, and his two sons, Ali and Babiker, had *warītha* from their mother’s side in Shirri Island.

Harvest time was an affair that involved the entire village. Everyone, those with date palms and *warītha* and those without, benefited from the fruits of the palms. “The one who harvested it for you, who climbed the palm and cut it, gets a *sabītha* (one fruit branch), and the children that helped you collect it would be given some to take with them” (Zeinab). Indeed, “those that had and those that did not have both used to benefit” (Ikhlas).

5.2.2.2 *Irrigated lands (Sāqiya/īdayg/ashau)*

The pre-dam irrigated lands (i.e. *sāqiya*, *īdayg* and *ashau* lands—see Figures 5-8 and 5-9) were the hamlet’s most economically important agricultural lands. These were cultivated throughout the year to grow the *shitwī*—winter, *gamiḥ*—wheat, and the *ṣaifī*—summer, *miraig*—sorghum, as well as fodder and vegetables all year round—very much in keeping with the typical Manāṣīr agricultural lifestyle described in Section 3.3.5. The *sāqiya* seasons were enough to produce enough grain and fodder to satisfy the needs of the hamlet inhabitants and fill their storehouses. The lands were worked mainly by the men, who sowed the seeds, irrigated, and harvested the crops. Women’s contribution to agricultural activities through the weeding of the irrigation plots would provide them with the fodder necessary for their livestock.

Al Digair Mohamed Ahmed al-Fakih had registered both the *aṣil* and *miswaq* rights to the *sāqiya* land in his name during the British registration survey in 1909, and his descendants would subdivide their shares in the land according to Islamic inheritance laws and Manāṣīr customs. Formal registration was a messy process. Evidence of this in al-Fūqqara is the existence of rumours that the *sāqiya* lands registered by al-Fakih originally belonged to the people of the Nawāwīr hamlet. While the Fūqqara forefathers were educated and literate, the Nawāwīr were not, as one member of the Fūqqara explains: “Our people were literate and knew what was happening at the time of registration, there are some that were just using the land with no awareness or understanding of registration when it came”.

Though the categorical rights to the *sāqiya* belonged to all the eligible heirs who are descendants of the three sons of al-Fakih, in practice, it was concretely used by a small portion of those who remained in the hamlet. “Often a *sāqiya* has more than 100 descendants that have a right to it!” (Mohamed Ali).

This exemplifies the land fragmentation described by Salih (1999), and as one member of the hamlet puts it is because “as the family grows, the land does not grow”, and thus many would leave the land to those in the hamlet. Various counterstrategies were employed in al-Fūqqara to address this fragmentation of land. The *bi ma‘aīshi* system allocates the parcels of land among the permanent residents with eligible rights of inheritance, as discussed in Section 5.2.2.1 (see Appendix F for details of a historical example provided by Salih). Therefore, categorical *warītha* rights of permanent residents do not exactly reflect or match up with the concrete rights of possession and use of the land for subsistence (*bi ma‘aīshi*).

As *warītha* land, the *sāqiya* is considered the inalienable property of all eligible inheritors within the Fūqqara descent group. Eligible inheritors are *not* the same as lineage members, as the Islamic and customary inheritance rules exclude certain lineage members in certain circumstances. For example, when a grandson’s father dies before the grandfather, the grandson is not entitled to inherit.¹⁵ Furthermore, customary practices may include non-lineage members in use rights, for example, when wives who are non-lineage members benefit from their husband's share in the *sāqiya*.¹⁶ Nonetheless, inhabitants of the hamlet often emphasised the inalienability of *warītha* rights of all eligible heirs, regardless of whether these rights are realised or not. People often said of those out-migrated members of the Fūqqara with eligible *warītha* rights: “Their right is saved here—*al-ḥaqq mahfūz*” and that “they could claim this right if they wish”, despite the practical impossibility of fragmenting the land further amongst all eligible heirs. Instead, these statements of inalienable *warītha* rights reflect the social value of land in tying people to a place and rooting them in the sense of belonging.

The main Fūqqara *sāqiya* was divided into thirds, one for each of al-Fakih’s three sons. It consisted of an upper part, the *sāqiya*, and a lower part, the *īdayg*, and the *ashau* below that, where the date palms were planted (see Figure 5-8 and 5-9). The divisions were established by the *jiddūd* and passed down through the generations. Even the oldest members of the hamlet do not remember a time when the *sāqiya* was not divided in this way. “We were not present for these divisions, we just found them like this” (see Figure 5-9).

The division of the *sāqiya* in *marāḥil*—stages, was “because in the past the *sāqiya* was irrigated by cattle, so the water could not easily be delivered to all plots” (Hashim). They also guaranteed that everyone had an equal share of all the *sāqiya*’s variety in soil and land quality. “Our grandparents were wise and just and fair in their divisions” (Bukheita). The *īdaygs* were similarly divided among all three groups as they were closest to the water, so “everyone would have an equal share in it” (Hashim). After the *jiddūd* divided each strip, they would create a road called a *tingīr*, which is not taken from anyone’s land. These roads are *janibīya* or side roads. Al-Mishra, which means ‘watering place’, is the main road everyone uses to transport water and fodder. It was also where the main irrigation pump was tied and where the ox-driven *sāqiya* would have historically been.

Each third of the *sāqiya* was further subdivided among the permanently residing descendants of Sidahmed, Mohamed and al-Digair, respectively. While Mohamed’s third went only to his son HajGaly

¹⁵ This is exemplified by case study DG3.

¹⁶ This is exemplified by the wives in SD2.

(as a result of the counterstrategies to fragmentation described in the previous section), Bit al-Digair's share went only to her son al-Hassan. Sidahmed was the only one of the three grandfathers whose share would be divided among his six sons that remained in the hamlet.

Al-Digair's third, that went to al-Hassan, was left to him by his brothers. As al-Hassan's daughter Hiqmallah explains: "my uncles have a right to the land here, but they left it for my father because they took the land that we have in other areas, in Salamat and al-Raum. It was only my father who stayed here". Al-Hassan divided his third among his sons who make use of this land to this day. "Before my father passed away, the *ḥaqq* (right) was only with my father himself. He gave some rights to my brother Ibrahim (DG1) because he was staying near him, and their expenses were shared. After my father passed away, my brothers Khalifa (DG2), Hashim, Ahmed and Ibrahim's (DG1) children got a place— they divided it among themselves."

Hiqmallah (SD5) herself never had a share in her father's land as she claims, "I left it for my brothers— because I farm Mohamed Mustafa's rights". While women's rights of inheritance in their father's *sāqiya* is safeguarded under customary and Islamic law, a common practice of women selecting to leave their shares for their married brothers and cultivating on their husband's land was observed to be the case in al-Fūqqara. She similarly relinquished her share of the *īdayg* land rights that her father had, as "they are planted by Hafza, Fatma, Ayman and Zahra".¹⁷ Osama (DG3), the son of al-Hassan's son Niaman, had no rights to the lands in the al-Digair third but was given a small plot in the *īdayg* after being married by al-Hassan's second wife. As Muzdalifa, Osama's wife explained, "Osama did not have a *ḥaqq-wirāthi*—inherited right to the land —because his father passed away before his grandfather (Niaman passed before al-Hassan) but after I married him and had my own goats, they gave me this little plot in the *īdayg* to grow fodder for my goats".

HajGaly's third was subdivided between his two sons, Ali (HG1 and HG2) and Mohamed (HG3). His other sons migrated away from the hamlet, leaving their rights to the permanently residing brothers. Mohamed's share was passed down to his sons and unmarried daughters as per the inheritance laws (HG3). Ali made special arrangements before he passed to divide his inheritance among his two families from his two wives (HG1 and HG2) to avoid problems of inheritance, as Bukheita (HG1) explains "before he died, our father allocated rights for every one of his children from both his wives himself, he gave each of his children separate plots to live off of, and they were all *mūqtanīn*— satisfied — with what was given. Since he passed, nobody had any problems or said anything about their land".

As all Sidahmed's six sons remained in the hamlet and had categorical rights to the *sāqiya*, the third belonging to Sidahmed was subdivided into smaller strips than those of the other two descent groups. Due to his large family, Sidahmed was keen to expand his share in the land. He did this by reclaiming some rocky lands between the *sāqiya* and the *darb al-sulṭān* (see Figure 5-9) as well as claiming the

¹⁷ See Appendix E for details on these residents. Table E-1 in the appendix identifies Hafza (no. 29) Fatma (no. 21), Ayman (no. 22) and Zahra (no. 24) as the resident descendants of the al-Digair sub-descent group.

land adjacent to Khaur al-Nawāwīr (see the section on ‘Atrūn *sāqiya* below) and making use of another *sāqiya* registered by al-Fakih in a nearby hamlet called Dār Khairain (see the section below).

5.2.2.2.1 ‘Atrūn *sāqiya*

Adjacent to the main Fūqqara *sāqiya*, just beyond the Khaur al-Nawāwīr, is a smaller *sāqiya*, referred to as the ‘Atrūn, that belonged solely to Sidahmed (see Figure 5-9). It was unclear from the responses whether Sidahmed had acquired any formal statutory recognition for the rights to the ‘Atrūn *sāqiya* (through registration). However, it was sufficiently clear that the *sāqiya* was customarily considered the sole categorical property of the Sidahmed descendants “This *sāqiya* is just for us, not shared with Al-Digair and HajGaly” (Hashim, SD1). The categorical rights to the ‘Atrūn *sāqiya*, therefore, are to be distributed among the six sub-descent groups which correspond to Sidahmed’s six sons. However, unlike the main *sāqiya* which was divided into thirds and distributed among the descent groups, the ‘Atrūn was never divided. As Hashim explains:

“The ‘Atrūn *sāqiya* is still not divided, our fathers never divided that *sāqiya*, then we came along as paternal cousins (next generation), and we didn’t divide it either. But if we really wanted to, we could divide it amongst the Sidahmed sons, into sixths. We never tried to divide it. If we wanted to come to it, we could divide it amongst us, our rights are saved.”

This illustrates how categorical and concrete rights interact as despite the categorical rights of all six descent groups to this *sāqiya*, only one member of the sub-descent group, Mohamed Mustafa (SD5), held concrete rights to it.

How Mohamed (SD5) came to be in possession of the ‘Atrūn is described by Hashim (SD1):

“In the past, none of us were farming that *sāqiya*. Our uncle Babiker had planted dates on the edge of the Ḥasanāb *khaur*, near the ‘Atrūn, and then Mohamed Mustafa brought a *bābūr* for the Nawāwīr people on their *jarf* and started to cultivate the ‘Atrūn *sāqiya* with it. In actuality, it was cultivated by someone in the Nawāwīr as a sharecropper, and ever since then, it became Mohamed’s *sāqiya*.”

Consequently, it was through the act of establishing a sharecropping contract with the Nawāwīr hamlet that Mohamed came to be the concrete right-holder to the ‘Atrūn *sāqiya*. As Halima described it, “Since they were the ones who gave life to it—no one went to ask anything of them.”

Mohamed’s concrete rights to the *sāqiya* have endured and after his death, these have passed on to his children. As his widow, Hiqmallah (SD5) claims “the ‘Atrūn belongs to our children”. She acknowledges how the *sāqiya* came to be theirs by explaining that:

“Originally, it is Sidahmed’s because if it was not for Sidahmed, then Mustafa’s son would have never approached it...my husband’s uncles left it for him, they told us you could farm it and we don’t want anything from it. It became our land just for us alone—*bī tarāḍi*—with full consensus/peaceful agreement, *mā bī faṣil*—not through conflict or disagreement”.

While to Hiqmallah (SD5), the ʿAtrūn is now her children’s land because of the prolonged concrete rights held to it, according to Hashim (SD1), the categorical rights continue to exist and have relevance. As Hashim put it:

“The only reason Mohamed has it is because I am withdrawing my claim/allowing him to have it. But if I didn’t allow/forgive your claim, then you would be a wrongdoer, you would be in the wrong/inflicting an injustice. But see how they are farming it, if I approached them and said I wanted my share, they wouldn’t prevent me from having it, because they know my right, it is a *ḥaqq wīrāthi*—an inherited right. If anyone said I want my right to cultivate it, no one would stand in his way. But in this case, we left it for them.”

Of note here are the different interpretations of the categorical/concrete rights and their long-term endurance by different members of the Sidahmed descent groups.

5.2.2.2.2 *Dār Kheiren sāqiya*

There is another *sāqiya* in the hamlet of Dār Khairain that was registered in the name of the Fūqqara’s great-grandfather al-Fakih. Like the ʿAtrūn *sāqiya*, the categorical rights of *warītha* to the *sāqiya* do not match the concrete rights of usage. As Hashim explains:

“In the past, we used to all farm on it, but it is not divided, we would farm it based on agreements between us, for example, I farm this area, my cousins would farm that area, but it was never originally divided”.

In theory, that *sāqiya* should be divided into thirds just like the Fūqqara’s main *sāqiya* as it is the categorical property of all eligible heirs. However, since it never was divided, it was informally shared between the co-heirs until the onset of the Merowe dam. This is when Issah Higazi concretely claimed the *sāqiya* and as such Hashim states that “the entire *sāqiya* is left to one person”.

5.2.2.3 *Reclaimed land*

The only reclaimed lands before the dam in al-Fūqqara were the Sidahmed expansion on the rocky border of the *sāqiya* lands (see Figure 5-9). Due to the large number of Sidahmed descendants in the hamlet and the limited land share as the families would inevitably expand, Sidahmed was keen to expand his share of land wherever possible. Though, under statutory law, reclaimed lands were usually registered and considered as usufruct leasehold rights, there was little distinction between the freehold and leasehold rights to land locally. As such, practically speaking, these reclaimed areas are not distinguished from the main *sāqiya* in terms of the bundle of rights that the social units hold with regard to it but are rather considered as an SD subsection of the main *sāqiya*. Furthermore, none of his descendants could recall if the reclaimed extension had been registered and viewed the question as irrelevant.

5.2.2.4 *Jarf lands*

The *jarf* lands in the Fūqqara hamlet are unlike the *jarf* in the neighbouring hamlets of Kabna that are measured out and demarcated each year. Rather, the *jarf* in al-Fūqqara was divided into six plots that

have stable and permanent boundaries (see Figure 5-9). “The *jarf* below used to be divided into such small plots, but then came along a generation that was wiser than the one before it and they grouped them together”. The grouped *jarf* plots are identified by special names: Umm Sidairis, Dār al-Kanābla, al-Agānīn, al-Fīl, and Khaur wad Ahmad (see Figure 5-9). Each of these plots is subdivided into three parts, one for each descent group, except for the Umm Sidairis plot, which belongs entirely to al-Hassan of the al-Digair descent group. There did not seem to be anyone who could explain this exception to the *jarf* allocations made to the DG sub-group, even the oldest member of the hamlet (Mama Zeinab); it was simply accepted as a valid part of the categorical rules to the *jarf* land.

The rights to the *jarf* land were continuously rotating, so the right holder would end up with a different plot each year. As each plot (except the Umm Sidairis) is divided into thirds, the rotations are within and across each plot. For example, “...if you are in one of the tail ends of the *jarf* in one plot, it will be the same end that you farm in all the plots, if you are in the middle, then you are in the middle in all the plots” (Aisha). Furthermore, “everyone knows the rotation that starts from the plot after Umm Sidairis plot. Each year your plot shifts from one side to the other until it reaches the *Khaur* and then starts again” (Ikhlās). Rotating the *jarf* lands is standard across the Manāṣīr, and the reason for it is to ensure a fair distribution in the variable *jarf* lands as “in the past, before the dam, the rotating *jarf* meant that this year, if I fell on the plot that is not nice, next year, I will be given a better plot, so I will be patient with where I am because I know next year it will be different” (Mariam).

All *wadis* (valleys) are considered as *jarf* land, and the same rules of *jarf* divisions and rotation are applied to them. In the Fūqqara, the wadi of Khaur wad Ahmad which lies below Khaur al-Nawāwīr (see Figure 5-9), is included in the *jarf* rotations. The *wadi* of Khaur al-Birtait at the other end of the hamlet, which is neighbouring the hamlet of al-Ḥīla is also considered *jarf* land. Although, only the HajGaly and al-Digair descendants have a share in that land (see Figure 5-11).

Each sub-descent group subdivides the third of each *jarf* plot among the resident members of their group. Division of the *jarf* land within each group is carried out by a member who is responsible for dividing and allocating the *jarf*. The division uses a *jarīda*—a date palm branch, which serves as the measuring unit, also referred to as *dūra*^c. “The *dūra*^c are measured across the bank, and the land you get is whatever appears in the direction of the water. It is really you and your luck, sometimes it is nothing; sometimes it is a lot, depending on how far the water recedes.”

In the case of the HajGaly descendants, it is divided between the families of his two sons Ali (HG1 and HG2) and Mohamed (HG3). As Seyda Mohamed (HG3) explains:

“Our [HG] *jarf* is divided into two, one for me and my siblings and one for Aisha Ali and her siblings. Our half is divided in half again between us and Zeinouba’s family because she is married to our brother. This is only when our *jarf* lands on this third, they call this *al-tilth al-wās‘i*—the wide third, but when the *jarf* lands on another area we let Zeinouba take the whole plot because she is married to our brother.”

They also practice rotations within this third as “one year I will have the one facing east and the next year I will be on the plot facing west” (Aisha). Similarly, Ali’s half of the HajGaly *jarf* is divided into half between Ali’s two families (HG1 and HG2).

Sidahmed third is divided among the descendants of his six sons, and as a result, the parcels of land are much smaller than that of the HajGaly descendants. Mohamed Mustafa's wife Hiqmallah (SD5) explains how her share in the *jarf* of the Mustafa $1/6^{\text{th}}$ of the Sidahmed's $1/3^{\text{rd}}$ is divided among them. "Nura [sister of Mohamed Mustafa] used to measure the share that was for her father Mustafa and she takes her share and gives me my share and gives Aisha [wife of Ahmed Mustafa] her share." The other sons of Sidahmed would similarly divide each sixth among themselves. "Mustafa's plot was very small, smaller than an *angaraib*—[traditional single-sized cot], but we still plant it".

As Hiqmallah also belonged to the al-Digair descent group, she had a share in the *jarf* which she inherited from her father, al-Hassan. "We plant the piece that is mine given to me by my father, and we plant Mustafa's share. The piece given to me by my father is on the al-Hassan third, and Mustafa's piece is on the Sidahmed third". Hiqmallah's (SD5) *jarf* was being cultivated by her son Faisal and appeared in two places, one that luckily was adjacent to the *Atrūn sāqiya*, as she explained: "This year, the land that was given to me by my father is next to the *Atrūn* in the *Khaur*, for the next three or four years it will not come to me near the *Atrūn*, the next time it comes there it will be from Mustafa's side".

The Umm Sidairis *jarf* plot, which belonged to her father, was not divided according to the inheritance. Instead, it was given by al-Hassan himself to his son Ibrahim (DG1). "Ayman [Ibrahim's son] farms it by himself; nobody would go to it" (Hiqmallah). The rest of al-Hassan's children share a third of the *jarf* in the other rotating plots.

It is evident from the above testimonies that these historical lands still have relevance for the hamlet's inhabitants. As the Merowe dam's reservoir has resulted in their seasonal inundation, their past recollections of these *warītha* lands are mixed with present tense language in their testimonies. The following chapter illuminates why this is the case and how they have adapted to continue using these lands in the post-reservoir period.

5.4 Conclusion

Drawing on existing historical evidence, the first half of this chapter described the different types of land in the Manāṣīr at the legal-institutional layer of categorical property (under the prevailing conditions of legal pluralism) and at the concretised layer of actual social practice, thus providing the necessary contextualisation for the ethnographic evidence in the second half. The second half of the chapter introduced the ethnographic context of al-Fūqqara hamlet and the main social units who are the basis of the in-depth exploration of how these (categorical and concrete) land rights have been affected by the Merowe dam's reservoir in the next two chapters. The dynamic between the concrete and categorical rights to the old pre-dam *warītha* lands in the hamlet of al-Fūqqara were reflected in the testimonies of the inhabitants who liken themselves as '*amsāk al-a'gāb*' —'guardians of the wealth', for all the out-migrated eligible heirs or *asyād al-warītha*—the holders of categorical *warītha* rights. These concrete right holders acknowledge their great grandfathers (*jiddūd*) division and allocation of these lands and have described the historical roots of their present shares in the land as stemming from these forefathers. Connecting them to "their ancestors and generations yet unborn" (Salih 1999, p. 222), it is no wonder the attachment they display to these lands. As will be

demonstrated throughout the rest of this thesis, land property in the Manāṣīr is far more than the categorical and concretised dimension elaborated above and “...is cherished far beyond any conceivable economic rationality” (Beck, 2003, p. 160). The following chapters illustrate how this cherishing of the land takes shape in the post-reservoir context as people take to the higher land and make property by literally carving it out of rocks.

Chapter 6: Post-reservoir land property dynamics in Kabna al-Fūqqara

6.1 Introduction

It happened on the first day of ʿĪd al-Adḥa of 2008, in early December and almost five months after the first of the Manāṣīr territories began flooding in July. The water came suddenly and without warning. Likening the event to the *sayl* — destructive floods caused by torrential rains— Sabiha Mohamed HajGaly recalls the day with a similar sense of disbelief as several Manāṣīr people in Kabna who witnessed it. She describes how “unrelenting, the water came...moving without legs and destroying without arms”. Tajuj and her sister Ibtisam in the Nawāwīr hamlet were frying the lamb meat for the Eid festivities in the kitchen when the water crept into the courtyard of their home. No matter how much they heard the news of villages further upstream encountering the same fate before them, the interviewees testify, few of them really believed that it would happen to them. They believed that somehow, they would be safe.

The hamlets comprising the village council of Kabna have experienced partial submergence to varying degrees depending on the characteristics of the topographic elevation of the hamlet (refer to Figures 6-1 and 6-2). Topographic variability has thus shaped the post-reservoir experiences of the village councils as well as hamlets within each village council in particular ways. For example, while some of the houses in the Fūqqara hamlet situated on higher grounds remained intact, all of the houses in the neighbouring hamlet of al-Nawāwīr – which were lower – were destroyed by the reservoir.

This partial submergence makes it such an interesting case to view from a perspective of property dynamics. Consider how the remnants of the old hamlet continue to exist in the form of some houses that are still standing and which are still inhabited by those that lived in them before the flooding. Likewise, some fragments of alleys and pathways linking these houses still survive, just as social relations between neighbours and kin members survive. Unlike those living further downstream who have had to rebuild their hamlets from nothing, in Al-Fūqqara, as in other parts of upper Manāṣīrland, ‘historical continuity’ is a key factor that shapes adaptations to property relations.

This chapter examines these dynamics of land property adaptation, at the level of concretised property, through selected cases from the hamlet of Kabna al-Fūqqara. The categorical level of property is considered by looking at some of the customary institutional processes behind the changes in concrete property.

Figure 6-1: Close-up image of the hamlet of Al-Fūqqara at the tail end of the reservoir



Note: The reservoir's filling between August and January roughly doubles the river's width

Source: Google Earth

Figure 6-2: A closer view of Al-Fūqqara hamlet located between Khaur al-Birtait to the west and Khaur al-Nawāwīr to the east.



Note: The remnants of the old hamlet of Al-Fūqqara are visible as the island connected via a narrow footbridge to the post-dam extension

Source: Google Earth

This chapter is structured as follows: the first section (6.2) presents an overall discussion on the ‘local option’— *‘khiyār al-maḥallī*, experience in Kabna in general (particularly with regards to efforts to restore and rebuild life along the reservoir). This is followed by a detailed account of the post-reservoir property dynamics in the Fūqqara hamlet in Section 6.3.

Following a brief account of the flooding experience (6.3.1), the remaining two sub-sections describe the land property rights and relations in accordance with the two main seasons in the post-dam context: when the reservoir is at its highest point (high-reservoir season in Section 6.3.2) and after the reservoir recedes to the Nile river’s original level (low-reservoir season in Section 6.3.3). Section 6.3.2 tells how new categories of land property were created in reclaimed land in the aftermath of the flooding through the concrete actions of land reservation and reclamation, illustrated through short studies of reclamation cases. Section 6.3.3 describes the land property relations following the reservoir recession during which the hamlet’s inhabitants return to the historical *warītha* lands, practising an adapted form of flood recession agriculture, followed by a conclusion in Section 6.4.

6.2 Kabna’s experience in the ‘local option’— *‘khiyār al-maḥallī*’

Before examining land property adaptations in the aftermath of the construction of the Merowe dam, it is appropriate to consider life along the reservoir in the Kabna village council. We shall see how life at the ‘local option’ was made possible mainly through the solidarity of Manāṣīr group and communal ties (as discussed in Section 3.2). In the absence of state support, the role played by these social networks was instrumental in restoring daily life after filling the reservoir. By drawing on ethnographic observations to illustrate various vignettes of life at the local option, this section sets the scene for a detailed account of land property dynamics in the Fūqqara hamlet in the following sections.

6.2.1 Choosing the ‘local option’

The choice to resettle around the reservoir in the ‘local option’ — *‘khiyār al-maḥallī*’ (see Chapter 3), was popularised among the area’s inhabitants by the community leaders and advocated by influential members of Kabna’s village council. The vice president of the Manāṣīr Council of Affected People (*Majlis al-Mut’athirīn*) at the time was the current headmaster of the Kabna School. He had attended meetings with the people of Halfa that the Aswan High Dam displaced in the 1960s and heeded their message: “They said to us, do not ever leave your homeland or you will later regret it” (Abdelkhair). The head of Kabna’s popular committee (*lajna sha‘abiyya*) Musa Abdeen, promoted the local option among the members of the village council and even went as far as to support the members of his hamlet (hamlet of al-Ḥīla, beside Fūqqara) by making some of his land and his irrigation pump available for them to live off (described further in Section 8.2.1). In the context of this leadership and mobilisation at the local level, the choice to remain in the partially submerged village was favoured by many of Kabna’s inhabitants. In the end, only about 30 out of the 1,900 families comprising the Kabna village council had accepted resettlement packages and moved away (Abdelkhair).

Testimonies reveal how distrust of the government’s intentions for their land contributed to the defiant attitude of the local-option proponents. For instance, as expressed by al-Assad: “We would never go far because if we did, there might be some companies that will come in—the companies

would squeeze out the citizens”. In the context of large-scale land acquisitions elsewhere in Sudan, state-sponsored private agricultural corporations, and the all too often alignment of agricultural policy with private land leases to foreign investors, this distrust is not unfounded.

Interviewees provided various reasons for their decision to remain, ranging from expressions of love and attachment to the homeland and way of life by the river to more practical considerations of their knowledge of the area, its climate and faith in their ability to adapt to it. Expressions such as “it is our nature to live off the land and cultivate it” and “*ind al-Manāṣīr al-arḍ mūqadasa*—for the Manāṣīr land is considered sacred”. The proximity of the water and the uncertainty of governmental irrigation schemes in resettlement sites were also among the practical reasons cited for staying along the reservoir. For example, in the al-Fida resettlement site, water must be transported for 40 km via canals before it reaches the site. One man from Kabna remarked how his lack of trust in the government to maintain the pumps and provide services was a reason for his choice of staying, “here, if there is a problem with the pump, I go down and fix it myself”. Another remarked: “We were not sure that the *tur^cah* (irrigation canal) would bring us any water in the resettlement villages, whereas here we could see the water with our eyes...we would never accept to move because our eyes are glued to the water”.

Another common reason provided for the choice of the local option settlement was expressed in a common statement that “land here is free—*al arḍ hina majānan*” and was often assessed against the need to buy land for the expansion of their family settlements elsewhere in Sudan, whether in the government-built sites or the other metropolitan and urban centres of Sudan. Furthermore, one respondent who weighed the experience of those who have moved to government-built resettlement sites against the experience in the ‘local-option’ stated: “We would never give up our land and move into government-built houses, the *hawāshāt* [agricultural plots, plural of *hawāsha*] are far from the house so what good is a house with electricity and air conditioning if you have to travel miles to your field”. These comparisons against the experience of the Manāṣīr in government resettlement sites were also common among the justifications for the respondents’ choice to remain. The same respondent recited a poem popularised among the various slogans and chants during the struggle to secure the *khiyār al-maḥallī* or ‘local-option’ settlement. The poem disparages the members of the Manāṣīr who chose to accept the government resettlement packages by linking them with (US-supported and (perceived) national traitor) Afghan President Ahmad Karazai (see Section 3.2.3). It highlights the tribulations of their experience away from their homeland:

<i>al-karazai al-mā fakar—</i>	Oh, the Karazai who did not think
<i>idārt al-sadd shaghalatahū ḍarar—</i>	the dam authorities' work is harm
<i>al-hawāsha ba^cīdah dāyira safar—</i>	the <i>hawāsha</i> is far; it requires travel
<i>wal-mūwyāh bi al-tankar—</i>	and the water is brought with tankers
<i>al-karazai al-mā fakar—</i>	Oh, the Karazai who did not think

However, the most common justification given for this choice to remain was “*al-balad fīyha al-amān*” literally translated as “the homeland contains security/safety”. The ‘*amān*’ (safety or security) that was so often referred to as contained in the Dār al-Manāṣīr was difficult to grasp at first. However, following months of observation and integration into the daily lives of the Manāṣīr, it became clear that the meaning of the phrase has more to do with a sense of security deriving from the close-knit social ties inextricably linked to identifying as ‘Manāṣīr’ that are embedded in the territory rather than the land itself. One person’s elaboration on the concept of ‘*amān*’ illuminates this essential dimension of Manāṣīr exclusivity:

“Here in the Manāṣīr there is nobody who is ‘*gharīb*’ (a stranger, referring to non-Manāṣīr), this is one of the only places left in Sudan that has not become a ‘*madīna*’ (city or urban centre) and has no ‘*khalīt*’ (mixture of peoples/cosmopolitanism)” (Al Assad).

The social values of identity, belonging, and security in the group ties rooted within the homeland were strong enough to encourage many to endure the hardships associated with restoring and rebuilding life at the reservoir. Thus were the social bonds of Manāṣīr solidarity instrumental in coping with the shocking and violent impacts of the sudden closing of the dam gates and the prohibition of humanitarian aid to the affected areas by the government. Men from all over the Manāṣīr mounted their riverboats and embarked on rescue missions to the areas that needed support. For example, many from Kabna spent months away from their homes assisting those in Birti, where the flooding was more extreme and devastating, helping them rescue their belongings to higher ground and establish resettlement camps. The same (types of) social ties were to become integral to re-defining property relations, as will be apparent in subsequent chapters.

Furthermore, in light of state neglect and their complete isolation, the strength of these ties made the restoration of life along the reservoir possible. As we will see below, there are many examples of how group ties were mobilised beyond to provide the basic services that governmental bodies were denying the people of the ‘local-option’.

6.2.2 Transportation

Due to the long-standing and unsuccessful battle with the government to construct roads connecting the area to the rest of the country's road system, transport to and from the reservoir is an essential service that is provided entirely through Manāṣīr connections and social connections networks. There are two ways that one can travel to Kabna using what can be referred to as “the Manāṣīr transport system” that serves as the public transportation of the Manāṣīr in the area.

The first way is through a converted lorry owned by a Manāṣīr man named Siddiq. It departs from Omdurman on Saturdays and returns to the city on Wednesdays. Siddiq’s bus serves more than the village council of Kabna, so seats must be reserved in advance by calling him. The lorry would take off from the central bus station in Omdurman and cross the desert before finally landing on the eastern bank of the reservoir in the hamlet of al-Kūra^c, across from the hamlet of Al-Fūqqara. From there, riverboats would carry passengers the rest of the way to their respective hamlets.

The second transport system used the public commercial buses that regularly went from Khartoum to Abu-Hamed and vice-versa. This system uses Toyota pickup trucks that take passengers from Abu Hamed across the desert to their destinations along the reservoir. These trucks operate daily, loading passengers into a cargo bed fitted with two rows of benches.

Leaving from al-Kūra^c on the eastern bank across from the reservoir from Kabna, the trucks would make several stops across different hamlets on the east side of the reservoir, with the final stop at al-Kāb, before taking passengers on to Abu Hamed. In Abu Hamed, the driver would arrange a ticket on the commercial buses operating from Abu Hamed to other areas of the country. It is remarkable how the truck driver served not only as a transporter of people but was trusted with transferring all sorts of supplies and goods, including medicines, documents, money, fertiliser and all manner of items for people completely free of charge. This was another intimation of the *amān* that was frequently mentioned.

The drivers of both the pick-up trucks and Siddiq's bus have their routes off the highway and across the desert memorised and it is impressive how, in the absence of landmarks, they can navigate across the hostile desert terrain and reach their respective locations. This is despite the frequent risks of *wahil*—getting sand-trapped (see Photo 1 below).¹⁸ However, even this is met with grace and resilience as, during one such episode of being stuck in the sand, one man laughed and remarked, “*da safarnā*—this is how we travel; *bi nawḥal wa namshī*—we get sand-trapped and move along” indicating the normalcy of it all. Passengers discuss a more accessible pathway to which the government recently prohibited access. The reflected sentiment in such conversations is a certainty that the difficulty of reaching the Manāṣīr territories is part of the deliberate punishment of the government aimed at expelling the inhabitants from the region by making their life more difficult.

As this transport system served the entire reservoir, it was a window into life beyond Kabna. On one occasion we encountered a man from Birti located in the lower Manāṣīrland. The conversation which ensued between him and Hashim (our host in al-Fūqqara) was largely checking in on each other's lives. ‘How's the fishing? How's the farming?’ ‘You're lucky you've got all that silt—*Intū lagyīn al-tammī*'- said the Birti man enviously, to which Hashim replied, ‘You're lucky you've got all that fish—*Intū lagyīn al-samak*’. This serendipitous encounter highlighted the difference in the experience among the Manāṣīr along different areas of the reservoir and foreshadowed some of the post-dam land dynamics we would later find in Kabna—explored later in this chapter.

While travelling to the Manāṣīrland from outside is by land, travelling within the Manāṣīrland is often by water, traversing the reservoir using motorised river boats (see Photos 2 and 3 below). These boats function as the primary method of transport across different areas of the reservoir, transporting children to school, goods to and from the market, and the sick to the hospital. However, the reservoir presents a series of potentially treacherous challenges and risks. Tragically, in August of 2018, a group of 22 young schoolchildren drowned when their school boat capsized because of the turbulent waters

¹⁸ All photos are by the author unless otherwise noted (November – April 2017).

caused by adverse weather conditions. Young children are still exposed to this type of risk daily in trying to get access to their education.



Photo 1: Sand trapped (*wahil*) in the soft desert sands. Men from the pick-up truck assist the stuck lorry in the distance.



Photo 2: The river transport system serves to transport goods as well as people across hamlets. Here men load sacks of crop residues as fodder and irrigation pipes onto a boat filled with passengers. This was during the low-reservoir season towards the end of March.



Photo 3: River boats also served as travelling shops. Here the customers inspect grass-cutting knives (*mūnjal*) while the shopkeeper weighs produce.

There are a series of boat owners whose names and numbers are known to most of the people in the area, along with their set dates and routes. These boats operate as the reservoir public transport system, carrying multiple passengers, supplies, and goods across the reservoir areas. For example, if you wanted to go to al-Kāb from any point of Kabna along the western bank, you could get on the Saturday boat bound for the weekly market in al-Kāb. The boat would stop off at many locations along the way, enabling people to visit their families in different areas.

6.2.3 Kabna's 'local option' school

The school in Kabna is one of the three secondary schools servicing the entire Manāṣīr territory and one of two secondary schools for girls. With so few schools serving a large area and population, the secondary schools also had boarding facilities for students whose homes were too far for the daily school run. The other two schools are located in al-Kāb and Shirri Island, and these three serve 18 village councils, each containing an average of ten hamlets.

In the first year after the closing of the dam gates and in the immediate aftermath of the flooding, the community was mobilised to construct a barrier made of sacks filled with sand. These were piled up to about two meters high to defend the primary and secondary schools and the hospital from the rising waters. The students worked in shifts to help construct the sand barricade. For about six months, they struggled in this way to keep the water at bay, although the underground water was eroding the walls and would eventually cause a complete collapse.

The final-year students had to sit for national exams in temporary structures built on higher ground (see Photo 4 below). After the exams were completed and the school year ended, they dismantled

what remained of the school, removed the *‘arish* (palm thatched ceilings) windows and doors and moved it along with the furniture to the mountains. Abdelkhair, the current headmaster of the secondary school in Kabna and the former vice president of the Manāṣīr Council of Affected Peoples (*Majlis al-Mut’athirīn*), worked hard to find a solution before the next school year. Frustrated with the many failed attempts to gain governmental support, he states:

“Of course, they [the government] wanted to use this [education] as a means of pressuring us to move, it was very intentional. We said we would send our children anywhere, even as far as Port Sudan or al-Obeid, but there are two places that we would never accept our students to be transferred, that is Mukabrab and al-Fida. It is the government’s responsibility to make sure the students are educated, and this is the only solution we would’ve accepted until we found a lasting solution. I would go to the Ministry of Education, and they would tell me to go to the dam authorities. I said, ‘If it is the dam authorities that are responsible here, you as the Ministry of Education should be the ones to take it up with them’. I soon saw that they [i.e., the Ministry of Education] didn’t have a solution. We found that they were intentionally neglecting us so that people would be pressured to move, saying that there is no education or healthcare” (Abdelkhair).



Photo 4: Remnants of the temporary structures ‘*rākūba*’ built on higher ground which served as schools during the first years after the flooding.

When he realised that there was no support coming to them from the government and as the next school year was fast approaching, Abdelkhair got in touch with Ahmed Abdel Fatah, a leading member of the Manāṣīr Executive Committee and a member of the *Lajna al-Tanfīdhīya* (the Committee for the Implementation of the Local Option):

“He asked me: so, what do you propose? I said that a proper school would never be completed in time. So, I drew up a budget for the construction of ‘*rawākīb*’ [plural of ‘*rākūba*’ or a semi-permanent structure made of metal pipes holding up zinc roofs] and enclosed in walls made of ‘*burūsh*’, [a type of mat made of thatched palm fibres that are sown together] and had it ready with me...the budget was 15,000 Sudanese pounds¹⁹... I told Ahmed my plan and he said agreed to it” (Abdelkhair).

Through his own initiative and against the odds, Abdelkhair rushed from Abu Hamad to meet Ahmed Abdel Fatah in Khartoum to raise enough capital, collected the money, bought all the building materials, and shipped them back to Kabna. “People said I was crazy; the school year was upon us, and the area was ‘*khala*’ (uninhabited desert), but all help and support come from Allah...” (Abdelkhair)

A member of the Manāṣīr based in al-Damer city, Abdulwahab al-Sirabi, loaned them two bulldozers to level the rugged mountainous terrain and the whole community was mobilised to rebuild the school. The women would start sowing the *burūsh* together while the students and other village members would contribute to digging the foundation and setting up the pipes. In the words of Abdelkhair, “The students learned an unbelievably valuable lesson from this experience of building their own school. It would not have been possible to complete this without the students. In less than ten days, *al-ḥamdū lil-lah* [Thank God], we prepared our school in full. We did this all on our own!” They would soon mobilise similar community and social ties to rebuild the school out of earthen bricks and restore the schools at the new location in the mountains.



Photo 5: The current school in Kabna rebuilt through Zain Telecom Funds

The current school buildings in Kabna (depicted in Photo 5 above) result from the third and final reconstruction effort. As more durable and adequate structures, these buildings were built with funds

¹⁹ Approximately 205 GBP.

that were donated by the telecommunications company Zain, acquired through the connections with the prominent Manāṣīr businessman known as al-Barājaub. Its restoration was essential to securing the possibility of life in the reservoir. It remains one of only three secondary schools in the entire Manāṣīr territory. The reconstructed earth-brick buildings were converted into the current boarding facilities, and the first temporary '*rawākīb*' were converted into the current school cafeterias.

6.2.4 Daily life at Kabna local option

Though radically transformed from the pre-dam rhythm, daily life in Kabna Al-Fūqqara has maintained much of its flavour and character. The hamlet's men still bring out their trays of food three times a day and eat together outside the mosque at the hamlet's centre. The women still arise before the sun to milk the goats for the morning tea. Life is in many ways, the same and yet different.

At 4:30 am, Halima is already on her prayer mat, sitting silently with the pre-dawn's stillness, awaiting the prayer call. When she is done, and the first light appears, she heads to the goat shed and begins the rest of her day. As tending to the goats is the women's activity, milking and feeding them are essential daily tasks around which all their other duties revolve. Halima's movements, replicated by women elsewhere, consisted of the first pre-breakfast milking, which would be used to prepare the morning tea. Afterwards, the women would haishsh—cut grass from their plots of reclaimed land (described further in Section 6.3.2 below) and provide their goats with the first meal of their day before retiring to the kitchen to prepare their own breakfast. The goats, fed twice a day, are sustained on a mixture of fresh green fodder, *gaish*, and a dried supply of grain stock, *gaṣab* grown on the *sāqiya* lands following the reservoirs recession (Photo 6 below).



Photo 6: Halima's sheep having their dinner - consisting of *gaish* and *gaṣab*

Breakfast is prepared in all the hamlet households at the same time as the husbands meet with their trays of food at the mosque to consume the communal meal promptly at 09:00 am. All meals are consumed in this way; the women prepare two trays, one for the men and one for themselves. The women also eat communally, although they gather in the houses of their close kin. Halima takes her tray to her mother's house and eats her breakfast with her mother and sister Seyda as she has always done.

Accompanying Halima to her mother's home one morning, she stopped in her tracks to look at the date palms in the middle of the reservoir and remarked how she had not realised how few of them were left. The moment captured a sentiment observed elsewhere in the hamlet that is difficult to relate—a sense of continuity of the old life despite the present evidence of its transformation.



Photo 7: Women from al-Ḥila, al-Fūqqara and al-Nawāwīr gathering in al-Zakī's scheme in al-Nawāwīr for their afternoon fodder harvesting. The flooded land, with the last remaining palms, can be seen in the background.

The activity of *haishsh* is one which the women engage in twice a day, morning and afternoon. When the reservoir is high, they trek to their plots in the reclaimed lands in the desert hills with their kin members. Those unable to travel the distance to their respective plots on account of either running late or having other obligations would usually head to the *birsīm* (alfalfa) plots of al-Zakī (Photos 7 and 8) in the neighbouring Nawāwīr hamlet and *haishsh* from him a *qūbta* (bunch) in exchange for 5 Sudanese pounds (about 0.06 GBP). The shared company is a very welcome (almost essential) element in the *haishsh*. During the low reservoir season, the women *haishsh* from the planted *sāqiya* lands—the agricultural lands that are uncovered by the receding reservoir.



Photo 8: Women from the hamlets of al-Fūqqara, al-Nawāwīr and al-Ḥīla harvesting fodder in al-Zaki's plot.

The women's daily activities laboriously revolve around their goats and the household chores of preparing meals, laundry, and childcare, while the men in comparison, have days of greater leisure. Their frequent congregations at the mosque for meals followed by extended tea/coffees and the five prayer times are opportunities where this leisure finds expression. As a woman in the highly socially conservative Manāṣīr, I was not permitted to attend the mosque, a male institution. The gender division was such that Halima would deliberately take the long route behind the mosque when the men were gathered there so as not to be seen by them.

As the daily agricultural activities are dominated by women who cultivate vegetables for home consumption and fodder for their goats (Photo 8), the men's involvement is limited to the (less frequent) irrigation of their plots. For this reason, most men engage in other economic activities outside the hamlet, the most common being artisanal gold mining in the surrounding Manāṣīr territories. My father relayed how one of the favourite pastimes among the men was gold-related discussions.



Photo 9: Halima milking sheep for evening (*maghrīb*) tea.

In the pre-dusk hours, the women gather their last bunches of fodder and head home to feed and milk their sheep and goats once more, this time to prepare the *maghrīb*—sunset tea and begin preparing dinner. As night falls, the communal hamlet generator is started and as it roars in the background, the light bulbs flicker to life. It continues for three hours each evening, a time to recharge cell phones and catch a few segments of life beyond the hamlet through the television propped up in the courtyard while dinner is being prepared. At the Tayfour residence, all the cell phones would be plugged into a single extension cord with multiple outlets and Halima, making sure each phone received its share of power, would joke about how the phones were much like suckling lambs. Like clockwork, as soon as dinner is concluded, the generator winds down and comes to a halt. The hamlet is left with the dazzling night sky and the sound of crickets, and the breeze.

6.3 Post-reservoir property dynamics

Section 5.3.2 described the land property relations in the pre-reservoir hamlet of Al-Fūqqara among the three descent groups that constitute the hamlet's inhabitants. This section focuses on the property relations that have emerged in the Fūqqara hamlet following the establishment of the Merowe dam's reservoir.

Perhaps the most remarkable characteristic of the post-reservoir hamlet is the total transformation of the landscape across these two seasons of high and low reservoir levels; it is almost as if there are two versions of the hamlet across the two seasons (see Figures 6-3 to 6-6 below). As life in the hamlet adapted to the two seasons of high-reservoir and low-reservoir water levels, so too did the adaptation of land property relations.

During the high-reservoir season (roughly between August and January, see Table 6-1), the reservoir covers the old agricultural *warītha* lands of the *sāqiya*, *īdayg*, *ashau*, and *jarf*. Agricultural life revolves

around the reclaimed lands in the desert hills where women harvest fodder daily, and men manage the irrigation works. The reservoir begins its recession in January, and by April, the water levels return to the pre-dam boundary of the Nile River. When the reservoir recedes, the reclaimed plots are largely abandoned as the focus of activity returns to cultivating the historical agricultural *warītha* lands. As the start of fieldwork coincided with the high-reservoir season, initial references to the enduring rights to the *warītha* lands under the reservoir were hard to imagine. However, over the next few months, the shift in the orientation of hamlet life from the reclaimed lands in the higher surrounding lands to the old *sāqiya* was observed as a peculiar occurrence, elaborated further in Section 6.3.3 below.

Table 6-1: The fluctuations of the reservoir as experienced in Kabna la Fūqqara

Months	Activity of the Reservoir
October—December	Begins descending
January—April	Approaches and settles at the Nile’s pre-dam boundary
April—June	Reservoir levels are at the lowest point
July –August	Begins ascending and quickly returns to full level
August – October	Reservoir levels are at the highest point

Figure 6-3: Al-Fūqqara Hamlet during the high reservoir season (roughly between August and January).



Note: The inundated date palms which previously lined the riverbanks are visible at the top of the image. The post-dam extension to the hamlet's settlements is visible beyond the connecting footbridge at the bottom of the image

Figure 6-4: Al-Fūqqara hamlet during the low-reservoir season (roughly between the months of January and August).



Figure 6-5: Al-Fūqqara hamlet with both seasons represented side by side. (it appears a glitch merged two images captured at different times)



Figure 6-6: A wider shot of the google-satellite glitch in the previous figure



Note: this image conveys the radical transformation across the low-and-high reservoir seasons as the Nile River roughly doubles in size. Al-Fūqqara hamlet is visible at the centre of the image. During the high-reservoir season (right side) the khaur fill up with water enabling cultivation on the desert hills, as is visible in the filled tip of Khaur al-Birtait which cuts down the centre of the image.

Despite the transformed nature of the *sāqiya* and *jarf* lands, the old categorical rights to the *sāqiya* and *jarf* lands have an enduring relevance alongside the creation of new categories of land property in the reclaimed land. The first section describes the extent of the flooding and the damage to property — homes, palms and land— caused by the dam’s reservoir (6.3.1). This is followed by a description of the immediate responses of land reservation (*hajiz*) and the emerging customary rules around reclaimed land (6.3.2). Examples from the case studies illustrating what this process looks like in practice are also included (6.3.2.1).

The newly reserved and reclaimed agricultural lands are mainly used during the high-reservoir season, while the flood-recession agriculture practised on the old *warītha* lands is during the low-reservoir season as per the historical system of divisions of *sāqiya*, *īdayg*, *ashau*, and *jarf* rights to these lands outlined in the previous chapter. In addition, new lands created by the sedimentation of silt on previously rocky and unused lands—*arāqī jadīda*, as well as on the lands of previous houses— *maḥal bīyūt*, are important categories of land in the low-reservoir season. These are discussed further in the final section (6.3.3.).

6.3.1 Flooding experience

The people in al-Fūqqara recall the time of the flooding as a time of *jahjahā*—disruption/chaos and *shaqāwa*—struggle. Accounts of the losses that would never be compensated were common and frequently brought up in conversations with the inhabitants, as every conversation inevitably began with some mention of all that was lost and personal experiences with loss. The inundated lands, the loss of the fruits of the lands, orchards of orange, mango, lemon and guava trees, fields of alfalfa fodder, and the summer crops on the eve of their harvests— these were all frequently featured in recollections of the flooding experience.

Not all of the homes in al-Fūqqara were threatened by the rising waters. The hamlet's location on elevated lands between two *khaur*s (valleys) meant that those houses built on the hamlet's elevated centre still survived. However, those houses on the edges and those closest to *darb-al sulṭān*—the main road between the *sāqiya* lands and the houses — were at risk (see Figure 5-9 and Figure 6-3 to 6-6). However, all the inhabitants struggled to keep their livestock alive after the total inundation of the agricultural lands. Men and women hurried to harvest what they could from underneath the rising water, storing the little they salvaged for the uncertain future. They watched in disbelief as the water kept rising to the level of the date fruits on the tall palms. For the next few months, they would ration their fodder and supplant their livestock feeds with grains and fronds from the date palms harvested from their rowing boats:

“At first, we would go out on rowboats and start cutting the palm leaves for our goats, just to keep them going. Some had to sell their goats or give them away to their nomad relatives as they had no means of providing for them; the ones that died are endless” (Ikhlas).

The first house to be submerged was that of Sulieman Higazi and al-Mina Tayfour (SD4), closest to the river (house number 17 in Figure 5-9). Soon after, the rising water consumed the nearby ta^ʿūna (flour mill) of Hashim Tayfour’s family. Further up, the following houses to be submerged were those of Hassan Babiker and Sabiha Mohamed HajGaly, situated east of the (still standing) mosque. As the limits of the reservoir were unknown, many were uncertain if their homes would survive and were apprehensive about what they would do if the water kept rising. The fate of those impelled by the water to dismantle their homes and move their belongings to the desert hills beyond the boundaries of the historical hamlet was a foreboding display of a potential future for those unaffected.

The new post-reservoir Fūqqara hamlet is shaped like an island, the extension of the hamlet being built on the hills beyond the hamlet, connecting to the island through a small footbridge built by the inhabitants (see Figure 6-3 above). The main Fūqqara and its post-dam extension in the rocky desert beyond are also visible in Figure 6-7 below.

6.3.2 Land reservation and reclamation: the establishment of high reservoir land rights

In the aftermath of the flooding, the immediate response of the inhabitants across Kabna was to expand into the desert outcrops beyond the original barriers of the hamlet, initiating a process of land reservation and reclamation. As this land was *khala*—uninhabited and unoccupied desert land (‘no man’s land’)— and within the territory of the Manāṣīr, it was free to be customarily claimed by any member of the Manāṣīr community. However, access to the unclaimed lands in the mountains beyond the hamlet turned into a customarily recognised right (i.e., informal/customary right) through the process of reservation or ‘*hajiz*’. “If you didn’t reserve it, anyone could take it/It wouldn’t be yours” (Ikhlās). Stories of this reservation process in the days and weeks following the inundation of the lower areas describe a chaotic scramble for land. In an atmosphere of uncertainty and insecurity, the inhabitants being unsure of where the reservoir would end, they took to the desert hills to carve out a plot they could make their own.

The activities of the first people to reserve these lands sparked a wave of more following suit. As it became increasingly more apparent that the land previously considered *khala* was now the future of settlement in the hamlet and of great value, everyone hurried back to get a piece of it. Many took this opportunity to expand their landholdings as they were no longer confined to the historically fragmented rights in the *sāqiya* lands, “after the dam, there are people who in the past had no lands that now have”. This statement is true for some members of al-Fūqqara, but especially significant for the members of the Nawāwīr hamlet. Unlike the Fūqqara, they had no *sāqiya* of their own and historically were always sharecropping on the *sāqiya* lands of other hamlets. When asked how they had acquired these lands, the responses of “they carved out the ground” and “they dug it up themselves” point to some of the concrete property-making activities.

Figure 6-7: Post-reservoir Fūqqara hamlet between Khaur al-Birtait and Khaur al-Nawāwīr.



Note: the old houses of the hamlet are visible on the little island connected to the new post-dam expansion of the hamlet by the small cement foot bridge. During the high-reservoir season the khaur fill up with water (as Khaur al-Birtait pictured above) making highland cultivation possible.

The practice of land reclamation or transforming low-quality and unusable land into higher-quality land for cultivation or settlement was historically known in the Manāṣīr (discussed in Chapter 5). The adaptive response in the aftermath of the flooding through this practice consequently drew on existing knowledge and adapted it to present circumstances. “From a long time ago, our forefathers used to do the same thing on the rocks. They break it down and fix it/ reclaim it” (Abdeldiam). The desert's rocky and mountainous topography required much effort to reclaim. This arduous process involved breaking the large rocks and clearing the small pieces by hand. As Hanniya recalls, “until the skin of our fingers began to split apart”. Nevertheless, the primary fruits of their labour would be the customarily recognised rights of possession and ownership of these lands.

Land which was reserved, and thus customarily recognised as belonging to the social unit that had reserved it, was reclaimed for settlement or for what was commonly referred to as *‘khiḍair’*—or growing fodder for livestock. The word *‘khiḍair’*, literally translated as ‘greening’, refers to the activity of growing green foliage crops, primarily for fodder. Among the favourites are varieties of beans (*lūba al-tayīb*—“sweet beans” and *lūba al-‘afīn*—“foul beans”) which produce an abundance of green leaves whilst

providing grains and improving soil quality. Land reclaimed for settlements included the current households of SD4 (house number 82-84 in Figure 5-11), HG2 (houses 74 and 75) and DG3 (house number 87), as well as reserved and not yet reclaimed lands for others such as DG2 (residing in the surviving house 42) who are planning to move to the ‘new’ Fūqqara hamlet in the mountains in the future and live near their sons (in the reclaimed land house number 88).

The lands reclaimed for *khiḍair* include all case studies, albeit to varying degrees of development. Some of the cases have cultivated date palms and fruit trees (HG1, HG2, SD4, DG1, DG3 described further below in 6.3.2.1) making year-round irrigation necessary. However, irrigation on these higher reclaimed lands after the reservoir recedes is a costly and difficult affair; therefore, most agricultural schemes are abandoned during the low-reservoir season. Those who maintain their reclaimed land agriculture are those with the economic means (i.e. external sources of income) to do so. As the investment into yearlong production is not economically fruitful, their motivations are often the ‘*tafakhūr*’ (social prestige) and status that comes with farming one’s own land.

The reclaimed lands have been described as “*bigat mā warītha*—no longer being *warītha*/not subject to inheritance”, thus indicating how they are potentially viewed as an opportunity to go beyond the limiting confines of heritable subdivisions and the resulting fragmentation of shares, potentially signalling a shift towards more individualised forms of ownership. Nevertheless, these schemes had different degrees of cooperation among kin groups and households of the same descent groups. The descriptions of reclamation cases below draw attention to this.

6.3.2.1 *Brief Studies of Reclamation Cases*

As al-Mina Tayfour’s (SD4) household was the first to be affected by the rising waters, they were the first to be pushed onto higher grounds and, thus, to reserve lands in the mountains to reconstruct their homes. “Because we were the first people to come up here, look at this, all of it *ma shAllah*—by God’s will—we reserved all of it! We reserved all this from the *khaur* to the *ta‘ūna!*” (Ikhlas SD4). The area reserved by SD4 extends from Khaur ‘Ainār, over which the footbridge is built, to the new grain mill (number 85 in Figure 5-9) established by Hashim Tayfour (SD1), at the top of the hill.

Speaking of the area where they currently rebuilt their settlement, Khadija recalls how “we came here to this area, and there was nothing here, all rocks, we could just clear little by little, and then we can farm and started to plant the *khuḍār*”. The term *khuḍār* is derived from the root word in Arabic for the colour ‘green’ (*akhḍar*) and, like the term *khiḍair* introduced above, refers to various unspecified crops grown as fodder for their green leaves, sometimes containing ‘*alaf*’—grass varieties, or *lūba*—legume varieties.

It would be another two years before they would be adequately re-established in newly constructed homes. Currently, the two households of the SD4 case study are rebuilt side by side with a joint home garden, planted with vegetables and date palms and fruit trees, these which are irrigated throughout the year (see photos 10 to 16 below).



Photo 10: Reclaimed land of SD4 for new (post-dam) home and part of their home garden



Photo 11: Reclaimed land in front of the new (post-dam) home of SD4, and directly above the old Fūqqara hamlet, visible in the distance Reclaimed land in front of SD4's new home.



Photo 12: Reclaimed land in front of SD4's new home



Photo 13: Home garden of SD4 reclaimed land

In addition to the home garden in front of their new home, SD4 has reclaimed and developed two other agricultural schemes in the mountains. The first of these is near the reclaimed schemes of SD1 and SD2 in the mountains above Al-Fūqqara and the other lying beyond Khaur al-Birtait and adjacent to the

neighbouring hamlet of al-Ḥila. The latter, referred to as *mashru*^c Higazi—or Higazi’s scheme (photos 15-17), is on an area that was naturally flat and levelled and so did not require much effort to reclaim. Higazi’s claim to this scheme was initially disputed by the members of the Ḥila hamlet, but then later settled in his favour (discussed in Section 8.4). For the last three years, Higazi has cultivated wheat on this reclaimed land, and the area produces up to 6 sacks of grain per season.

Figure 6-8: SD4 reclaimed land for home and adjacent garden.



Note: The location of Photos 11 to 14 is outlined in yellow. The total area reserved by SD4 extends beyond the outlined area, though it is not yet fully developed.



Photo 14: Higazi's (SD4) scheme on the right, located along Khaur al-Birtait.

Note: the photo was taken from the hamlet of al-Ḥila, which lies adjacent to Al-Fūqqara. The scheme across the khaur to the left is that of SD3 and SD2.



Photo 15: Higazi's (SD4) scheme, after the wheat harvest



Photo 16: Higazi's scheme, and SD4 members grazing their livestock on the crop residues after harvest

Figure 6-9: The area outlined in yellow is the location of photos 15-17, SD4 reclaimed land agricultural scheme



Figure 6-10: The location of photo 18 is shown, outlined in yellow. The area highlighted in blue is the uncultivated reclaimed land of SD1



Note: fallow terraces are visible in the uncultivated reclaimed plot of SD1 (outlined in blue)

Others would not be so lucky in their reservation experience as their delay in claiming land would leave them with less favourable areas. Zeinab (SD2) and her sons were on the island of Shirri when the waters reached Al-Fūqqara, and as she recalls: “We were away only three days and when we came back, we saw that the whole area had already been reserved”. Her sons Mohamed and Moatasim established a joint scheme at the highest point in the mountain. The location of the scheme makes irrigation a difficult and costly affair.

As SD1 had reclaimed lands nearby, the two case studies of SD2 and SD1 would share the investment in irrigation infrastructure, setting up their diesel pump on the *wadi* of Khaur al-Birtait to the west (Photo 18). The wives of Mohamed and Moatasim, Hanniya and Asma, would make daily treks to these highlands to harvest their fodder, carrying them back to their homes in the old Fūqqara hamlet.

SD1’s reclaimed lands in the mountains were farmed in the years after the flooding while their sons were present in the hamlet, but since the sons have moved away, it has not been cultivated, no longer having the labour required to maintain it. Instead, during the time of fieldwork, the main reclaimed land that was farmed by SD1 is that which was developed near their original home in the old hamlet (see 6.3.3. below).



Photo 17: SD2's reclaimed agricultural scheme in the mountains.

Note: Irrigation pumps attached to Khaur al-Birtait transport water uphill through pipes during the high-reservoir season.

Ahmed Mustafa and his wife Aisha (SD3) were quick to claim the land that bordered the wadi on the western edge of the hamlet, where they have since established a terraced agricultural scheme (Photos 18 – 20 below). The proximity to the water during the high-reservoir season means that the land is easy to irrigate. They have planted the lower levels with fodder and the higher areas with vegetables. The area is shared with SD2 as Ahmed claims that “when we saw that they did not have much land that they reserved, we gave them a part of ours here by the wadi”. It is possible that the SD2 mountain scheme (Photo 18 and Figure 6-10) was also given to them out of the land reserved by SD1 as the proximity to the SD1 scheme and its small size make this a likely occurrence. However, it was difficult to ascertain the specific dynamics of how access was negotiated at the time immediately after the flooding as ten years after the flooding, and people were less reluctant to discuss these matters.

Ahmed is pleased with his claim; reflecting on the new opportunity of land expansion, he says: “In the past, people would often be *hasdīn*—envious/land-hungry, as one son would claim the entire inheritance to himself and gain the resentment of his brothers but since the dam, there are opportunities to expand through land reclamation on these as the reservoir brought the water closer”.



Photo 18: Ahmed Mustafa and Aisha's (SD3) land on the wadi.

Note: Higazi's (SD4) scheme is visible across the Khaur.



Photo 19: Ahmed Mustafa and Aisha (SD3) reclaimed land adjacent to Khaur al-Birtait SD2's reclaimed land on the wadi, given to them from the land reserved by SD3



Photo 20: SD2's reclaimed land on the wadi, given to them from the land reserved by SD3

Figure 6-11: Area outlined in yellow is the reclaimed land of SD3, photo 19-20, and the area outlined in blue is that of SD2, photo 21, given to them by the former.



Similar to the experience of SD2, other latecomers to reservation included the household of SD5 and DG2, but unlike SD2, they would not be so lucky in negotiating access to land closer to the water. Their current reclaimed land consists of a small scheme at the far edge of the *Wadi*, which is not easily accessible from

the hamlet (see Figure 5-21). The kinship ties between Hiqmallah (SD5) and her brother Khalifa DG2) had facilitated their cooperation as it was only a year ago when DG1 and SD5 claimed the land and began farming it during the high reservoir season.

Figure 6-12: The area outlined in yellow is the reclaimed agricultural scheme of SD5. As latecomers to the reservation process, they were forced to the tail end of the Khaur's water



Muzdalifa (DG3) remembers how she was away in her mother's hamlet of al-Kūra^c on the east bank of the reservoir when the flooding happened and how she urged her husband Osama to secure some land for them:

I gave birth in al-Kūra^c and told Osama to reserve a place for us quickly. Everyone at that time was reserving plots; this place here [their current mountain settlement] in the past was used as a prayer spot for the Eid prayer. Osama could not find any other place—he was scared that the water would cover the area he wanted to reserve further down. Nobody was sure where the limit would be, so he came and reserved this place and then made a new prayer spot for them on the other side of the hamlet near al-Nawāwīr. He also reserved an area for his brother on this side.

The land that Osama managed to claim lies northwest of the hamlet and has since been developed into a new settlement and an agricultural scheme (Photos 22 and 23). Each year he would clear two or three *ḥaiḍān* (plural of *ḥauḍ* – refers to the small agricultural beds bounded by raised earth for retaining irrigation water) until it finally was able to attain its current state. Then, he planted a row of date palms and fruit trees— oranges, mangoes and lemon — all irrigated throughout the year with water from the *khaur* on the western side of the hamlet.



Photo 21: Osama and Muzdalifa's (DG3) reclaimed land in front of their new post-dam house



Photo 22: Osama and Muzdalifa's (DG3) reclaimed land

Note: the young date palms behind Osama require year-round irrigation—a heavy investment in pumping water during the low-reservoir season when the Nile assumes its pre-dam levels.

Figure 6-13: The outlined area is the location of DG3's scheme as represented in photos 22 -25



Osama's efforts to establish permanent irrigation were not easy:

“Last year, this *khaur* on the side dried up fully, and so Osama connected a water pump to the main river and really struggled a lot to dig up a canal all the way from the bottom of the riverbank to this place here (Photos 23 and 24). He was determined though, saying ‘I will not kill my trees’. Since then, he has connected the water to here, and now we are always irrigating it.”

He has since invested in the construction of a cement water tank. The current scheme is costly, and he admits that without an external source of income, this type of farming would be *'gasī'*—difficult/impossible. Nonetheless, his insistence on maintaining the scheme and developing his lands reflects the non-economic value attributed to land ownership as he says, “We feel proud when we can eat from our dates that we have grown ourselves”.



Photo 23: The water tank established by Osama (DG3) for year-round irrigation and household use.
Note: The pipe trailing off to the left is visible in photo 25 below, which shows its proximity to the agricultural scheme



Photo 24: Osama's (DG3) scheme from above. The water tank is located out of the frame to the right and connected to the visible pipe.

Other members of the Digair descent group have reserved and cleared lands around Osama's scheme. He points to lands that his uncle, Hashim, has turned into *ḥaiḍān* in preparation for farming and to lands reserved by his aunts, Fatma (DG1) and Hafza, that were claimed for potential home construction.

Further below, Fatma's son Ayman (DG1) has claimed a favourable area that borders the *wadi* and established a date palm grove, in addition to cultivating fodder and vegetables. As one of the first comers to the reservation process, DG1 claimed the area *quṣād* (adjacent to) their houses (numbers 44, 45 and 46 in Figure 5-9) immediately beyond Khaur 'Ainār. According to Fatma, her son Ayman reserved the area at the time of the flooding when the uncertainty as to the boundaries of the reservoir encouraged him to reach far in staking his claim. The area is considerable in size, and its proximity to the water is advantageous (see Figure 6-14). When the reservoir recedes, the area farmed by DG1 extends downward to include the land of the *khaur* between the current high-reservoir season scheme and their houses on the mainland of the surviving Fūqqara hamlet.

Ayman and his brother Haitham (DG1) manage the works together, and like Osama (DG3) they have established a water tank for storage and year-round irrigation (see Photo 25). As Fatma is disabled, she is only occasionally able to harvest fodder for their goats and it is usually Ayman's wife Alawiya (daughter of Ahmed Mustafa- SD3) who daily goes out to *haishsh* (harvest fodder).



Photo 25: DG1's reclaimed land on the wadi. The water storage tank enables year-round irrigation.

Figure 6-14: Outlined area is the location of DG1's scheme represented in photo 26 during the high-reservoir season



The two HajGaly cases of HG1 and HG2 were quick to join the land reservation rush, moving *quṣād* (adjacent to) their homes in the old Fūqqara (Photos 26 and 27). Saadiya Issah (HG2) recalls how at the time of the flooding, “everybody then came here to reserve land, my two older sons reserved some, but mostly I reserved some land myself. I reserved some for my young sons, for their future, for when they want to get married”.

Her young sons at the time of the flooding had not yet entered primary school (at the time of research they were teenagers in secondary school), but her forward-looking perspective was shared by many families who sought to secure land for their young children, so that when the time came “they would not be forced to go so far away to find an empty plot in the distance”. As a result, much of the reserved land for future houses has been claimed not for their own resettlement but rather with the expectation of expanding family sizes in mind and the need to secure settlement locations for the younger generation.

Ali HajGaly, alive at the time following the flooding, with his son, Osman (HG2), established a joint reclaimed agricultural scheme on the eastern edge of the area immediately above the old hamlet boundaries. He gave his daughters from his first wife (HG1) the lower area and his second family (HG2) the upper area. Date palms, lemon and guava trees, and *birsīm* (perennial alfalfa) are planted in the lower area and shared between both social units (see Photos 26-29). The upper area is mainly planted with fodder (Photo 29). While maintaining clear divisions and separate *ḥaiḍān*, the two social units of HG1 and HG2 share the irrigation infrastructure and costs. Therefore, while irrigation is jointly managed in the

upper area, the harvesting of fodder is independent and is confined to the respective identified division of each social unit. Osman (HG2) irrigates both plots during the high reservoir season and stops irrigating the upper area after the reservoir recedes. During the low reservoir season, irrigation is maintained through a *nagāl*—a supplementary water pump attached to an artificial pool which is filled using a main pump attached to the river. The joint irrigation of both case studies makes the maintenance of the scheme economically feasible as the costs are shared between the two. In addition to this area, HG1 has developed the area directly behind their original home in the old hamlet on the edge of the Khaur al-Nawāwīr, which has been planted with vegetables, date palms, and other fruit trees.



Photo 26 Joint scheme of HG1 and HG2. In the distance to the left is the surviving Fūqqara houses over Khaur ʿAinār.



Photo 27: Young date palms and a guava tree on the lower part of the joint-reclaimed land scheme of HG1 and HG2.



Photo 28: A *ḥauḍ* of onions belonging to HG1 on the joint reclaimed land scheme of HG1 and HG2



Photo 29: Alfalfa (*birsim*) on the upper part of the joint reclaimed land scheme of HG1 and HG2.

Figure 6-15: The outlined area is the joint agricultural scheme of HG1 and HG2 depicted in photos



The final case study of HG3 had not reclaimed any land in the mountains for agriculture as the three unmarried daughters living with their elderly mother did not need any land beyond the reclaimed area in front of their home in the old hamlet (Photos 30 and 31) This area adjacent to their home was reclaimed

three years after the flooding and is currently maintained by Seyda with the help of her migrant brother HajGaly who helped clear the land and establish the irrigation infrastructure. Seyda and her unmarried sisters also benefit from the large, reclaimed land developed by their nephew, Babiker, in the upper new extension of the hamlet (Figure 6-17) described further below.



Photo 30: Reclaimed land of HG3 directly in front of their home, visible to the right



Photo 31: Seyda (HG3) checking on her pumpkins on the reclaimed plot in front of their houses.

Although HG3 had not claimed any land in the highlands of the new al-Fūqqara, the members of the household jointly manage and benefit from the reclaimed land of their sister Sabiha HajGaly (referred to as al-Haja). Al-Haja is married to Hassan Babiker of the SD descent group and lives with her husband and adult children in Khartoum. As their homes were among the first to drown, they were among the first to embark on the land reservation scramble, and as first-comers (like the case study of SD4), they could claim much of the land that was in the immediate upper hamlet area. Accordingly, they constructed a new home and established a permanent agricultural scheme in front of the house, planted with *birsīm* and date palms.

Figure 6-16: Outlined area showing the location of the reclaimed land home garden of HG3, depicted in photos 31 and 32



Al Haja's son Babiker, his wife and their young children are permanently residing in the hamlet. While Babiker himself temporarily migrates for work, his homestead and reclaimed land in the upper hamlet are taken care of by his maternal aunts (HG3) who also assist his wife with the household chores and the child-rearing activities. The case of HG3's sisters' family land and continued ties to the hamlet despite their migrant status highlights the significance of land rights beyond the direct economic benefits.

Figure 6-17: The outlined area is the reclaimed agricultural scheme of Sabiha and Hassan, shared with HG3



6.3.3 *Sāqiya*, *jarf*, and other new land rights: low-reservoir land rights

The receding reservoir spurs the entire hamlet into movement. Women rush to plant the freshly revealed earth, attempting as best they can to cover the grounds as they appear before the cracks of the silt-heavy soil dry in the sun. Men are busy readjusting the irrigation pumps' location to the waterline's shifting contours. Everyone is initially extremely cautious as they manoeuvre the freshly uncovered soil; the chances of *waḥil*—sinking through the rich sediment are high. Descriptions prior to observing this season of the dreaded 'waḥil' and how often people would sink to the level of their waist or chest were hard to believe until I had the chance to experience it first-hand.

The main topics of conversation at this time are all centred on the descent of the reservoir, reporting individual observations, and passing forward news concerning similar experiences in other hamlets. Women joke about their '*shūrab ṭīn*'—mud socks, and share stories of their planting endeavours, how much they have covered of their planting and how much is left.

The *tammī*—silt deposited by the receding reservoir—is rich in nutrients and supports the cultivation of crops, eliminating any need for fertilisation. Though this could hardly be conceived of as a 'benefit', considering the significant costs of the dam's reservoir highlighted above, it is an advantage that Kabna

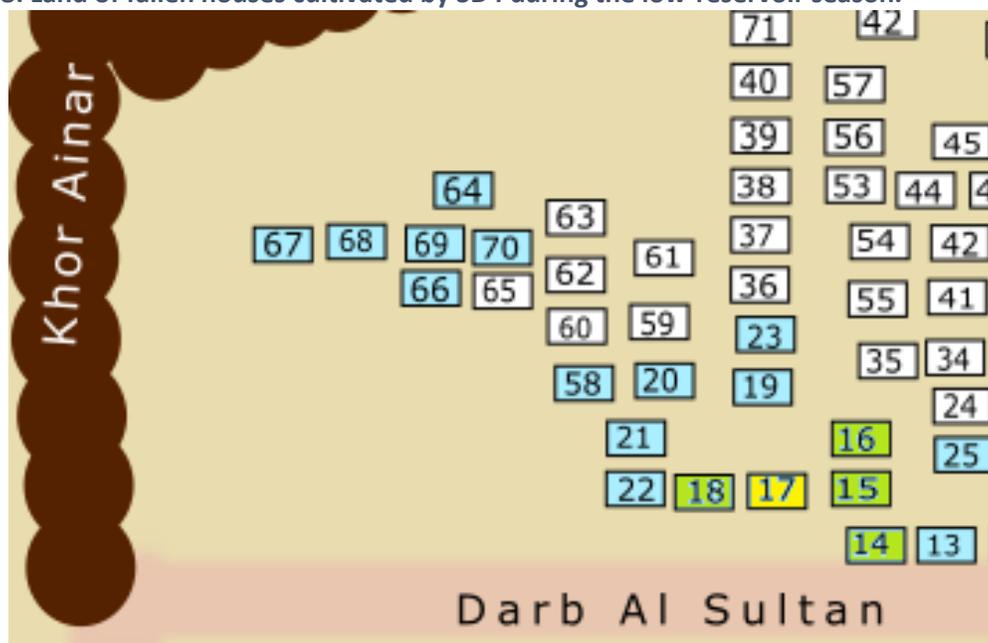
has over other areas in the Manāṣīr. Recall, the conversation between Hashim and the Birti traveller (Section 6.2.2), who enviously proclaimed, “You are lucky, you have all that silt—*intū lagyīn al-tammī*”.

The first lands to be revealed by the receding reservoir were previously non-agricultural lands that formed part of the old hamlet. This includes the land of fallen houses and other categories of ‘new’ land surrounding the main road area—‘*darb-al-sultān*’—that separated the agricultural lands from the homes in the hamlet. As the reservoir continues its descent, the *sāqiya* lands are revealed, followed by the *ashau*, *īdayg* and *jarf* lands below. The Nile then assumes a level close to its natural pre-dam barrier. What follows is an illustration of how rights to these different land categories uncovered by the reservoir are negotiated among the members of the Fūqqara hamlet.

6.3.3.1 ‘*Maḥal biyūt*’ and ‘*arādī jadīda* – land of fallen houses, and other new lands

Everyone seemed to agree that the rights to the land of fallen houses or ‘*maḥal biyūt*’ naturally belong to the previous owners of those homes or, where the owners had migrated or otherwise unavailable, to their next of kin. The agreement was based more on a shared normative assumption about what was fair rather than any formal or explicit agreement. The normative assumption is best captured in Hiqmallah’s expression of the rule, “If my house drowned, no one could come to it, I plant it myself”. The fact that she had no rights to this category of land as she did not lose her home and yet acknowledges the validity of the rule enough to relay it indicates the wide agreement with this rule among the Fūqqara. In line with this assumption, six out of the eleven cases held rights to the land of fallen houses. However, to varying degrees, the applications of the assumed rule were more or less straightforward, depending on the specific circumstance of each case.

Figure 6-18: Land of fallen houses cultivated by SD4 during the low-reservoir season.



Note: The yellow house (17) is their own fallen house and those in green (14, 15, 16, and 18) are those of their kinfolk.

Khadija and Ikhlas (SD4) cultivate the areas of their old fallen home (house number 17) and the fallen homes of their close kin members (house numbers 14, 15, 16 and 18) as soon as it appears (see Figure 6-18). These are the houses of al-Mina Tayfour's brothers. They have also claimed the right to cultivate the area between their home and the main road, the road itself, the area and between the road and the start of the *sāqiya*. In addition to these lands, they have claimed the right to cultivate Ahmed Tayfour's house (house number 2, not depicted below, refer to Figure 5-9). Though Hashim Tayfour (SD1) had an equal right to the land of his brother's houses, the two cases divided the land between them based on the proximity to their own homes (see SD1 below).



Photo 32 Land of fallen houses cultivated by SD4 after the reservoir's descent



Photo 33: Land of fallen houses cultivated by SD4 after the reservoir's descent. The photo is taken from the same location as Photo 33 a few weeks later



Photo 34: Land of fallen houses cultivated by SD4 after the reservoir has fallen to its original level
Note: The photo (taken in April) depicts the low-reservoir season. The water has fully drained to beyond the date palms. The pickup truck and barrels on the left are parked above the pre-dam road of *darb al-sultān*.

Hashim and Halima (SD1) had rights to a sizeable portion of land in front of their home (house number 29, which survived the floods and is still inhabited by them) between what was previously the end of their current home as well as the land of the flour mill itself (number 12 in Figure 5-9) (Photos 35 and 36). In addition to this, they also have laid claim to the land of the houses of Hashim’s brothers, Abubakar, Mahjoub, and Mohamed al-Hassan (house numbers 30, 31, and 32 in Figure 5-9, respectively), which neighbour their home.

The lands claimed by SD1 are not strictly lands of fallen houses as they include parts of the old hamlet’s public areas, such as the area of roads and alleyways between houses. The claims on these new lands are customarily justified by the rule of *quṣād* though it is interesting to note a particular anecdote shared by the social unit in this regard. SD1 mentioned casually during a conversation in which he was describing the tons of silt sediment that the reservoir deposits each year that he had attempted to dig up the sediment to find the bottom with great difficulty one year. It seemed the only reason he would put the effort into digging up the silt would be to identify the boundaries of the old hamlet. In this regard, the motivations to do so could be assumed to be in order to legitimise his claims on the new land, whether as a result of a challenge or not. Throughout the course of the conversation, it was clear that he was trying to uncover the boundaries of the old hamlet. Though he did not give a reason why he went to such great lengths to do so, it can be assumed that this was either to legitimise his claims or in response to someone disputing his claim.

Figure 6-19: Land of fallen houses cultivated by SD1 (in green) and their current home which is still inhabited by them (in yellow).

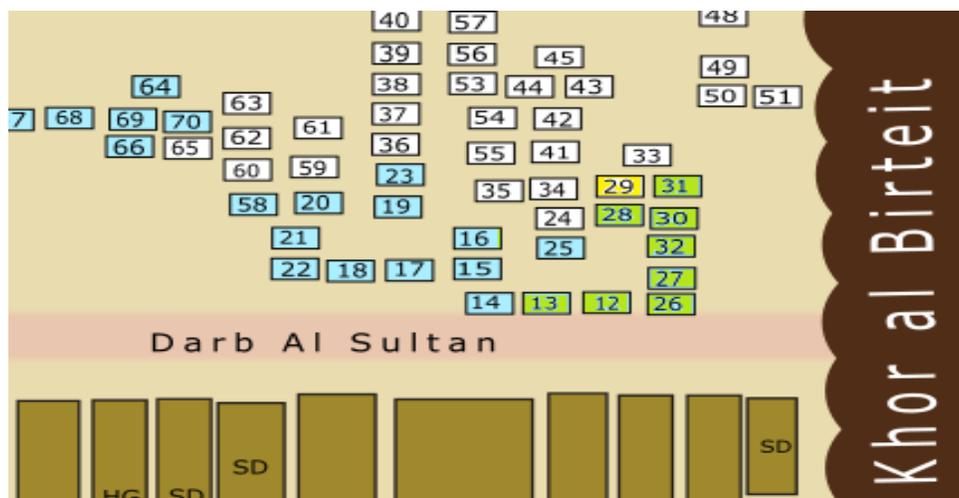




Photo 35: As the reservoir begins to fall, Halima and Hashim (SD1) begin preparing beds for planting.
Note: This photo, taken in early December, shows how far the river has dropped since it began inching away in October. The terrace across where the water tank is level with the water during the high reservoir season.



Photo 36: Land cultivated by SD1 immediately adjacent to their home. Weeks later, more of the land is uncovered by the falling reservoir.

Hashim has developed the land between the highpoint of his home and the levelled ground before the *sāqiya* lands into terraced farming beds—*ḥaiḍān*, this being gravity irrigated, with a water tank established

on the highest point. As soon as the reservoir begins its descent, Halima gets to work, trying as best she can to keep up with the pace of the water.



Photo 37: Terraced farming beds of the land cultivated by SD1. The land is irrigated through gravity via the sliding channels

Figure 6-20: Land of fallen houses cultivated by HG1 (in green) and HG1's current house (in yellow).

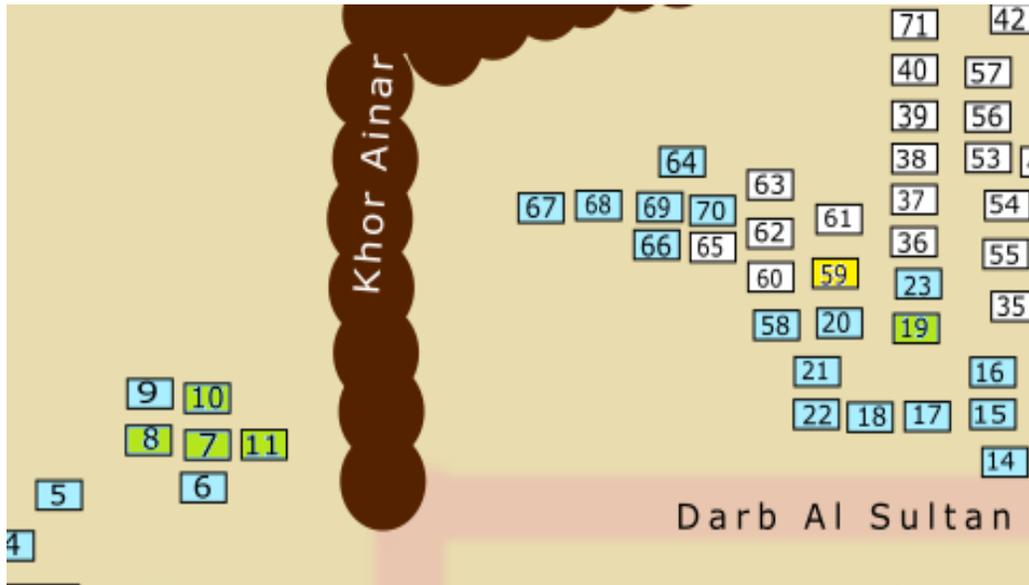


The daughters of Ali HajGaly (HG1) (currently residing at house number 65) cultivate the land of their brothers Issah and HajGaly's fallen houses (66 and 70 respectively, see Figure 6-20). They also cultivate the land of their uncle Osman's fallen home nearby (house number 69), despite its equal proximity to their cousins (HG3 residing at house number 59), who have an equal right to cultivate it under the normative customary rules applied to this category of land. The reason given by both households for this specific allocation was that HG3 cultivate the lands of the fallen houses of their brother Ali (house number 8) and their sister Sabiha and Hassan Babiker (house number 19). They also cultivate the lands of their nephews' homes nearby Babiker, Salih and Mohamed (house number 7, 10 and 11 respectively, see Figure 6-21, Photo 39 and 40) as these members of their kin-group are migrants. The land of their brother Mohamed's fallen house (house number 6) is cultivated by their cousin Zeinouba as she is married to him.



Photo 38: Seyda and Mariam (HG3) cultivate the freshly uncovered land of fallen houses. The terraced rocky borders were added after the flooding to delineate the area.

Figure 6-21: Land of fallen houses cultivated by HG3 (in green) and the house in which they currently reside (in yellow).



The house of Ali Mustafa is cultivated by his only living sibling in the hamlet, Ahmed Mustafa (SD3), as he is the most immediate next of kin. However, this might not have been the case had Mohamed Mustafa (SD5) been alive.

In addition to the land of a fallen house, an effect of the receding reservoir in Al-Fūqqara —and indeed across all of Kabna’s rocky mountainous terrain— is a phenomenon of *‘arāḍī jadīda’*—new land created through the sedimentation of *tammī* or silt on previously rocky unusable land. When this newly created land was close to the land of a fallen house, the owner/next of kin of that house had the assumed right to cultivate it as described above. However, rights to the new land in more ambiguous areas (i.e. previously uncultivated rocky outcrops and not directly neighbouring any fallen houses) were established through concrete actions of those first to claim them for cultivation.

An example of the latter type of new land in al-Fūqqara is the land that was created between Khaur al-Nawāwīr and Khaur al-Ḥasanāb, directly adjacent to the *‘Atrūn sāqiya*. In the first low-reservoir season after the dam, the people of the Nawāwīr hamlet, who had been cultivating the land of their fallen houses above this area, extended their claims to the land between their homes and the *‘Atrūn sāqiya*. Hashim (SD1) claims that new land, however customarily belongs to the Fūqqara but that they let the Nawāwīr have it: “We allowed them to farm it. When you see someone who does not have anything to live off you cannot deny them space. If it was anyone other than us (i.e. Fūqqara), they would not have been allowed to farm it.” Historically without a registered *sāqiya* of their own, many members of the Nawāwīr hamlet had long-standing sharecropping relations with members of neighbouring hamlets who did have *warītha* rights in the *sāqiya* lands. They were also sharecropping on the *‘Atrūn sāqiya* which was claimed by SD5 (described in Section 5.3.2.2.1) As such, they seized the opportunity to lay claim to and cultivate these new lands and the Fūqqara hamlet members did not object. For example, Hassan in the Nawāwīr was

among the historically landless members of the hamlet and had a longstanding sharecropping relationship in the Fūqqara and Ḥila *sāqiya*. Since the dam, he has been able to claim and cultivate the land of his fallen house (during the high reservoir season) and a significant portion of the newly created land *arāḍī jadīda* that falls between the Nawāwīr and Fūqqara hamlets (see Photo 41).

Figure 6-22: New land claimed by the people of the Nawāwīr hamlet.

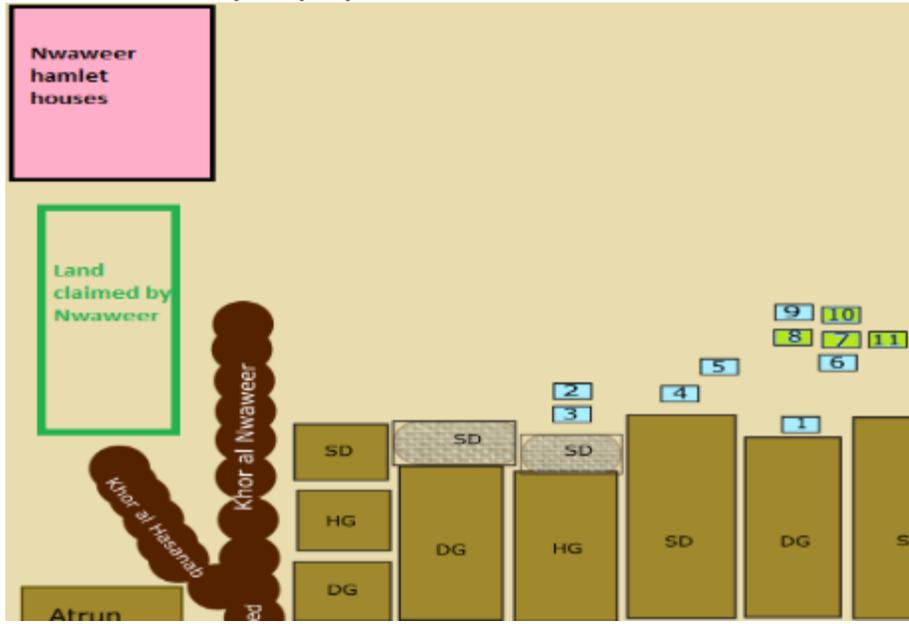




Photo 39: Hassan from the Nawāwīr hamlet observing his planting in the new lands he claimed created by the reservoir, the daum palm visible on the left corner marks the start of the Fūqqara Sāqiya plot.

6.3.3.2 *Post-dam sāqiya*

The planting activities follow the receding reservoir as it begins to uncover the old *warītha* lands of the *sāqiya*, *ashau* and *īdayg*. In Al-Fūqqara, rights to these lands are based on the same old pre-dam divisions (see Section 5.3.2), and the inhabitants almost uniformly related the endurance of the historical *bi-ma‘āishi* rights through the statement—“everyone knows their place”. To the inexperienced eye and mind, it was a wonder how they managed to ‘know their place’, but this indeed was no exaggeration. One afternoon, I observed Seyda (HG3) expertly navigating the *sāqiya*, planting a strip before carrying her sack of seeds and walking a few meters and planting another strip, continuing in this way across all the HG divisions. She explained how, in addition to memory, she used the roots of the remaining palms, the rocks on the horizon, and the location of the houses above to identify the plots. Each household would return to the third of their descent group, being able to distinguish their plot from that of their co-heirs within that segment. The ‘*ma‘ālim*’—landmarks which are used to identify their plots — are the remaining date palms and rocks on higher grounds. Furthermore, “each person knows their plots based on their neighbour in the *sāqiya*” (Al Asad).

The following photos (40-47) depict the *sāqiya* lands after they are revealed by the reservoir. The ‘Atrūn *sāqiya* is depicted in photo 40 as the land between where the photo was taken up to the daum palm²⁰ in the photo. The start of the *sāqiya* from its bottom left corner is marked by the same daum palm at the end of the ‘Atrūn *sāqiya* (photo 40-41) referred to as HajGaly’s daum palm because it lies on the corner of the first HG subdivision of the *sāqiya* after the *ashau* lands.

The area to the left of the palm in photo 41 (and a closer view of the palm in 40) is Khaur wad Ahmad, which lies between the palm and the ‘Atrūn *sāqiya* (see Figure 5-9). From the other side of the daum palm, photo 42 is taken from the plot allocated to the SD descent group. The *tingīr* (pathway) which divides SD’s *īdayg* from DG’s *sāqiya* is still faintly visible in the photo as the area is not cultivated to maintain the divisions. Recall *al-mishra* or ‘watering place’ from Section 5.3.2, where the main irrigation pump was once tied and where the ox-driven *sāqiya* would have historically been. The survival of *al-mishra* is depicted in photo 43, as it is currently where the main *bābūr*—irrigation pump, used to fill the hamlet’s storage tank for domestic use, is attached. The pipe leading to the hamlet in the distance is visible in the photo. Photo 44 was taken from *ashau* lands which lie to the left and depict the remaining dead palms which once covered this land. The area to the right marks the start of the *īdayg* and *sāqiya* lands above (see also Figure 5-9).

It was remarkable how the historical *sāqiya* was still visible in the boundaries that were kept by the descendants in their cultivation activities. Photo 45 depicts the division between the HG plot (visible on the left cultivated by HG3 with *miraig*—sorghum) and the SD plot on the right (uncultivated but covered with a fine-leaved weed known as *al-katakīta*). This SD plot belongs to Abdullahi Sidahmed (see Figure 5-5) but as he had out-migrated long ago, the plot was farmed for many years by the family of Hashim Tayfour (SD1). In recent years they stopped farming it, and Halima will *haishsh* the weed for her goats. As she says “Our land here [in front of her house] is a lot, and I cannot do it myself”. During the year of fieldwork, Hashim made an agreement with a sharecropper to cultivate it and give them half of the harvest (discussed further in Section 8.2.1).

²⁰ Daum palm (*Hyphaene thebaica*) is a common fruit palm in the Manāṣīr and throughout Northern Sudan with an edible oval fruit.



Photo 40: The ʿAtrūn Sāqiya which extends from where the picture was taken to the daum palm tree in the distance.



Photo 41: HajGaly's daum tree which marks the bottom left corner of the Fūqqara



Photo 42: The faintly visible division between two different plots of the sāqiya lands (the SD plot on the left and the DG plot on the right) through the narrow pathway (tingīr) in the middle. In the distance, are the HajGaly daum palm and the ‘Atrūn sāqiya beyond - captured from the other side in Photos 40 and 41 above).



Photo 43: The path in the middle leading away from the Nile (behind) and the hamlet houses (ahead) is al-Mishra, along which the main water pipe for the hamlet’s water tank is established.



Photo 44: The ashau lands with the dying date palms.



Photo 45: Division between the HG *sāqiya* plot (on the left) cultivated by HG3 and the SD *sāqiya* plot on the right (currently uncultivated but allocated to SD3).

While the divisions of the *sāqiya* and the rights of the present members of the three descent groups have remained the same, the use of these lands has changed drastically. Whereas the *sāqiya* was previously used for the cultivation of grains and vegetables, it is currently only used to grow '*gaish*'—fodder. Most of the Fūqqara cultivate *miraig* (sorghum) however, as the reservoir returns before the grain matures; it is planted only for its *gaṣab*—stalk, which is stored to supplement the *khiḍair* grown in the mountain plots

during the high-reservoir season. Photos 46 and 47 show the current uses of these lands. In photo 46 women are harvesting the immature stalks of the *miraig* for their daily fodder needs. In photo 47, men are collecting the date palm fronds from their dying date palms.



Photo 46: Women harvesting fodder from the sāqiya lands in the late afternoon.



Photo 47: Higazi collecting the date palm fronds from his dying palms. The fronds are still used across the Manāṣīr for roof-thatching.

Furthermore, the fluctuations in the levels of the reservoir waters throughout the low-reservoir season present a level of uncertainty. As Khadija explains:

“Farming in the past was stable, *mutwaṭinīn*—settled/established and driven by clear seasons—not like this where we run up and then run down, and then after we plant the water rises unexpectedly and then again falls, and then again people run and hurry to plant it again; nothing like this chaos. Now, look at this, after we planted the water comes up again and eats/rises over what we have planted...when the water goes down, we go and plant it again, it’s really a waste of seeds”.

Another major change in the post-dam *sāqiya* lands is the gendered division of agricultural labour. As Zeinab explains:

“In the past, the *sāqiya* was taken care of by the men and the *jarf* was farmed by the woman, the woman used to only *haishsh*—harvest fodder for her goats from the *sāqiya*. That was the only labour she performed, she did not plant, clear or harvest. Now the woman farms the *sāqiya*, *yirmin al-tairāb*—they sow the seeds”.

Zahra relates to this struggle as she explains “The men are not that helpful in the farming, they go and work elsewhere in the gold or as ‘*a‘māl ḥurr*’—free labour, and the women work the land on their own, which is difficult”. This may be due to the fact that the post-dam *sāqiya* is not as economically productive as it once was, and men seek economic activities outside the hamlet. Furthermore, its cultivation as flood-recession lands, which was historically the agricultural domain of women on the flood-recession lands of the *jarf*, the added burden of farming for women can be understood as a consequential remnant of the historical division of labour.

6.3.3.3 *Post-dam jarf*

The rights to the *jarf* have endured the inundation, and when the reservoir recedes, the old system of descent group divisions and rotating rights are still valid and practised in Al-Fūqqara. This was observed in April as the reservoir receded past the old date line and began to reveal the *jarf* lands. Everyone seemed to know where their rotating plot was for the season, and discussions among kinfolk were to confirm their third's location and report on others' planting activities. As soon as it had sufficiently emerged, they divided and demarcated each household's strips and started sowing their seeds.

However, the *jarf* land is significantly smaller than it was before the dam, “it does not all come out anymore, they refer to it as *lisān al-kalib*—the dog’s tongue, because it is so narrow” (Aisha). As it is the last part of the agricultural lands to be uncovered by the receding reservoir and the first to be submerged, the productive potential of the *jarf* has been greatly reduced. “You are always worried that the water will return and eat what you have planted, even now after we have sowed the seeds, they say the water is rising”. Moreover, the proximity of this land to the contours of the reservoir during its low season means that the land remains vulnerable to the slightest fluctuations in the reservoir levels (Photo 48).



Photo 48: The emerging land of the jarf.

Note: The area closest to the water is freshly planted while those further away were planted days earlier. Also visible are the root structures and partial trunk of dead palm trees.

Though the *jarf* land's significance might have diminished physically (in size) and practically (in terms of the length of exposure season), its social significance — in terms of maintaining one's recognised rights— has not changed and has arguably become more important in the post-dam context. This is illustrated in the following story of the HajGaly's (HG1) fighting to retain their *jarf* rights in the neighbouring hamlet of al-Ḥila. As Aisha Ali explains:

“We have some [*jarf*] land in al-Ḥila that came to us from our paternal grandmother, we have not farmed it since the dam came; we are always complaining about it and saying we want it, that it belongs to our family, we do not want to lose it. Since the dam, we have not gone to it, but my father in his last days said ‘Do not let this land disappear’. Just today I went over to discuss it with them, I said, hey I want my land and they said, okay if you know it come and take it out immediately”

For many years after the dam, the HG1s had not claimed their *jarf* rights in al-Ḥila. However, this was the first year that a serious attempt was made to regain recognition of these rights:

“We have not farmed that *jarf* since the dam, we could not find it, we thought maybe it disappeared, the people were clamouring over the land saying that it is too small, and sometimes the water covers it too soon and they do not benefit from it that much. The first year after the dam they gave us a small plot here from the *jarf* in the *wadi* to make do with, to quiet us down, they want us to forget about it but we refused to let it go, so me and Seyda divided it and farmed it and we found that all in all it was eight *dūra*^c and

we took four *dūra*^c each. Last year, they said it crossed to the east and this year they said it is back here.”



Photo 49: Jarf in al-Ḥīla hamlet being planted after subdivision.



Photo 50: Jarf land in the Hila being planted after subdivision.

Note: The rights of the different social units are distinguished from each other by the sticks, visible in the photo, wedged into the earth to act as boundaries. The Fūqqara sāqiya is visible at the distance

The mystery of the disappearing *jarf* land and the struggle to search for it is a function of the nature of the categorical rights to these lands. As categorical rights in the *jarf* are not rights to a physical plot but

rather to a proportion of the total appearing *jarf*, the shares of the right holders are subject to ‘disappearance’ if it is not concretely identified and categorically claimed each year.

The *jarf* of al-Ḥila is divided into four subplots that are rotated. Three of the plots are in the hamlet on the west bank of the Nile and the fourth is on the east bank. This means that every three years, the rights to the *jarf* would land on the east bank. Since the filling of the reservoir, the HG rights have rotated to the east bank at least three times and each time their attempts to assert their rights over it have not been successful:

“When it falls on the east bank, you would have to cross the river and give it to someone there. You give it to someone and ask them to farm it for you, it might be four or five *dūra*^c and that person would give you some money for it. If you took pity on them, you would give it to them without taking anything in return...this was in the past, since the dam came, we could not ask for it. Last year we tried, and they told us it disappeared because the river did not expose the whole *jarf*. The time before last, they gave us a small bit of it and we left it for them, it was too small and not worth the hassle, some of us were okay with this and some were not. The time before that we went to it and were told that some people farmed it already, and when we saw they were poor, we left it for them. The thing is we only wanted it because it is our family’s land, we just want it as a *zūma*— only as *zūma*, as we don’t need it and it would not really benefit us.”

The word *zūma* in Aisha’s testimony above is interesting and revealing. The term in classical Arabic can mean care, custody, guarantee, protection, safeguard or security. It also has a Quranic reference which means ‘covenant of protection’. In legal terminology, *zūma* can refer to estate, heritage or patrimony. Used in this context, *zūma* is likely to refer to the legal term of patrimony as it is not the productive value of the land but the heritable right to it, which is valued and defended for its own sake. This is yet another example of how land “...is cherished far beyond any conceivable economic rationality” (Beck, 2003, p. 160).

Finally, this year, Aisha accompanied the Ḥila women when they were measuring out their land and managed to secure her lost *jarf* rights. She tells the story of the victory:

We measured all of it and found that it was 32 *dūra*^c and then we took from it. Khadija (Ḥila member) took ten and I took ten—I took mine and Seydas and gave it to Khadija and told her to farm it. So that now I know it. I know and she knows that my rights are with her, next time when I go down they will know that we have a right there, so that next year they expect me to come and measure out my land. It will not be the same plot of land, but next year if the land is more than our share will be more.

It is interesting to note how the categorical rights to the *jarf* are not ‘given’ but are ‘taken’ and ‘claimed’ through the concrete activities of Aisha and her sisters going to the Ḥila hamlet when the *jarf* appears and is being measured out. Their concrete acts of claiming and allocating its use to Khadija solidifies and

strengthens the recognition of their categorical rights as the next year. This illustrates the dynamics between categorical and concretised rights and how the former are not only the basis of the latter, but are also strengthened and solidified by them.

6.4 Conclusion

The old historical hamlet of al-Fūqqara, with its defined agricultural seasons and cultivation patterns, is no more. The post-dam hamlet now revolves around two seasons imposed by the dam's reservoir. During the 'high-reservoir' season, the inhabitants cultivate the lands they reserved and reclaimed immediately after the flooding. During the 'low-reservoir season', the inhabitants return to the historically irrigated lands, now cultivated as flood recession lands. This chapter has illustrated how the 'high-reservoir' land rights were created through the immediate responses of the hamlet's inhabitants to the initial flooding, which spurred them to higher grounds in a rush to reserve land for cultivation and settlement. It showed how this process unfolded between the 'first comers', who secured the most valuable land near the old hamlet, and 'late comers', who were forced to go further afield to find unreserved land. It further demonstrated how the categorical continuity in the 'low-reservoir' land rights as 'everyone knows their place' in the lands revealed when the reservoir recedes is maintained despite the concrete shifts in the uses and cultivation of these lands. The low-reservoir season also created new categories of land, those of fallen houses (*maḥal biyūt*) and land created by the sedimentation of silt on previously uncultivable areas (*arāqī jadīda*). The normative understandings of the inhabitants justified claims to these lands. The following chapter presents a more detailed analysis of these enduring and adaptive institutional dynamics and the categorical and concretised transformations in the hamlet's land property relations.

Chapter 7: Transformations in al-Fūqqara land property system

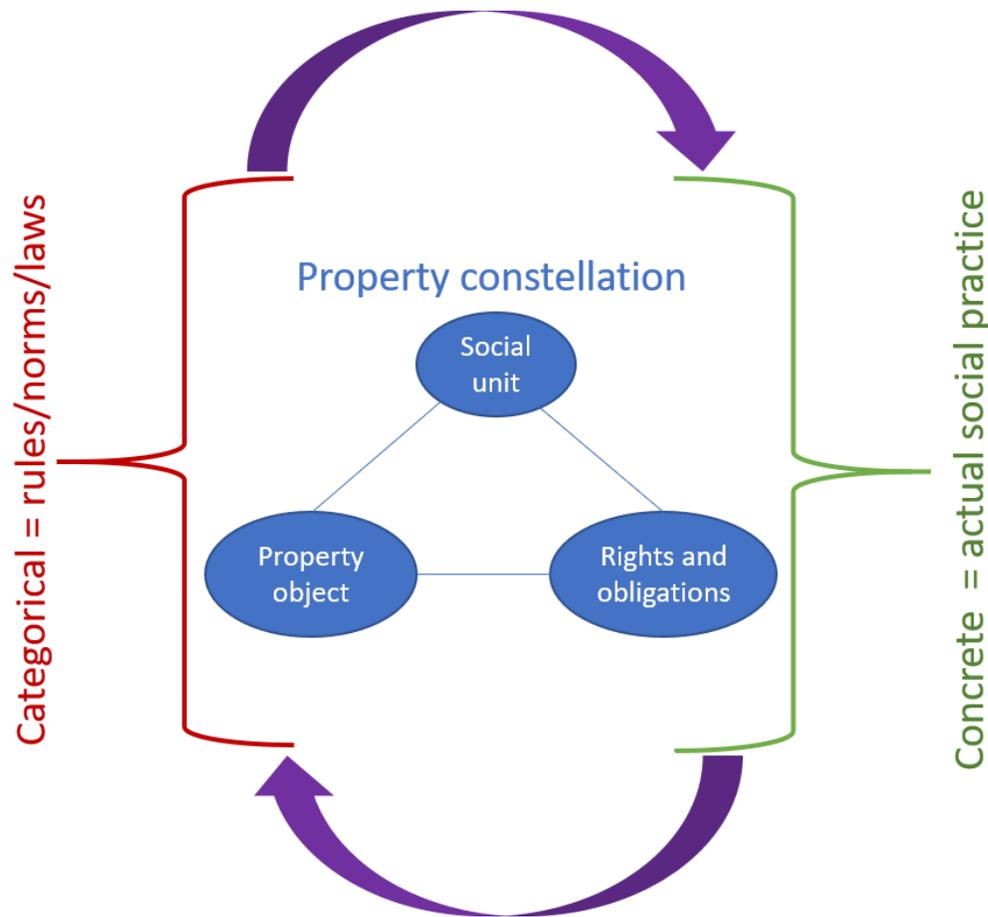
7.1 Introduction

The preceding chapters have described the historical land property system in the hamlet of al-Fūqqara and, drawing on published ethnographic works, contextualised this within the historical system of the Manāṣīr (Chapter 5) as well as outlined the post-dam land property adaptations in the hamlet (Chapter 6). This chapter now seeks to deepen the understanding of the adaptations in al-Fūqqara in the following ways. First, it unpacks the institutional processes behind these adaptations at the level of the normative understandings and interpretations of existing customary rules. Second, it conceptualises the inhabitant's property relations in terms of 'property constellations' that are composed of three constituent elements: social units, rights and obligations, and property objects. These property constellations exist on both the categorical and concretised layers of social organisation (see Figure 7-1 below). The utility of this analytical approach is demonstrated throughout this chapter by leveraging the bundle of rights metaphor and applying it to capture different empirical facets of property relationships at both categorical and concretised levels of property.

The conceptual framework of property (F. von Benda-Beckmann, K. von Benda-Beckmann and Wiber, 2006) distinguishes between *categorical property*—existing at the legal/institutional layer of social organisation manifesting as property rules, norms and laws, and *concretised property*—existing at the layer of actual social practice manifesting as the concrete actions between actual social units and concrete property objects. Though these two layers are analytically distinguished, there is a considerable amount of overlap and interactions between them. For example, concrete actions eventually can be granted categorical recognition, as is the case when continuous and undisputed use of a plot can be translated into a legally recognised right. Furthermore, the categorical rules are the basis upon which concrete actions are legitimised, justified, or disputed. Moreover, these actions of legitimising or disputing concrete rights based on interpretations of categorical rules have the added influence of potentially reforming the categorical property itself through the social practices in which the nature of categorical property is debated, discussed, and reconfigured.

F. von Benda-Beckmann, K. von Benda-Beckman, and Wiber, observe that “while both categorical and concretised property relations can be usefully seen as bundles of rights, they are bundles of a quite different nature” (2006, p. 33). This is because they relate to different kinds of social phenomena, the categorical being normative and cognitive expressions which reflect customary norms or institutionalised rules, and the concretised being actual relations and daily interactions. The application of the bundle of rights metaphor at the level of categorical property includes first the ability to describe the different types of rights that can be bundled into a single property object, second, the different types of rights that can be distributed to different social units, and third, the different types of property objects which a single social unit can have rights to.

Figure 7-1: Visual representation of the property analytical framework employed in this study



Furthermore, the ‘master category bundle metaphor’ is a useful way of conceiving of categories of property objects, and the rights attached to them, as a ‘bundle in itself’. This consequently enables a better understanding of how the potential right-holding social units share in the distribution of these rights. Likewise, the bundle of rights metaphor can be applied in similar ways at the level of concretised property relations with reference to actual property objects, social units, and the realised practice of rights.

The first half of this chapter (Section 7.2) builds on the previous chapter’s descriptions of the enduring rights to ‘old’ *warītha* lands — *sāqiya*, *īdayg*, *ashau*, *jarf*—, and the establishment of customary rights over ‘new’ lands — reclaimed lands, during the ‘high-reservoir season’ and the silt-sedimented ‘low-reservoir season’ lands of *maḥal biyūt*, *arāqī jadīda* (see Table 7-1 below) to elaborate the *enduring* and *adaptive* institutional processes in al-Fūqqara. It draws on the experience of the Fūqqara hamlet’s land reservation and reclamation processes to illustrate the dynamics between concrete actions and normative expressions. The second half of the chapter (Section 7.3) takes this analysis further by elaborating on the pre-dam historical and current post-dam configurations in the hamlet’s *property constellations* at both categorical and concrete layers of property, considered at the level of the household social units introduced in Chapter 5.

7.2 Al-Fūqqara hamlet level institutional dynamics

In the Fūqqara hamlet, the post-reservoir categories of land (summarised in the second column of Table 7-1 below) correspond to the two seasons of ‘high-reservoir’, when the water is at its highest level and ‘low-reservoir’, during which the reservoir recedes to the pre-dam boundaries of the Nile (see chapter 6). Various customary rules have emerged to direct the process of gaining access to and ‘creating’ property rights in these new lands. The concrete actions of appropriation and use drew on the existing repertoire of customary norms and laws for legitimacy. Customary institutions are the primary and most relevant institutions governing access and rights to both the ‘old’ and ‘new’ categories of lands in Al-Fūqqara.

As the previous chapter illustrated, during the ‘low-reservoir’ season, enduring institutions of the old *warītha* lands continue to direct categorical and concrete rights to the lands of the *sāqiya*, *īdayg*, *ashau* and *jarf*, and adaptive institutions guide the appropriation and use of ‘new lands’ created by the reservoir (*arāqī jadīda* and *maḥal bīyūt*). The main category of land during the ‘high-reservoir’ is the reclaimed lands in the desert hills surrounding the hamlet. Rights to these lands were established through the adaptive institutions of *ḥajiz* or land reservation, which represents a customarily negotiated process of claiming rights to previously unoccupied no-mans land—*khala*.

Table 7-1: Summary of the institutional processes involved in the allocation and use of the different categories of post-dam land property in the hamlet of al-Fūqqara

	Categories of land	Institutional processes
Enduring institutions ('old' pre-dam lands)	Sāqiya, īdayg, ashau, jarf	<ul style="list-style-type: none"> Continuity in historical divisions of rights and honouring the <i>warītha</i> property system
Adaptive institutions ('new' post-dam lands)	Reclaimed lands in desert hills	<ul style="list-style-type: none"> Customarily negotiated processes of land reservation—<i>ḥajiz</i> Concrete actions justified retroactively on adapted categorical rules, such as the rule of ‘<i>quṣād</i>’
	New lands created through silt sedimentation— <i>arāqī jadīda</i>	<ul style="list-style-type: none"> Concrete actions are justified retroactively based on adapted categorical rules, such as the rule of ‘<i>quṣād</i>’
	Land of fallen houses— <i>maḥal bīyūt</i>	<ul style="list-style-type: none"> Emerging customary rules that rights belong to the owners of the house or their immediate kin (see Section 6.3.3.1.)

7.2.1 Enduring institutions

In the hamlet of al-Fūqqara, the pre-dam *warītha* land categories of the *sāqiya*, *īdayg*, *ashau* and *jarf* and the historically established divisions among the hamlet’s three sub-descent groups have enduring relevance, even though these lands lay under the reservoir’s waters for almost half the year. The endurance of the categorical *warītha* and concretised *bi maʿaīshi* rights to these lands found frequent expression in inhabitants’ statements such as “when the water recedes, the land is revealed, and *ahalā*

(literally: its family, figuratively: the right holders/owners) of the land come to it” (Khadija). Further, this durability was continuously re-affirmed as follows: “Everyone knows their rights/know what is theirs’”.

As highlighted in Section 5.3.2, the historical divisions were established by their great grandfathers (*taqsīm al-jiddūd*) to ensure that members of each sub-descent group shared equally in the variable quality of land and variable difficulty of irrigation due to distance from the river (refer to Figure 5-9 above). However, the post-dam transformation of the land and the equalizing effects of the reservoir’s *tammī*—silt sediments means that these divisions no longer serve a practical purpose. Nevertheless, the Fūqqara were reluctant to abandon these divisions and consolidate each household’s holdings together. This reluctance was justified and explained in discussions through various arguments. Aisha and Bukheita recalled how their brother had suggested it to their father a few years after the dam and how he had objected, saying: “We should not group them as then people would see that some have larger areas than others and there would be ‘*ẓulum*’ (injustices); it would make apparent the different sizes of the land”. Many others simply insisted that this is ‘*sābit*’—unchanging and permanent— and rather than consider changing them through grouping, they would only entertain the possibility of finding a way to solidify the boundaries of the current landmarks that are totally eroded.

The idiosyncratic attachment to the system of dividing rights to these lands suggests something about the way in which people view and value these inherited land rights. The attachment maintains an established moral order and keeps them rooted, at least symbolically, to their historical hamlet. Unlike the various adaptive institutional measures through which people negotiated access to and claimed new categories of land, these *warītha* lands were at least stable, *sābit* and unchanging. Further, insight into the reasons for this adherence to main Fūqqara *sāqiya* divisions may be gathered from the treatment of the undivided °Atrūn *sāqiya* and Dār Khairain *sāqiya*, discussed in Section 5.3.2.2. As these were undivided—*mā mūqasama*, they were open to being used entirely by one of the many eligible heirs. In the case of the °Atrūn *sāqiya*, despite it being the categorical property of all six branches of the Sidahmed sub-descent group, it was used by only one household (that of SD5). Likewise, the Dār Khairain *sāqiya* was claimed by Issah Higazi (SD4) in the post-dam era. Therefore, the *taqsīm*—divisions play a role in safeguarding the current concrete rights of possession and use of the present concrete social units against the categorical rights, which theoretically can be claimed by any eligible heir (or any categorical social unit).

7.2.2 Adaptive institutions

7.2.2.1 *Reserved/reclaimed lands in al-Fūqqara*

The determination of the rules of access to the post-reservoir ‘new’ lands in the desert hills above the hamlet (in the opposite direction from the reservoir) was done through a customarily negotiated process centring on the practice of *ḥajiz*, or land reservation. All lands that were previously considered *khala*—no man’s land or *arāqī hakūmīya*—governmental lands, could be turned into individual ownership through the act of reserving and reclaiming it.

Under the prevailing conditions of legal pluralism, the government views these lands as state property, which can be held as leasehold property by users who register for a usufruct license. However, the Manāšīr view this land as their collective property, which can be claimed, possessed, and transformed into private property land under the customary laws of *quṣād* and *wuḍ i'ṣyad* (see Section 5.2). This is expressed as the recognised rule that “claims to land are recognised on the basis of *ʿurf*—custom, we just saw that it is reserved and developed, then it is clear that it belongs to someone” (Musa), as well as “if I took a structure and placed it on the land, or if I enclosed it with rocks, it would be mine, and no one would come to it” (Hashim).

Insights from the experience of the Fūqqara hamlet illustrate how these rules emerge in relation to the actual activities which they were intended to regulate. As this process of turning to the mountains and claiming land through reservation was in direct response to the rising water, the customary rules used to justify and legitimise members’ behaviour were developed after the fact and subsequently adopted to govern further acts of reservations. As a result, the concrete practices preceded the categorical rules, the development of the latter then retrospectively formulated to legitimise the former. For example, the actual practice of reserving land is explained as follows: “To reserve land, you just place a big landmark, like the *ʿarish* (palm-thatched ceiling) of the house, or you stack some big rocks and it is known that this area is yours. This way of reserving land was not known before the dam; it came with the dam” (Khadija). A clearer illustration of this point is found in the testimony of a latecomer to the reservation process (SD5) who, as a result of their delay, ended up with plots that were very far away.

As Hiqmallah (SD5) explain, “We had to go far because we could not find any land close by; it was all reserved”. She explains that they had not initially reserved any land because “we just thought it was free for all and whomever plants can plant”. Upon discovering that lands were reserved, “we found that it was divided, this belongs to this person, and that belongs to so and so, and immediately we withdrew”. As she explains, their initial expectations were soon replaced with conformity to the prevailing social rules: “We did not think it was by reservation, but when people said it was by reservations, and they reserved it...of course after they have reserved the land you would not come to it”.

The ‘scramble’ for higher land in the immediate period after the flooding in al-Fūqqara and the way in which this process unfolded between the ‘first-comers’ and ‘late-comers’ may suggest institutional weaknesses to some extent. However, the above testimonies and discussion illustrate how the emergence of categorical (normative customary) rules to direct concrete actions does not happen in a linear fashion but is rather the result of a dynamic negotiation between action, reaction, and justification.

7.2.2.2 *New lands—“arāḍī jadīda ”, and land of fallen houses—“maḥal biyūt”*

As illustrated in Section 6.3.3.1, the receding reservoir and the deposit of silt on previously uncultivated and uncultivable land (such as previously rocky outcrops) has created a lot of new lands across the hamlets of Kabna, which appear during the ‘low-reservoir’ season. Where these lands were previously unclaimed, there was less of a clearly defined normative framework to govern how access to and rights

over them should be governed. It can only be assumed that the rights were established based on the concrete actions of cultivation in the initial years following the establishment of the dam. The examples in al-Fūqqara of these types of lands are primarily the lands between the houses and the main road (*darb al-sultān*) above the *sāqiya* lands and in the area between al-Fūqqara and the neighbouring hamlet of al-Nawāwīr.

In the case of the newly created lands between the houses and the main road in al-Fūqqara, it was observed that those with legitimate customary claims in the areas directly adjacent to these new lands were the ones who were concretely making use of it. For example, legitimate and undisputed claims were those of members of the hamlet who had rights to nearby houses or were cultivating the areas adjacent to these new lands in the *sāqiya*, thereby legitimately claiming the new land based on customary the principle of *quṣād*. In the case of the newly created lands between al-Fūqqara and al-Nawāwīr hamlet, the members of the Nawāwīr hamlet with houses closest to the area took to its cultivation. While customarily it could have been claimed by the members of the Fūqqara as it lay adjacent to (*quṣād*) their *sāqiya*, the concrete actions of the Nawāwīr were not disputed by the Fūqqara, as one member of the Fūqqara stated: “we allowed them to farm it”. This not only illustrates a certain moral economy in the appropriation of new lands but also illustrates how the ambiguity in the application of the customary rule of *quṣād* creates opportunities which are seized through the concrete actions and confer categorical legitimacy to these actions.

In contrast, where the new lands are located on the lands of fallen houses—*maḥal biyūt*, the guiding normative framework was much more clearly articulated. This normative framework found expression in statements such as “if my house drowned, no one could come to it, I plant it myself”. The land of the fallen houses was widely acknowledged to belong to the erstwhile house owners, who had the exclusive right to cultivate it. In the case of the absentee house owners, it would be cultivated by their immediate next-of-kin in the hamlet.

7.3 The pre-dam and post-dam property constellations in the hamlet of Al-Fūqqara

For the inhabitants of al-Fūqqara, their hamlet’s modest lands conferred an important and irreplaceable identification with their past by connecting them to the *jiddūd* or grandfathers (or ancestry, more generally). The importance of this element of social continuity embedded in the land has informed much of the post-dam adaptive measures. To illustrate the extent of this continuity, this section begins by elaborating on the hamlet’s pre-dam property constellations, identifying the social units, the property objects of the different types of land, and bundles of rights which the former can hold with regard to the later (7.2.1). These historical property constellations were categorically constituted in different ways by the co-existing state and Islamic legal systems and customary regulations. They were concretely practised as relations between social units of hamlet’s forefathers in ways that diverged from categorical stipulations and, at the same time, reformed and updated the categorical customary rights. The

distinctions between these three co-existing legal systems are not elaborated here in detail though they are highlighted where relevant to illustrate the context of legal pluralism in which current post-dam land relations are operating (refer to Section 5.2.1 for a more thorough discussion on legal pluralism in the Manāṣīr).

After the establishment of the historical pre-dam land property constellations of al-Fūqqara, the second section (7.2.2) traces changes in these constellations through the post-dam period with a focus on the experiences of the eleven case-study social units presented in Section 5.3. The inundation of these lands has not resulted in changes to the categorical property rights associated with them. Rather, concrete property relations regarding these 'old' (pre-dam) lands have adapted to the new (concrete) reality of a fluctuating reservoir, and the social units maintain the same pre-dam categorical rights to these lands during the low reservoir season in the current post-dam period. The focus then shifts to the new categories of land property (*ḥajiz*, *maḥal biyūt* and *arāḍī jadīda*) and associated categorical rights which have emerged in the post-dam hamlet based on concrete actions of adaptation in the years following the filling of the reservoir. The concretised property relations of the case study social units regarding these new categories of land property are unpacked, and the new resultant property constellations are elaborated.

7.3.1 Historical Pre-dam land property relations

7.3.1.1 *Categorical land property in the pre-dam hamlet*

Prior to the Merowe dam's disrupting influence, the Fūqqara hamlet's land property system would have appeared, at least outwardly, as a typical example of the land property systems found across the Manāṣīr lands. The main categories of land property comprised the irrigated lands, the seasonally appearing *jarf* lands below and the governmental lands beyond the reaches of the hamlet (Section 5.3.2). These three categories of land property can be usefully conceptualised as 'master categories' into which various assortments of rights are 'bundled in'. Under the prevailing conditions of legal pluralism, the nature of these bundles is subject to different legal/normative formulations. Figure 7-2 and Table 7-2 below summarise the general characteristics of these master categories of land and the different rights 'bundled in' to them.

The typicality of al-Fūqqara, however, is restricted to the fact that the *warītha* lands of the *sāqiya*, *īdayg*, *ashau* and *jarf*, are owned by the heirs of a common grandfather (al-Digair Mohamed Ahmed al-Fakih) and are divided and distributed according to typical 'counter strategies' to land fragmentation (as Salih (1999, p.173) discusses and summarised in 5.2.2.). What makes al-Fūqqara unique lies in the fact that these lands are shared between heirs of different and non-kin owners (recall the discussion in Section 5.3 regarding the Digair sub-descent group (who belong to the *ʿumda*'s lineage) and the micro-politics of land which resulted in the *sāqiya*). This distinguishing feature of al-Fūqqara's historical pre-dam land property configurations points out the benefits of very fertile future research and remains tangential to this chapter's analysis of transformations in post-dam land tenure arrangements.

Table 7-2: Summary of the characteristics of the pre-dam master categories of land and the bundle of rights attached to them.

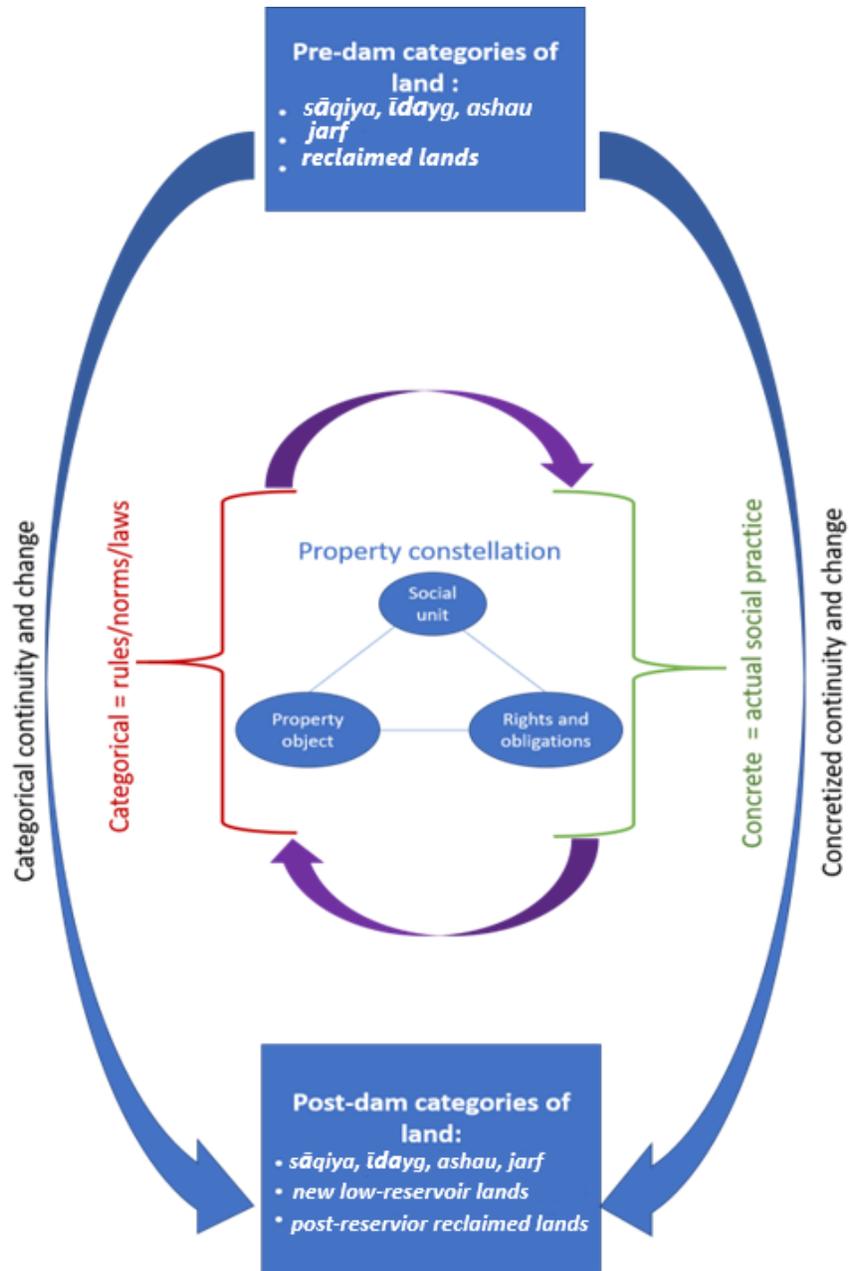
Master categories of (pre-dam) land property	General characteristics and the rights ‘bundled in’ according to the prevailing legal systems (statutory, Islamic, custom)
Irrigated lands: <i>Sāqiya/īdayg/ashau</i>	<ul style="list-style-type: none"> ○ Stable plots of irrigated with clearly bounded divisions ○ Heirs of the original owner have all their rights bundled in these lands ○ Registered under British land administration and categorised as <i>milik ḥurr</i> under the statutory system ○ Common distinction between <i>aṣil</i> (original) and <i>miswaq</i> (cultivation) rights—in the Fūqqara, both sets of rights bundled in the same social units
Jarf	<ul style="list-style-type: none"> ○ Narrow plots of sediment-rich land seasonally appear during the low-tide season of the Nile ○ Heirs of the original owner have all their rights bundled in ○ Rights are shifting across the different plots, and a rotational system of rights ○ Not recognised under state law
Reclaimed lands	<ul style="list-style-type: none"> ○ Rights of cultivation for reclaiming social units and their immediate kin ○ Usufruct license under statutory law for purposes of taxation and water use license ○ Customarily considered as heritable property by descendants of reclaiming party

As was (and indeed remains) the case across the upper Manāṣīr territory, the irrigated lands were owned in common by *asyād al-warītha*—holders of the *warītha* rights of inheritance. As such, the *sāqiya* and associated *īdayg/ashau* lands could be conceptualised as a form of heritable property into which the rights of all the eligible heirs are bundled in. As already highlighted, this common ownership structure was legalised and institutionalised by the colonial administration through their land registration ordinances in the early 20th Century, the *sāqiya* being registered to the social unit identified as the ‘heirs of X’ (with X being the original registered owner, see Salih (1999, p.99)). Consequently, subsequent postcolonial governments maintained this legal status of freehold registered property or *milik ḥurr* to the *sāqiya* lands and, likewise, continued to recognise that ownership was shared among the heirs of the original registered owner. Furthermore, Islamic law dictated the terms of inheritance and the categorical rules of distributing shares to the land following the death of the registered owner. The dual ownership, as it applied to the *sāqiya*, allotted different bundles of *aṣil* rights of original owners, or *miswaq* rights of cultivation, to different social units; this custom was recognised and formalised by the colonial land administration. In the case of the Fūqqara *sāqiya*, both the *aṣil* and *miswaq* rights were registered to the same social unit of al-Fakih’s descendants.

The category of jarf rights was left out of the state registries as the customary basis of ownership of the rotational system of rights to geographically shifting plots with fluctuating and often negligible sizes was not worth the efforts of registration. As such, it was subject only to the customary legal order whereby rights were inherited according to customary and Islamic rules of inheritance. Similar to the irrigated lands, categorical rights to these lands are commonly held by a large group of co-inheritors. Finally, the category identified as “reclaimed lands” or ‘*mīrī*’ was similarly differentially defined by customary and state law. Under state law, these lands were categorised as ‘*arādī hakūmīyah*’ or governmental lands and were thus considered as ‘state domain’. As governmental lands, these lands could be reclaimed and

appropriated customarily, and claimants could seek formal state recognition of their claims through application for a usufruct license known as ‘*hikir*’ through the relevant state bodies.

Figure 7-2: Visual representation of the property analytical framework and of the dimensions of continuity and change in the pre to post-dam lands at categorical and concretised layers of property



The process of registering rights to reclaimed lands in the pre-dam Manāṣīr usually involved a number of institutions as outlined in Section 5.2.1. However, as will be discussed further in the subsequent chapter, this formalisation of rights to reclaimed lands did not survive in the post-dam context. The most relevant

customary laws which applied to these lands were the customary law of prescription or '*wuḍ i'yaḍ*' and the law of '*quṣāḍ*', which gave priority to claiming land to the holders of rights to adjacent lands. While statutory law distinguished these rights of use from the freehold ownership rights to the *sāqiya*, this distinction made little difference customarily. According to custom, reclaimed land was subject to inheritance by the reclaiming parties' descendants and viewed as their private property, irrespective of the prevailing statutory regulations.

Tables 7-3 and 7-4 below summarise the three main elements of the categorical property constellations (*social units*, *property objects*, and the *rights and obligations* the former can hold with regard to the latter) and the three 'master categories' of land property in the hamlet of al-Fūqqara. Table 7-3 illustrates the distinction between the categorical social units as stipulated under statutory and Islamic law (social units with potential legal claims of *ownership* or the holders of *warītha* rights) and those dictated by custom (social units with a customary entitlement of *possession* for subsistence use, or the holders of *bi- ma'aīshi* rights) across the three sub-descent groups in Al-Fūqqara.

Table 7-4 summarises the pre-dam categorical land property relations by identifying the property constellations for each of the three master categories of land. These are based on the identification of the different *social units* that can hold rights to these three master categories of land as they are defined under statutory, Islamic law and custom. This is followed by an identification of the *property objects* or the socially constructed valuables to which these *social units* can hold *rights* to. As will be shown, these objects can be physical plots of land held in *possession* or abstracted shares of *ownership* in physical plots. Finally, different *bundles of rights* which the social units can potentially hold with regard to these objects are identified and discussed.

7.3.1.1.1 *Social units in the categorical land property in the pre-dam hamlet*

The main social units that could hold rights to the aforementioned categories of land in the hamlet are the eligible heirs of al-Digair Mohamed Ahmed al-Fakih. The main *sāqiya*, *īdayg* and *ashau* lands were all registered to the heirs of al-Fakih, and as such, according to state and Islamic law, the social units that could potentially hold rights to these lands are identified as the unspecified group of eligible heirs of al-Fakih. Though the *jarf* was not registered and therefore not recognised by state law, the social units under customary and Islamic law are similarly identified as the permanent resident eligible heirs of al-Fakih.

Under state law, rights to the final category of reclaimed lands could potentially be held by any individual, provided that the rights to the land are lawfully acquired and registered subsequently. Customary law similarly identifies the individual or household which reclaimed these lands, though there is a strict prerequisite that they belong to the Manāṣīr tribe—*qabīla al-Manāṣīr*, if not from the same village council. In the event that reclaimed land is up for inheritance, the social units would be identified on the basis of Islamic law and customary norms of inheritance (see Table 7-3).

The distinction between the categorical social units with a potential legal claim of ownership recognised by state and Islamic law and the social units with a customary entitlement to rights of possession based

on their status as permanent residents is an important one. In the case of the former, the potential social units would include all the eligible heirs pertaining to al-Fakih’s three sons, Sidahmed, Mohamed and al-Digair. However, as not all of al-Fakih’s eligible heirs remained in the hamlet, those social units with a recognised *customary entitlement* to rights of possession and use are those heirs that have remained rooted in the hamlet, refer to Section 5.3.

As all of Sidahmed’s six sons-maintained ties to the hamlet, they are all recognised as social units with a customary entitlement and are therefore all represented in the divisions of land (refer to Figure 5-9). However, as only one of Mohamed’s three sons (HajGaly) and one of al-Digair’s four grandsons (al-Hassan) remained rooted in the hamlet, they are the only ones among their siblings with a customary entitlement and who are therefore represented in the divisions of land. These customary entitlements are explored further below in the discussion of the social units of the concretised property relations of the historical pre-dam hamlet in Section 7.3.1.2.

Table 7-3: Pre-dam social units with categorical rights to hamlet lands

Sub-descent groups	Pre-Dam Social Units With Categorical Property Rights To Irrigated Lands And <i>Jarf</i>	
	Social units with a potential legal claim to ownership- <i>warītha</i> under Islamic and statutory law	Social units with customary entitlement to bi-ma’aīshi- possession rights
Sidahmed	All six sons of Sidahmed and their descendants	All six sons and their descendants
Mohamed	All three sons of Mohamed	Only one son of Mohamed (Haj Galy)
Al Digair	All four sons of al-Digair’s only daughter (Bit al-Digair)—i.e. all four grandsons of al-Digair	Only one grandson of al-Digair (al-Hassan)

Note: The distinction is between social units with a potential claim (i.e. categorically under Islamic and statutory laws of inheritance, includes all the eligible heirs of the registered owner, which are very large in number) and those with a customary entitlement (only the permanent residing eligible heirs).

While the status of ‘permanent resident’ is perhaps the most important factor in conferring a customary entitlement, it is not the only one. Other factors include the result of various concrete historical arrangements, counterstrategies to the fragmentation of land and micro-political dynamics also play a role, discussed further below in the discussion of concrete social units. Customary entitlement is conceptualised as a basis of customary categorical rights because of the legitimizing role it plays in directing concretised actions. The fact that the establishment of this entitlement was itself on the bases of concretised actions of previous generations highlights the interrelated nature of categorical and concretised levels of analysis.

7.3.1.1.2 Property objects in the categorical land property in the pre-dam hamlet

With regards to the first category of irrigated lands (*sāqiya, īdayg, ashau*), and as shown in Table 7-4, the property object to which the wider social unit of all eligible heirs hold *warītha* rights of ownership was considered under state, Islamic and customary law to be the overall physical plot of land in which the rights of all descendants were bundled in. However, the impracticality of this has resulted in the historical fragmentation and distribution of land by the great grandfathers of the hamlet (*‘taqīm al-jiddūd’*). The resulting property objects of bounded physical segments of the *warītha* lands and the resulting allocation

of these segments amongst the three sons of al-Fakih were represented in Figure 5-9 and discussed in Chapter 5. Similarly, in the *jarf* lands, the overall property object of these lands was customarily identified in terms of specified shares in the *jarf* (which under Islamic law would be calculated according to the rules of inheritance) and would correspond to variable-sized plots with defined boundaries that would occupy different geographic spaces depending on the year and rotation.

Table 7-4: Historical (pre-dam) categorical land property relations

		Master categories of land		
		<i>Irrigated lands</i> (<i>sāqiya, īdayg, ashau</i>)	<i>Jarf land</i>	<i>Reclaimed land</i>
codes		(C= custom; SL=statutory law; IL= Islamic law)		
Elements of property constellations	<i>Social units</i>	<p>SL + IL = all eligible heirs of al-Fakih, the apical father of the Fūqqara.</p> <p>C= permanently resident male eligible heirs of al-Fakih (excludes women)</p>	<p>SL = does not recognise any rights to the <i>jarf</i></p> <p>IL= all living eligible heirs of al-Fakih, the apical father of the Fūqqara.</p> <p>C= permanently resident eligible heirs of al-Fakih (including women)</p>	<p>SL + IL = the reclaimers of the land, i.e. people using governmental land that is not registered consistently for a period of time and over which there is no dispute, usually an individual and their heirs</p> <p>C = a member of the Manāṣīr tribe, whether individual or household and their respective heirs</p>
	<i>Property objects</i>	<p>SL = the land registered to the common ancestor- (Al Fakih) in 1909</p> <p>IL = a calculable share in the land determined by inheritance rules</p> <p>C= a share in the land determined by inheritance and custom* and divided and established by previous generations</p>	<p>SL= does not recognise the <i>jarf</i> as a property object</p> <p>IL= a calculable share in the <i>jarf</i> land</p> <p>C= A share in variable-sized plots of land that occupy different geographic spaces depending on the year and rotation.</p>	<p>SL+IL= physical plot of land that is reclaimed and registered</p> <p>C= land that is demarcated and restored/reclaimed, that had no prior claims on it and that is in line with the rule of <i>quṣād</i></p>
	<i>Rights and obligations</i>	<p>SL + IL = right to use/cultivate, inherit (includes women's inheritance rights), share, transfer</p> <p>C= right to use/cultivate, inherit, share, transfer</p> <p>C=obligation to maintain rights to land for future generations of descendants.</p>	<p>SL = does not recognise any rights to the <i>jarf</i></p> <p>C + IL =right to cultivate rotating plots with co-sharers</p> <p>C + IL =right to inherit /pass on</p> <p>C=right to lease out and transfer.</p>	<p>SL = right to use, right to register for a license, right to transfer, right to inherit</p> <p>IL= rights of inheritance</p> <p>C= right to use, share, transfer, inherit, sell</p>

The reclaimed land category is the only category in which the property object at the categorical level is a physical plot of land, demarcated in accordance with customary and statutory rules of acquisition. The specific plot of land would have to be registered to be recognised by state law, though customarily it

suffices if it is claimed in alignment with customary norms. Therefore, although the object in this category is a physical plot of land, it is a plot which exists on paper, according to state law, or as a collective mental construction in the customary social world.

7.3.1.1.3 *Rights and obligations in the categorical land property in the pre-dam hamlet*

Due to the common ownership of the irrigated lands and *jarf* by a group of co-heirs, the bundles of rights at the categorical layer are limited to the rights of use, inheritance, sharing and transfers amongst the eligible heirs. There is an obligation to maintain the integrity and the inalienability of *warītha* rights of ownership for the future generations of heirs. Recall that whilst all eligible heirs hold *ownership* rights via inheritance—*warītha*, it is only a select few who hold rights of *possession* and use for subsistence—*bi-ma‘aīshi*. In matters of inheritance, state and Islamic law overlap, while customary practice often excludes women from their inheritance in the irrigated lands, though honouring their inheritance rights in the *jarf* lands.

Reclaimed lands were categorically subject to slightly different sets of rights. Though still subject to the rights of use, transfer and inheritance under the three legal systems, state law recognised the reclaimers’ right to register the land as usufruct property or *hikir* and thereby acquire an exclusive claim to the management of these lands. However, as the three legal systems still recognised the rights of inheritance, land that was reclaimed generations ago assumes the same *warītha* status of the irrigated lands and *jarf* in time and consequently comes to be shared by eligible heirs of the original claimer. In the Fūqqara, an example of this is the reclaimed lands that were added to the main *sāqiya* by Sidahmed. The rights to these reclaimed lands are categorically shared among all the Sidahmed descendants, though the other two sub-descent groups of the Fūqqara are excluded from them.

7.3.1.2 *Concretised land property relations in the pre-dam hamlet*

This section explores the main elements of the concretised property constellations with regard to the three main categories of land in the historical hamlet, as summarised in Table 7-4 above. Though the categorical rights of ownership to the registered *warītha* lands belonged to all eligible heirs of al-Fakih, in practice, they were concretely used by the small portion of those who remained in the hamlet. Consequently, the concrete rights held by social units and their actual relations regarding concrete objects were enacted in ways that did not necessarily correspond to the legal principles of inheritance set down under state, Islamic and customary legal systems. For instance, there are many examples in Al-Fūqqara where women relinquished their inheritance from their father’s share in *warītha* lands, often claiming they ‘left their shares for their married brothers’ and had concrete rights to their husband’s inherited land.

Whilst the concretised historical land relations are distinguished from the categorical property rights, it is important to note how the two layers are interrelated. In the case of the irrigated lands (*sāqiya*, *īdayg* and *ashau*), the concrete divisions established by the grandfathers of the hamlet (*‘taqsīm al-jiddūd’*) which resulted in the current physical allocation of lands, have acquired a customary categorical status. This historical concrete division over time has become established as a categorical property rule as the rights

of forthcoming generations would necessarily be confined to the segment allotted to the sub-descent group.

Furthermore, the categorical effects of the concrete divisions to the Fūqqara main *sāqiya* are more pronounced in comparison with the other *sāqiya* registered to al-Fakih in the neighbouring hamlet of Dār Khairain. The Dār Khairain *sāqiya* was never divided, and as such, it lacked the same categorical rights as all the sub-descent groups of the Fūqqara. As it was undivided '*mā mūqasama*', it was not subject to the same limitations conferred by the categorical rights that were established by the concrete act of the historical grandfathers' division. This left it open to negotiations over concrete use rights among all eligible heirs and was the basis which enabled only one social unit, that of Issah Higazi Sidahmed, to claim possession of it in the post-dam period (see Section 5.3.2).

A further example of these interrelations between concretised and categorical rights is apparent in the way in which the concrete activities of one of the Fūqqara's three great-grandfathers, Sidahmed, resulted in categorical rights to additional property objects. As Sidahmed's family was particularly large, with all of his six sons and their descendants holding legitimate claims to share in the third of the Fūqqara's lands, the patriarch was induced to take practical measures to increase his share in the land. He did this by reclaiming some rocky lands between the *sāqiya* and the *darb al-sultān* as well as claiming the land adjacent to Khaur al-Nawāwīr (see Figure 5-9) and establishing the 'Atrūn *sāqiya*. These additions would then become the categorical rights of only the descendants of the Sidahmed, i.e., the HajGaly and Digair descendants would be categorically excluded from them.

The 'Atrūn *sāqiya*, similar to the Dār Khairain *sāqiya*, was never divided and, as such, it was open to being concretely appropriated by any member of the Sidahmed sub-descent group. Despite the categorical rights of all six of the Sidahmed sub-descent groups to the *sāqiya*, it was concretely claimed by only one member of the Sidahmed sub-descent group, Mohamed Mustafa (SD5). This concrete appropriation by one member of the group does not affect the categorical right as "*al-ḥaqq mahfūz*—our rights are saved". Therefore, the situation is one whereby the actual concrete users of land are holding the rights of possession on a *bi ma'aīshi* basis whilst the inalienable rights of *warītha* of all of Sidahmeds six sons are secure and unthreatened.

7.3.1.2.1 Social units in the concretised land property relations in the pre-dam hamlet

Unlike the categorical social units, which refer to an unspecified group of eligible heirs, the concrete social units that can hold rights to the three categories of lands are specific households or groups of households (close-kin groups) which permanently reside in the hamlet. Due to the limited nature of the property objects (i.e. the physical land) and the practical impossibility of distributing rights to these objects among all potential social units (i.e. all entitled heirs), only a select few eligible heirs could actually or 'concretely' make use of the land they inherited. Therefore, the concrete social units include only the permanently residing households of the three descent groups with a historically established *customary entitlement* to land.

As discussed above, the most important qualifying factor in conferring customary entitlement was the status of a permanent resident. However, the establishment of this customary entitlement was also achieved through various concrete historical accommodations, counterstrategies, and micro-politics of land, which in time, have become the categorical basis upon which further concrete actions are directed. As will be illustrated below, these concrete historical adjustments to accommodate the social units form the post-dam categorical social units.

These historical strategies and micro-politics include, for example, the marriage between HajGaly and al-Digair's widow (see Section 5.3.2), which has played an important role in the establishment of HajGaly's categorical rights in the irrigated *warītha* lands. Furthermore, the agreement among al-Digair's grandsons to take over the categorical land rights inherited from their father the *ʿumda* of the Manāṣīr in the different hamlets and to leave the Fūqqara lands to al-Hassan represent examples of these concrete historical accommodations among the social units. Therefore, the customary entitlements to land were determined by past agreements that were reached between the co-sharers and by historical factors of continued and uninterrupted use of land by the specific members of the descent groups and their kin.

Concrete customary adjustments were made to accommodate the social units of each descent group. For example, the nature of these adjustments enabled Mohamed's share of the *warītha* to be passed down to only one of his four sons (HajGaly) and al-Digair's third to be passed down to one of his grandsons (Al Hassan). Despite these historically established divisions to the *sāqiya*, which concretely narrow down the social units with rights of possession and use (*bi maʿaīshi*), the categorical rights of ownership still maintain the link between all heirs and the land by virtue of their inalienable connection to the '*jiddūd*' of forefathers. This connection at the level of categorical property is important when considering the non-material values of land property relations, namely in maintaining social continuity and contributing to the identity and belonging via the surviving of the *warītha* system, irrespective of where they reside.

7.3.1.2.2 Property objects in the concretised land property relations in the pre-dam hamlet

The concrete property objects to which social units can have rights to are identifiable plots of land which represent the social unit's categorical rights to the land. In the case of the *sāqiya*, *īdayg* and *ashau*, these property objects were demarcated by dividing the entire area of the *sāqiya* into strips which were then allocated to the three descent groups (Figure 5-9). The boundaries of the demarcated plots were permanently established by the hamlet's forefathers. This process of division, referred to by the Fūqqara inhabitants as "*taqṣīm al-jiddūd*" (the grandfathers' divisions) established the pattern of the allocations of the *sāqiya* to the subsequent generations of the eligible members of the three descent groups. In the case of the *jarf* lands, which appeared only seasonally, the property object was a narrow plot of land that was identified based on set dimensions which corresponded to the share in the *jarf* held by the social unit.

As described in Section 5.3.2 the *jarf* of al-Fūqqara is peculiar in that it has been divided into six plots²¹ with stable and permanent latitude boundaries, unlike neighbouring hamlets where the *jarf* is measured out each year. These plots are in turn subdivided into three equal parts that are further subdivided into narrow strips of land among the members of each of the three sub-descent groups. Rights in all the *jarf* plots were shifting with the exception of the Umm Sidairis plot, rights to which were consistently held by the social unit of the al-Digair descent group. The concrete property object then would only be revealed after the river receded and the size would be determined by the degree of the river's recession. The property object in the case of the reclaimed lands was a clearly identified and demarcated plot of cleared land with fixed boundaries. The only examples of this property object in the pre-dam Fūqqara hamlet are the plots of reclaimed land added to the main *sāqiya* by the social unit of the Sidahmed (SD) sub-descent group.

7.3.1.2.3 Rights and obligations in the concretised land property relations in the pre-dam hamlet

The concrete bundle of rights held by the social units to the three categories of land largely centred on the rights of continuous use, and in the case of the death of a member, the right to pass it on to the immediate kin or to inherit it from the deceased. While rights to the irrigated lands and *jarf* were non-exclusive (i.e., the rights of one social unit did not negate the rights of the other), in the case of the reclaimed lands, this included the right to exclude others from using the land.

These categorical and concretised property constellations made up the historical land property system of al-Fūqqara hamlet—a system which has become engrained into the minds of the current living members and whose complete dissolution has not manifested despite the force of the reservoir. The following section traces the post-dam changes to these constellations as illustrated by the experience of the selected cases from the hamlet.

7.3.1 Post-dam land property relations

7.3.1.1 Categorical post-dam land property relations

Despite having been concretely transformed since the onset of the Merowe dam and the filling of the reservoir, the historical categories of land (*sāqiya*, *īdayg*, *ashau* and *jarf*) remain to a large extent, relevant in the post-dam Fūqqara hamlet. The prior categories of irrigated lands (*sāqiya*, *īdayg* and *ashau*) are now administered as flood recession lands as they are only available during the “low reservoir season” (when the reservoir is at its lowest point). Though the *jarf* lands have always been subject to this seasonal disappearance, the Merowe dam has caused the extension of this trait of seasonality to the historically irrigated lands. Furthermore, the changes experienced across these historically existing land categories are accompanied by the emergence of other post-dam land categories of cultivation during the low

²¹ These are identified by special names: Umm Sidairis, Dār al-Kanābla, al-Agānīn, al-Fīyl and Khaur wad Ahmad (see Figure 5-9).

reservoir season. This includes the category of new lands—*arāḍī jadīda*, created by the silt sedimentation on previously rocky mountainous or uncultivated land and the land of fallen houses—*maḥal biyūt*, which appear and are cultivated during the low-reservoir season.

Table 7-5: Historical (pre-dam) concretised land property relations

Element	Master categories of land		
	<i>Irrigated lands (sāqiya, idayg, ashau)</i>	<i>Jarf land</i>	<i>Reclaimed land</i>
Social unit	A specific permanently residing household/members of household. Only a small portion of households belonging to any of the three sub-descent groups with customary entitlement.	A specific permanently residing household/members of household. Only a small portion of households belonging to any of the three sub-descent groups with customary entitlement.	Individuals, households or members of a kin-group.
Property object	A specific plot of land, demarcated with clearly identifiable and permanently established boundaries. Plot of land (of each household) lies within the land divisions that were historically determined to belong to one of the three sub-descent groups.	A narrow strip of land which is variable (in size and location), is identified based on set dimensions corresponding to the shares of the social unit. i.e. a share of land that appears in different physical locations each year.	A (previously) unused land that is reserved, demarcated and claimed as one's own.
Rights and obligations	Right to use/cultivate/benefit from harvest shares with others. Right to transfer, right to inherit. Obligation to maintain rights for future generations of <i>warītha</i> .	Right to cultivate rotating plots with co-sharers. Right to transfer, right to temporarily lease.	The exclusive right to land use, right to transfer, cultivate, register, and right to inherit.

The category of reclaimed lands or governmental lands (*arāḍī hakūmīyah*) has experienced categorical shifts because of their new-found importance during the “high-reservoir season” and the proliferation of concretised claims made upon them as evidenced by the proliferation of claims made on these lands in the aftermath of the flooding. As such, this category of reclaimed lands has been categorically reconstituted and is best conceptualised as the ‘new’ category of the *post-dam reclaimed land* – which is referred to as *hajiz* lands.

Table 7-6: Summary of the general characteristics of the master categories of post-dam land property and the various rights 'bundle in' to them

Season	Master categories of (post-dam) land property	General characteristics and the rights 'bundled in' (according to the prevailing customary normative framework in post-dam context where there is currently no functioning statutory system)
Low Reservoir	Old categories of lands: (<i>Sāqiya/īdayg/ashau/jarf</i>)	<ul style="list-style-type: none"> - Stable plots with clearly bounded divisions - Eligible heirs have all their rights bundled in these lands - Rights to <i>jarf</i> are shifting across the different plots, rotational system of rights and similarly co-shared among eligible heirs
	New lands (<i>arāḍī jadīda</i>)	<ul style="list-style-type: none"> - Rights of ownership and use established through concrete actions following their revelation after receding reservoir
	New lands of fallen houses (<i>maḥal biyūt</i>)	<ul style="list-style-type: none"> - Rights of ownership and use of the previous house owners and their immediate kin
High reservoir	Post-dam reclaimed lands (<i>ḥajiz</i>)	<ul style="list-style-type: none"> - Rights of ownership and use for reclaiming social units and their immediate kin - Customarily considered as heritable property by descendants of reclaiming party - Not subject to the same <i>warītha</i> system of rights of the old categories of land

Though the effects of the dam's reservoir have had serious implications on both concretised and categorical land rights, the concrete actions of claiming and cultivating land have preceded the necessary adjustments at the categorical layer of formalised rules and procedures. Nonetheless, the social practices through which concrete rights to land were made (i.e. the reservation, reclamation, cultivation or settlement of new land) were directed by the historical institutions of customary local land law, as will be elaborated further in the next chapter on institutional dynamics. As such the categorical rights to the lands in al-Fūqqara are evidenced in the normative and cognitive expressions of the hamlet's inhabitants which in turn were informed by interpretations of the already established customary categorical rules as well as agreed-upon notions of fairness. It is in reference to these normative and cognitive conceptions of the inhabitants (which are their interpretations of existing customary law) that the post-dam categorical property rights are elaborated below. It is worth noting that these customary categorical formulations were not uniform across the different hamlets, nor were they widely agreed upon, as evidenced by the ambiguity and multiple interpretations of the application of the rule of *quṣād*, which will be discussed further in the next chapter (for example see the debate between Omar and Souad in Section 8.4).

The endurance of the historically rooted categorical '*warītha*' rights of inheritance to the old pre-dam categories of land (*sāqiya, īdayg, ashau, and jarf*) was maintained, and upheld by the normative and cognitive understandings of the inhabitants, as discussed in Section 7.2.1 above. This understanding found expressions in statements which reflected the categorical customary institutional basis of these rights.

For example, this is captured in the concise articulation of one inhabitant who said, “There are those that had rights in the old lands that are below the water...this right will never disappear, they will come for their rights”.

The important prerequisite for the realisation of these categorical rights in al-Fūqqara is the enduring categorical divisions established by the forefathers or *‘taq̣sīm al-jiddūd’*. The adherence to these established barriers, which up until the time of fieldwork (almost 10 years after the initial inundation) were still identifiable by the inhabitants of the hamlet, found frequent expression in the insistence on the unchanging and permanent (*sābit*) nature of these divisions and barriers. Although, it remains to be seen how these divisions and concrete rights of possession and use will develop in the future as the barriers and boundaries dissolve.

The principles underpinning the concrete actions of making property in the reclaimed lands were based on customary understandings of the process of reservation or *‘hajiz’*, which were in turn informed by the existing customary local land laws of *‘wuḍ i‘yad’* (literally-‘placing of one’s hand’, the customary principle of prescription) and *‘quṣād’* (the rule of adjacency or the principle of the opposite) discussed further in the next chapter in the context of the local option beyond al-Fūqqara. The interpretations and applications of these customary laws were expressed as the basic principles which guided the ad-hoc decisions and concrete actions around the appropriation of the governmental lands beyond their hamlet. As Sections 6.3.2 and 7.2.2. illustrated, the inhabitants justified their actions and accepted the actions of others based on these principles, which in themselves, emerged as a result of their actions. In other words, there was a dynamic interplay between the concrete actions of reserving and claiming land and the emergence of the categorical basis upon which such claims were made, defended, recognised, and legitimised.

The concrete actions, whether physical demarcation, occupation or cultivation of land was the primary means through which land was concretely claimed. Three basic principles which emerged as a result of these concrete actions and have become recognised as the rules by which further concrete actions would be directed are: (1) the plot must not already be reserved, (2) the plot must not be adjacent to someone else’s reserved plot (unless granted permission), and (3) land reservation activities must be confined to one’s own hamlet –*‘quṣād ḥilatak’*. The first principle reflects the customary law of *‘wuḍ i‘yad’* through which unoccupied, vacant land could be legitimately claimed. The second and third principles reflect two dimensions of the customary law of *quṣād*. One dimension is the application of *quṣād* within the confines of the hamlet and directs the processes of claiming land among inhabitants of the same hamlet. The other applies to hamlet as a whole and is a novel adaptation to the post-dam context. Furthermore, the way in which the nature of the rights to these lands is distinguished from the rights to the old categories of pre-dam lands as *“bigat mā warītha—no longer warītha”*, signifies important categorical shifts. Unlike the *warītha* lands, with an innumerable cohort of categorical social units who hold *warītha* rights (*asyād al-warītha*), rights to post-dam reclaimed lands are held exclusively by the reclaiming social unit.

The new lands in the hamlet created by the sedimentation of silt are divided into two categories. The first is the land of fallen houses *‘maḥal bīyūt’* and there was a unanimous agreement that the categorical rights

to these lands belong to the previous owners of the houses or their immediate kin. This agreement was based on a shared normative assumption concerning what was fair rather than a formal agreement. The second type of new land was the land that was created by the sedimentation of silt on previously unoccupied and unusable rocky mountainous lands, referred to here as '*arāqī jadīda*'. There was less of a defined normative framework as to who should have rights to these lands, and it often followed that concrete actions were justified with reference to the categorical customary rule of '*quṣād*' or proximity to one's own property. What follows is an elaboration of the main elements of the post-dam categorical property constellations. These are summarised in Table 7-7 below

7.3.1.1.1 Social units in the categorical post-dam land property relations

The previous section on the pre-dam land property constellations identified the categorical social units that hold rights of ownership to the old pre-dam categories of land (*sāqiya*, *īdayg*, *ashau*, and *jarf*) as being all the eligible heirs of the original registered owner (the common great grandfather of the hamlet, al-Digair Mohamed Ahmed al-Fakih). It also illustrated how various historical processes narrowed these down to a select few eligible heirs with a customary entitlement to rights of possession and use. As summarised in Table 7-7, the current post-dam categorical social units that could potentially hold rights to these old *warītha* lands are thus necessarily extensions of the historically established subdivisions and represent even further subdivisions based on similar customary entitlements conferred by the permanent residence of heirs. For example, while the historical categorical rights of the Mohamed branch of the sub-descent group were limited to descendants of only one of his three sons (HajGaly), the current post-dam categorical rights are limited to only two of HajGaly's five sons. That is to say that while potentially all of HajGaly's sons are recognised as categorical social units, only two of HajGaly's sons currently have a recognised customary entitlement to the land.

However, as the categories of land in the new post-dam hamlet expanded to include reclaimed lands (*hajiz*) and new lands created by the sedimentation of the reservoirs silt (*arāqī jadīda* and *maḥal biyūt*), the categorical social units that could potentially claim rights to these new post-dam lands were customarily formulated to be confined to members of the hamlet in which the lands appeared. That is to say that only members of the Fūqqara hamlet could make a *categorically recognised claim* under the prevailing understandings of post-dam customary norms or '*urf*', to the property objects that emerged in the new lands. Further categorical specifications referred to the type of the new land. If it was the land of a fallen house (*maḥal biyūt*) only the owners of the house or the immediate kin were recognised as the categorical social units that could potentially hold rights to such lands. In the case of the new lands that appeared on previously unclaimed land (*arāqī jadīda*), the social unit must be a member of the hamlet with a categorically recognised right to it (usually conferred by their proximity to the new land in question as per the customary rule of *quṣād*).

Table 7-7: Post-dam social units with categorical rights to hamlet lands

The 3 Sub-Descent Groups	Post-Dam Social Units with Categorical Property Rights to Irrigated lands (<i>sāqiya</i> , <i>īdayg</i> and <i>ashau</i>) and <i>jarf</i> lands	
	<i>Social units with legal claim potential claim</i>	<i>Social units with customary entitlement</i>
Sidahmed	All six sons of Sidahmed and their descendants	At least one (in some cases two) male descendants of each of Sidahmed six sons—see Figure 5-7
Mohamed	All five of HajGaly and their descendants	Only the male descendants of two of HajGaly five sons (Ali and Mohamed)—see Figure 5-9
Al Digair	All eight sons of al-Hassan and their descendants	Only the male descendants of four of al-Hassan’s eight sons (Ibrahim, Ahmed, Khalifa and Hashim)—see Figure 5-8

7.3.1.1.2 Property objects in the categorical post-dam land property relations

The categorical property objects of the old hamlet lands of *sāqiya*, *īdayg*, *ashau* and *jarf* in the post-dam hamlet refer to the same objects of the pre-dam categorical formulations. That is, the shares and divisions of the lands held by the social units have remained unchanged even though they are underwater for more than half the year. This categorical continuity of these property objects is not however reflected at the concrete level, as discussed further in Section 7.3.2.2.2 below.

Two new property objects with which the categorical social units of the hamlet’s inhabitants can potentially hold rights emerged in the post-dam context. First, during the ‘high-reservoir’ season, the category of reclaimed land in the desert hills emerged as a result of the social construction of value around previously undesirable objects. As property objects are defined as socially constructed valuables the existence of these lands in the pre-dam context does not disqualify these objects from being conceptualised as ‘new’. In other words, as the social construction of value attributed to these lands has altered since the construction of the dam, they are considered as ‘new’ property objects. The increased desirability of these lands was a direct result of the dam’s reservoir, which both made these lands more valuable for future residence as well as increased their agricultural viability by bringing the water closer to these highlands. Second, during the ‘low-reservoir’ season, previously non-existent objects were created by the reservoir’s sedimentation of silt on the areas of fallen houses or previously rocky outcrops in between houses.

With respect to the new post-dam category of reclaimed lands, the property object is a physical plot of land in the desert hills extending beyond (*quṣād*) the hamlet which is customarily reserved and reclaimed and thereby transformed into a useable plot of land through one’s labour. The new post-dam category of the land of fallen houses and lands created by the reservoir are categorically constructed as objects of physical land with definable dimensions which social units could customarily claim on and hold rights of possession, use and ownership.

As previously mentioned, with regards to the reclaimed lands, the categorical property object is identified as an unclaimed, ‘empty’ plot of land beyond the boundaries of the hamlet which has been reserved

through the customary process of reservation or *'hajiz'* and can potentially be transformed into a useable plot of land through one's labour. Therefore, the categorical property object is more accurately defined as a plot of land which is 'reserved' though not necessarily concretely used. Although the land along the upper hamlet of al-Fūqqara appears to be empty and unclaimed land, much of it has already been claimed through customary means of reservation, usually by stacking rocks over one another. These demarcated reserved areas make up the categorical property objects of reclaimed land and they only become concretised property objects when they are cleared, developed and concretely used.

Almost all members of the Fūqqara have made such categorical claims to the land beyond their hamlet, and the seemingly empty land is already divided up through reservation. Frequent testimonies that the lands are already reserved were difficult to validate with details as to by whom and how much each social unit claimed. Reasons for this have already been discussed as stemming from the insecurity of tenure and the fear of disclosing too much to a foreign researcher. The primary driving factor behind these activities of reservation has been the uncertainty as to the future survival of their island of a hamlet (refer to Figure 6-2) and as a means to secure areas for their married sons to build their homes, i.e. forecasting for future population expansion.

The object of value with regards to the new lands created through the sedimentation of silt during the low reservoir season (*arādī jadīda* and *maḥal bīyūt*) are physical plots of land with definable dimensions. In the case of the land of fallen houses (*maḥal bīyūt*) these dimensions were easier to identify, while the plots of new lands created by the silt sedimentation on rocky areas or previously public lands of roads and alleyways (*arādī jadīda*) are more difficult to identify. For example, the social unit that claimed a large amount of this category of new land situated between his home and the boundaries of the old hamlet, (SD1), mentioned casually during a conversation in which he was describing the tons of silt sediment that the reservoir deposits each year that he had attempted to dig to uncover the old hamlet's rocks one year. When later asked about this it was clear that he was trying to uncover the boundaries of the old hamlet. It may be assumed that this was either to legitimise his claims or in response to someone disputing his claim.

It is important to note that with respect to these new categories of post-dam land, (especially in the case of the reclaimed lands) the categorical property objects are socially constructed in tandem with the concretised actions that created concrete rights to concrete objects. That is to say that they are retrospectively defined in response to the creation of concrete property objects out of the concretised social practices of claiming, enclosing, and developing a plot of land. This will be illustrated further below in the section on concretised property objects, drawing on the experiences of the case studies.

7.3.1.1.3 Rights and obligations in the categorical post-dam land property relations

The categorical rights to the *sāqiya*, *īdayg*, *ashau* and *jarf* lands largely remained the same in the post-dam era. Under the prevailing understandings and applications of customary local land law in the post-dam period, the categorical rights to the new lands of the reclaimed land and the land of fallen houses / new lands created by the reservoir include the exclusive rights of ownership, possession, use, transfer,

inherit and cultivate. With regards to the post-dam category of reclaimed land—‘*hajiz*’ in the governmental lands—‘*arāḍī hakūmīyah*’ beyond the hamlet, the new categorical stipulations include the right to reserve a plot of an unclaimed, vacant plot of land (through ‘*wuḍ i’yad*’ or the principle of prescription, and in alignment with the rule of *quṣād* or principle of the opposite) and gain *customary recognition* for such reservation. While these categorical rights to the reclaimed lands could in theory be challenged (and, consequently, the right to customary recognition could be tested), the only example of the validity of these categorical rights of reservation being challenged in the Fūqqara was of the disputed claims of Higazi (SD4) to the reclaimed lands that fell adjacent to the Ḥila hamlet. Though Higazi’s claim violates the categorical obligation to limit reservation within the confines of one’s own hamlet, the insistence that these categorical rules of being limited to one’s hamlet emerged after the dam whereas Higazi had reserved that land before the dam; this ultimately led to his claim eventually being recognised and respected.

Table 7-8: Post-dam categorical land property relations

		Master Categories of Land			
Elements of property constellations		Sāqiya, ḥdayg, and ashau lands	Jarf lands	Post-dam Reclaimed lands	New lands: (a) “maḥal biyūt” (b) “arāḍī jadīda ”
	Social units	Eligible heirs residing in the hamlet with established pre-dam categorical rights to shares in the lands	Eligible resident heirs with customary entitlement to land	Members of the hamlet that lies adjacent to the reclaimed land.	(a) Owners of the house, or immediate kin (b) members of the hamlet with neighbouring property
	Property objects	Share in land remains the same though the nature of the land (seasonally disappearing) has changed	A share in variable sized plots of land (greater variability) that occupy different geographic spaces depending on the year and rotation	Unclaimed land in the upper reaches of the hamlet	(a) Land of fallen houses (b) New land created on old rocks
	Rights and obligations (bundle of rights)	Rights of possession and use during low reservoir season when the land reappears.	Right to cultivate rotating plot during low-reservoir season when the land appears	Right to claim, cultivate, demarcate/exclude others, develop, inherit, and transfer	(a & b) Right to cultivate, develop, exclude others, transfer

7.3.1.2 Concretised post-dam land property relations

Concretised property relations in post-dam Fūqqara have a particular and emergent quality to them. As described in the previous section, the adaptive responses of the hamlet’s inhabitants to the sudden and unexpected flooding resulted in the development of concretised relations with respect to new property

objects. The most immediate effect was the concrete claim-making proliferation with regard to the reclaimed land category. The first households to drown and lose their homes were the first to make concrete claims on the lands in the upper reaches of the hamlet. These firstcomers had the advantage of reserving large swathes of land closest to the hamlet that was not already claimed and, as a result, limited the ability of the others that would come after them to stake claims to the same land (see Section 6.3.2). These concrete actions of reservation and physical reclamation through clearing the land of rocks and levelling it for use created property rights where previously none existed, and subsequently, these new (concrete) property rights gained customary recognition and became accepted as categorically recognised rights.

Adaptations to the fluctuation of the reservoir, particularly through the establishment of a dual system of 'high-reservoir' and 'low-reservoir' cultivation, in which the reclaimed plots are cultivated for half the year and then abandoned for the old categories of land when they are revealed in the 'low-reservoir' season, are further examples of how the concretised post-dam relations were borne out of the adaptive measures of the inhabitants to the dam's reservoir. During this 'low-reservoir' season, cultivation of the old *sāqiya*, *īdayg*, *ashau* and *jarf* plots is based on the same pre-dam categorical rights and, as much as possible, attempts to reflect the old, concretised practices. That is, the household case studies attempt to return to their specific plots which were established by the grandfathers (*taqsīm al-jiddūd*). This concrete cultivation of the same pre-dam plots has hitherto been possible due to the ability to identify these plots from their memory and with the help of the remaining landmarks, such as the dying date palms. This might not (or almost certainly will not) always be the case as the disappearing landmarks make it more difficult to identify one's plot as the years progress. The current minor blurred boundaries are not significant enough to cause disputes, but if they were to worsen, it can be expected that people will begin to demarcate their plots with more stable fixtures (such as long metal posts).

Though they concretely make use of the same plots, the way in which these plots are used is drastically different. Rather than being able to cultivate three full seasons and reap three harvests of grains, the only cultivation possible results in a single harvest of the sorghum stalks for fodder as the reservoir returns before the grains have time to mature. The variability of the reservoir in upper Manāṣīrland means that harvest of sorghum grain is possible in other parts of Kabna.

With regards to the *jarf*, the concrete relations are so confined, both by space and time, since the area of the historic *jarf* is truncated and the season is considerably shorter as these are the last lands to be revealed by the reservoirs and the first to be re-engulfed. Furthermore, it is frequently the case that minor fluctuations in the reservoir cause losses to cultivated areas. The concrete activities regarding the new lands that were created by the reservoir are similarly cultivated during the 'low-reservoir' season. As these lands are usually the first to be revealed by the receding reservoir and the last to be re-submerged, their cultivating potential is greater than that of the old lands below.

The concretised relationships with regard to the post-dam 'new' lands must be interpreted within the wider context of the social networks, where they form one important component of multiplex

relationships. In al-Fūqqara, there are many examples of cases where the social relations among hamlet members influenced and, in some cases, determined the trajectory of concrete relations. This was the case, for example, when the late-comers to the reservation process (the social unit of SD2) had no access to favourable land to cultivate and they were given a piece of land reserved by their kin members (namely SD3 in the *Wadi* and SD1 in the highlands).

This accommodation made for the late-comer social unit is a good example of the fact that the concretised property relations are embedded within the wider social relations among hamlet members. Another example of this relates to the land that was claimed by the members of the Nawāwīr hamlet that lay adjacent to the Fūqqara hamlet. Though the new land created by the sedimentation of silt on land that would have categorically been considered the right of the Fūqqara inhabitants (as per the customary rule of *quṣād*), it was claimed by the members of the Nawāwīr and the concrete rights established by members of the Nawāwīr hamlet was not disputed by the Fūqqara. The three elements of the property constellations of the concrete post-dam property relations are identified below. This is summarised in Table 7-8.

7.3.1.2.1 Social units in the concretised post-dam land property relations

The current concrete social units that hold rights to the old *warītha* lands in the hamlet are currently residing heirs of those eligible heirs with historically established customary entitlements conferred by the historical processes of concretisation (refer to Section 7.3.1.2).

In the case of the Sidahmed sub-descent group, there was a total of eight concrete social units in the hamlet, including the five selected case studies (SD1-SD5) as well as an additional three social units represented in Table 7-9. The concrete social units that belong to this sub-descent group correspond to five of Sidahmed six sons. The one son who is not represented through the existence of a concrete social unit is Sidahmed's son Abdullahi (see Figure 5-5). Of note here is that the absence of Abdullahi's descendants does not mean that his categorical rights to the *sāqiya* are lost/relinquished; rather, they are only concretely appropriated by the other present members of the Sidahmed sub-descent group. Up until a few years ago, Sidahmed's share was concretely used by one of his sons (Mohamed Abdullahi), but following his death, the plot has been taken over by his cousin (Hashim Tayfour- SD1) on a custodianship basis as it is still acknowledged as being Abdullah's categorical right. It can be expected that with sufficient time (for example two generations from now), and in the absence of any social units from the heirs of Abdullahi, Hashim's continued use may be considered the basis upon which a new categorical right may be established.

In situations where brothers were present in the hamlet, they either functioned (concretely) as a single social unit, sharing the rights to their father's sixth by farming the plots together, or the brothers would split their father's plot between them and manage each share as separate social units. As an example of the former scenario, the two resident sons of Ali Sidahmed (Mohamed and Moatasim Sidahmed—SD2) used their father's plot together as a single social unit, sharing the costs of seeds, the household labour and the harvest of fodder for the shared goat herd.

Similarly, the combined households of the three siblings, comprised of the children of Sulieman Higazi Sidahmed, the two brothers Mohamed Osman and Higazi and their one unmarried sister Ikhlas, shared the sixth of the *sāqiya* that belonged to their grandfather Higazi between them. The marriage between one of these brothers, Mohamed Osman and his paternal cousin (Khadija Issah Higazi Sidahmed) further consolidated the share that belonged to their grandfather Higazi Sidahmed.

Unlike these cases of combined households acting as a single social unit with respect to the rights held in the heritable property categories, the households of the two resident sons of Mustafa Sidahmed (Ahmed Mustafa—SD3 and Mohamed Mustafa—SD5) functioned as two distinct social units, each with their own demarcated plots managed separately by each social unit. In the case where only one resident grandson of Sidahmed was present, the household that makes up the social unit enjoys the concrete rights to the entirety of their father's sixth of the Sidahmed share, as is the case for the Babiker Hassan Babiker social unit.

The HajGaly descent group consists of a total of five concrete social units, three of which are selected as case studies (see Figure 5-7). The concrete social units that belong to this sub-descent group are the living resident descendants that correspond to the categorically identified social units of HajGaly's two deceased sons (Ali and Mohamed). Unlike the combined households which make up SD2 linked to Ali Sidahmed the two separate social units (HG1 and HG2) are made up of two separate groups of households which correspond to Ali HajGaly. The first social unit (HG1) is composed of the household of Ali HajGaly's first wife and his adult unmarried daughters, as well as the household of his married adult son (Issah Ali HajGaly). The second social unit (HG2) is composed of the Ali HajGaly's second wife and her adult unmarried children as well as the household of one of her married sons (HajGaly Ali HajGaly). The two non-case-study social units are both sons of Mohamed HajGaly. Though both sons are temporary migrants, only one of them is married and has his own household within the hamlet in which his wife and children reside. This has implications for the division of rights to the concrete objects of the old hamlet *warītha* lands and is discussed further below.

The Digair sub-descent group is composed of a total of six concrete social units, three of which are among the selected case-studies. These concrete social units are made up of the households and groups of households which correspond to the four categorical social units of al-Hassan's four resident sons. The case studies of DG1 and DG2 form the concrete members of these categorical social units, corresponding to Alhassan's sons Ibrahim and Khalifa. However, the third case study DG3 is a concrete social unit that does not have a corresponding categorical counterpart and therefore has no categorical rights to the old *warītha* lands of *sāqiya*, *īdayg*, *ashau* or *jarf*. That is to say that DG3 is not a descendant of any of the four sons of al-Hassan recognised as the categorical social units that could potentially hold rights to a share in al-Hassan's land property. This is because, under Islamic law, grand-sons whose father dies before the grandfather (*fatisa*) are not entitled to inheritance. As Osama's father passed away before his grandfather (see Section 5.2.1) he has no eligible rights to the *warītha* lands. Despite not having a categorically recognised right to lands the case-study social unit of DG3 was allotted a plot in the *īdayg* concretely by al-Hassan's wife before her death on a gift basis and is discussed further below.

Table 7-9: Concrete social units of post-dam land property constellations

Descent group	Social unit*	Male Head of Household	Female Head of Household	Number of children/description of household
Sidahmed	* (SD5)	Mohamed Mustafa	Hiqmallah al-Hassan Osman	7 sons, 3 daughters (adults)
		Tawfig Mohamed Mustafa	Hala Hamza	1 son (infant)
	* (SD3)	Ahmed Mustafa	Aisha Ibrahim	3 sons (secondary/primary school), 1 daughter (adult/married)
	* (SD2)	Moatisim Ali Sidahmed	Hanniya	3 sons, 1 daughter (primary and secondary)
		Mohamed Ali Sidahmed	Asma Mansour	3 sons, 2 daughters (primary and secondary school)
		Abdullahi Ali Sidahmed	Souheir	Migrants-2 daughters (infants)
	* (SD1)	Hashim Tayfour Sidahmed	Halima Mohamed HajGaly	3 sons, 2 daughters (adults)
	* (SD4)	Sulieman Higazi	Al Mina Tayfour	2 sons, 4 daughters (adults)
Mohamed Osman Suleiman Higazi		Khadija Issah Higazi	2 sons, 2 daughters (primary school)	
HajGaly	* (HG3)	Mohamed Haj Galy	Zeinab Ahmed Ali	4 sons, 5 daughters (primary and secondary school)
		HajGaly Mohmed HajGaly	Zeinab Ali HajGaly	4 sons, 5 daughters (primary, secondary, adults)
	* (HG2)	Ali Haj Galy	Saadiya Issah Siddiq	4 sons, 1 daughter (adults)
	HajGaly Ali HajGaly	Safa al-Hassan	Newlyweds, no children	
	* (HG1)	Ali Haj Galy	Fatma Ahmed Ali	4 daughters (adults)
Issah Ali HajGaly		Bouseina Awadallah	1 son, 2 daughters	
Al Digair	* (DG1)	Ibrahim al-Hassan Osman	Fatma Niaman Osman	3 sons (adults)
		Ayman Ibrahim al-Hassan	Alawiya Ahmed Mustafa	1 son (infant)
		Haitham Ibrahim al-Hassan	Divorced	2 daughters
	* (DG2)	Khalifa al-Hassan Osman	Khadija Himeda	4 sons (adults)
		Ashraf Ali al-Hassan Osman	Zahra Niaman al-Hassan Osman	2 sons, 3 daughters (primary school)
		Hassan Ali al-Hassan	Intisar	1 son, 1 daughter (primary school)
		Waleed Ali al-Hassan	Unmarried	Temporary migrant
	* (DG3)	Osman Niaman al-Hassan	Muzdalifa Abul Gasim	3 sons, 2 daughter (primary school)

7.3.1.2.2 Property objects in the concretised post-dam land property relations

Concrete property objects refer to those objects to which concrete social units actually relate on a daily basis. They are the tangible and identifiable plots of land which are cultivated, harvested from, and concretely used by the aforementioned social units. In the case of the old pre-dam categories of lands that were once identified as irrigated lands, these concrete objects are now the seasonally appearing lands of the *sāqiya*, *īdayg* and *ashau*. Therefore, the concrete property objects as they relate to these categories of *warītha* lands are the silt-heavy soils which are roughly available only from the months of January/February to July/August. The fixed and stable plots of each household's share within their respective sub-descent group segment in these lands are still identifiable when the reservoir recedes. In the case of the *jarf* lands, these property objects are the variable (both in size and location) narrow plots of land that are revealed below the *ashau* lands. The only exception to this variability in location is the *jarf* plot of Umm Sidairis, which is concretely used by only one social unit of DG1. These old pre-dam categories of land (*sāqiya*, *īdayg*, *ashau*, *jarf*) and the new post-dam categories of new lands (*arāḍī jadīda*) and the land of fallen houses (*maḥal biyūt*) are uniform in quality (due to the equalizing effect of being under the reservoir) and are only concretely used during the low-reservoir season. The concrete objects in the reclaimed land category are the physical plots which have been reserved or cleared for cultivation or settlement by the concrete social units, i.e., the physical plots of land which have been demarcated as reserved and the reclaimed land that is concretely held in possession and used.

As summarised in Table 7-10 below, all the case-study social units maintained their concrete rights to the *sāqiya* lands by cultivating their share when the reservoir receded. The concretised distribution of these objects among the rightful concrete heirs continues to be respected. Furthermore, all the case-study units had rights to a concrete property object of reclaimed land, whether for cultivation, habitation, or both. Though some of these cultivated lands were only used during the high-reservoir season (as in the case of lands held by SD1, SD2, SD3, SD4, and SD5), others made efforts to develop the reclaimed lands so that they may be used throughout the year (such as the case studies of DG1, HG1 and HG2 and parts of SD4's reclaimed lands). This year-round use requires heavy investment to enable irrigation after the reservoir recedes to its lowest point. Whilst all the case studies held rights to reclaimed lands, only five out of the eleven held rights to new lands created by the reservoir; in almost all cases, this was the land of either their own or their immediate kin's fallen houses. The only social unit that held rights to new lands, '*arāḍī jadīda*', outside of the land of fallen houses was SD1, due to the location of their home and the structure of the old hamlet. As mentioned above, there is a sizeable plot of this last category of '*arāḍī jadīda*' that lies adjacent to the main Fūqqara *sāqiya*. However, none of the social units from the Fūqqara has laid claims to it.

Table 7-10: Concretised property objects of case-study social units

Case study (social units)	Concrete property objects		
	Old hamlet lands (Sāqiya, Īdayg, Ashau, Jarf)	Reclaimed lands in upper hamlet	New lands/lands of fallen houses
SD1 Hashim Tayfour and Halima Mohamed HajGaly	<ul style="list-style-type: none"> • Sāqiya plots of Tayfour (his own and his brother Mahjoub's plot) are cultivated • Sāqiya plots of Abdullahi are cultivated • Have not concretely made use of their ashau or jarf shares in recent years 	<ul style="list-style-type: none"> • Cleared plots in the upper hamlet (farmed for the first years after the dam but during research was left fallow) • Plot on which the new flour mill was established 	<ul style="list-style-type: none"> • A lot of new land surrounding their home, some permanent irrigation and some only seasonally revealed by the receding reservoir. • Land of the fallen houses of Hashim's brothers
SD2 Ali Sidahmed and Zeinab Soubah	<ul style="list-style-type: none"> • Sāqiya, Īdayg, ashau and jarf plots of Ali are cultivated (during low-reservoir season) 	<ul style="list-style-type: none"> • Two plots of reclaimed land, one in the mountains neighbouring SD1 and on the side of the Wadi neighbouring SD3 • Seasonally used plots, left fallow during low-reservoir 	<ul style="list-style-type: none"> • Land of the fallen house belonging to al-Fakih Ali Sidahmed (no. 23)
SD3 Ahmed Mustafa and Aisha Ibrahim	<ul style="list-style-type: none"> • Sāqiya, Īdayg, ashau and jarf plots of Mustafa (half of which is cultivated by SD5) are cultivated (during low-reservoir season) 	<ul style="list-style-type: none"> • A large plot of reclaimed land along the Wadi cultivated during high-reservoir season (seasonal irrigation) • Further reclaimed lands reserved though not cultivated (small room built on the edge) 	<ul style="list-style-type: none"> • No new lands were claimed or cultivated
SD4 Suleiman Higazi and al-Mina Tayfour	<ul style="list-style-type: none"> • Sāqiya, Īdayg, ashau and jarf plots of Higazi cultivated 	<p>Multiple reclaimed lands:</p> <ul style="list-style-type: none"> • Lands reclaimed for settlement and cultivated land surrounding new homes (year-long irrigate) • Land reclaimed in the upper Fūqqara hamlet, cultivated for fodder (seasonal irrigation) • Land reclaimed across the Fūqqara Wadi adjacent to the Hila hamlet (seasonal irrigation) 	<ul style="list-style-type: none"> • New land of fallen houses and of fallen houses of kin members (numbers)
SD5 Mohamed Mustafa and Hiqmallah al-Hassan	<ul style="list-style-type: none"> • Sāqiya, Īdayg, ashau and jarf plots of Mustafa (half divided with SD3) cultivated • ʿAtrūn Sāqiya beyond the Khaur cultivated 	<ul style="list-style-type: none"> • Land reclaimed at the far edge of the Wadi connected to Khaur al-Birtait (seasonally irrigated) 	<ul style="list-style-type: none"> • No new lands cultivated
DG1 – Ibrahim al-Hassan and Fatma Niaman (+Ayman and Alawiya)	<ul style="list-style-type: none"> • Sāqiya, Īdayg, and ashau plots of Ibrahim cultivated • The jarf plot of Umm Sidairis cultivated alone 	<ul style="list-style-type: none"> • Land reclaimed at the near the edge of the Wadi cultivated with seasonal and perennial crops (yearlong irrigation) 	<ul style="list-style-type: none"> • No new lands cultivated
DG2- Khalifa al-Hassan & Khadija (+ Ashraf, Zahra)	<ul style="list-style-type: none"> • Sāqiya, Īdayg, ashau and jarf plots cultivated 	<ul style="list-style-type: none"> • Land reclaimed in the upper hamlet cleared for cultivation though not yet cultivated (at the time of study) 	<ul style="list-style-type: none"> • No new lands cultivated

DG3- Osama Niaman and Muzdalifa AbdelGasim	<ul style="list-style-type: none"> • <i>Īdayg</i> plot cultivated 	<ul style="list-style-type: none"> • Land reclaimed in the upper hamlet for settlement and cultivated with seasonal and perennial crops (year-long irrigate) 	<ul style="list-style-type: none"> • No new lands cultivated
HG1- Ali HajGaly and Fatma (Aisha, Bukheita, Zahra, & Issah)	<ul style="list-style-type: none"> • <i>Sāqiya, Īdayg, ashau</i> and <i>jarf</i> plots of Ali (half divided with HG2) cultivated 	<ul style="list-style-type: none"> • Land reclaimed in lower edges of upper hamlet cultivated with seasonal and perennial crops, divided in half with HG2 (year-long irrigation) 	<ul style="list-style-type: none"> • New lands of fallen houses cultivated (lands of their uncles)
HG2- Ali HajGaly and Saadiya	<ul style="list-style-type: none"> • <i>Sāqiya, Īdayg, ashau</i> and <i>jarf</i> plots of Ali (half divided with HG1) cultivated 	<ul style="list-style-type: none"> • Reclaimed lands for settlement and joint reclaimed agricultural scheme divided in half with HG1 	<ul style="list-style-type: none"> • Lands of fallen houses cultivated
HG3- Mohamed HajGaly and Zeinab	<ul style="list-style-type: none"> • <i>Sāqiya, Īdayg, ashau</i> and <i>jarf</i> plots cultivated 	<ul style="list-style-type: none"> • Reclaimed land in front of house • Concrete use of land reclaimed by their sister Sabiha and her husband Babiker Sidahmed in upper Fūqqara 	<ul style="list-style-type: none"> • Land of fallen houses cultivated, of their sister and her kin

7.3.1.2.3 Rights and obligations in the concretised post-dam land property relations

Rights that are concretely held by the social units with respect to the concrete objects of the old categories of *warītha* lands (*sāqiya*, *īdayg*, *ashau* and *jarf*) are limited to the rights of cultivating the land when it re-appears from under the reservoir and rights of transfer and inheritance. As highlighted above, this differs from the nature of those rights that are attached to the reclaimed and new categories of post-dam land as these lands enjoy rights of ownership that include the rights of use, transfer and inheritance as well as having the added right of exclusion. This is because the *warītha* (*sāqiya*, *īdayg*, *ashau* and *jarf*) are categorically owned by all who are eligible, despite being used by only a few concrete resident heirs. These lands are therefore considered as the inalienable property of all the eligible heirs, and no concrete resident heir that cultivates a plot could dispose of or sell it. In other words, the social units of the sub-descent group members hold *non-exclusive* rights.

While the different bundles of rights attached to this land (use, transfer, inheritance) come very close to resembling the rights of ownership, they do fall short of full private ownership because right holders are not free to do whatever they want with the land. In contrast, the post-dam reclaimed lands (*hajiz*) are not categorically owned by a large group of heirs but are owned only by the right-holding social unit which customarily reserved and reclaimed the land. As such, the right-holding social units are free to decide how they want to use land, whether that is to cultivate it, build a house on it, lease it, sell it, or give it away. If they are not using the land (as much of the land reserved beyond the hamlet is currently not in use) they have the right to exclude other members of the hamlet from using these lands. In other words, they hold *exclusive* rights and as such, rights to these lands represent a more privatised form of ownership than the complex rights of the *warītha* lands.

Table 7-11: Current (post-dam) concretised land property relations

Elements of property constellations		Master Categories of Land			
		<i>Sāqiya</i> , <i>īdayg</i> , and <i>ashau</i> lands	<i>Jarf</i> lands	Post-dam Reclaimed lands	New lands created by silt deposits of the reservoir (a) <i>Maḥal bīyūt</i> (b) <i>Arāqī jadīda</i>
<i>Social units</i>	Households with or group of households with customary entitlement to <i>sāqiya</i> land	Household or group of households with customary entitlement	Household or group of households who physically reserves clears and develops an unclaimed plot of land	(a) Household or group of households (b) Household or group of households	
<i>Property objects</i>	Specific plot of flood recession land	A variable plot of land (in size and location depending on the year)	Specific plot of land that has been claimed, cleared and developed by the respective social unit	(a) Specific plot of land of fallen houses (b) Specific plot of new land created on old rocks	
<i>Rights and obligations (bundle of rights)</i>	Right to use, during the low reservoir, transfer, inherit	Right to use, during low reservoir, transfer, inherit	Rights of ownership (and bundled rights of use, transfer, inheritance, exclusion)	(a & b) Rights of ownership (and associated bundled rights of use, transfer, inheritance, exclusion)	

7.4 Conclusion

This chapter has built on the previous two chapters' description of the historical (pre-dam) and post-dam land property system of al-Fūqqara hamlet to provide an in-depth analysis of how the dynamics of land tenure adaptations develop at the micro-level of a single hamlet and at the household/social unit level. The categorical and concretised dimensions of this historical system, contextualised within existing secondary ethnographic literature on the Manāṣīr property system and described in Chapter 5, were transformed by the dam's reservoir, as described in Chapter 6. Selecting 11 case study social units within the hamlet, (identified and introduced in Chapter 5), and tracing their adaptive responses in the aftermath of the flooding (in Chapter 6), has enabled an in-depth insight into the transformations of the property system both at the categorical layer of legal and institutionally recognised ownership and the concretised layer of actual social practices and *de facto* possession in this chapter.

The hamlet of al-Fūqqara selected as a case for this study can only be considered representative of how these arrangements evolved in one specific location in the upper Manāṣīrland. The level of detail and the analysis of the micro-level dynamics of adaptation are not directly informative of how these developments evolved in other areas of the Manāṣīr, not even those in the nearby hamlets in the upper Manāṣīrland territories that were partially inundated. As explained in Chapter 4, the case study methodology draws on the local option Manāṣīr and focuses on the case of the hamlet of al-Fūqqara to investigate how these adaptive measures take shape and how land tenure arrangements are renegotiated at the micro-level of the hamlet after the land is partially inundated. While the case of al-Fūqqara illuminates land property adaptations in a specific place within the Manāṣīr during the months of fieldwork, we still cannot be certain how these processes will continue to develop in the future. Nonetheless, enables a unique insight into the micro-level institutional dynamics of adaptation in post-reservoir scenarios. This demonstrates the value of the 'intrinsic case study' and the insights into the micro niche very local level dynamics of land tenure adaptation afforded by the detailed analysis of al-Fūqqara.

Considering the discussions above, it is clear that there are elements of the old land property system still present in al-Fūqqara, despite the new system that is emerging. This chapter unpacked the dynamics of transformation in the land property system of the Fūqqara hamlet at both categorical and concretised levels by tracking the changes in the historical (pre-dam) to current (post-dam) property constellations. In doing so, the chapter demonstrated the dynamics of continuity and change as they play out at the micro-local level of a single hamlet in upper Manāṣīrland. For the inhabitants of al-Fūqqara, the dam's reservoir and the inundation of the historical *warītha* lands can be interpreted to have been met with a certain 'clinging to the old' alongside the adaptive innovations and changes which enabled and directed the 'emergence of the new'. The value of the analysis lies in the rich detail enabled by the descriptive utility of the analytical framework of property at the micro-local level of the Fūqqara hamlet. However, this rich detail does not illumine the full picture of how the land property system of the local option Manāṣīr adapted. As such, the next chapter shifts the focus beyond the hamlet in order to understand how these micro-level dynamics fit in within the wider context of the local option Manāṣīr.

Chapter 8: Unfolding post-reservoir institutional dynamics beyond al-Fūqqara—land property adaptations of the ‘local option ‘Manāṣīr

8.1 Introduction

This chapter explores and analyses some of the institutional dynamics of land-property adaptations among the Manāṣīr who resettled themselves along the shores of the Merowe Dam’s reservoir. It examines changes and trends in these dynamics at both the most local level of the hamlet and beyond. Insights that form this chapter’s basis are gleaned mainly through observation and participation in meaningful discussions with members of neighbouring hamlets to al-Fūqqara and interviews with key informants beyond the hamlet. Published secondary ethnographic data gathered by anthropologist Valerie Hänsch (2019) through extensive fieldwork in the Manāṣīr is relied upon to contextualise and compare the experience of the Fūqqara hamlet’s land tenure adaptations within the wider processes of adaptation in the local option Manāṣīr.

The working definition of institutions used in this chapter is in line with the pragmatic approach to institutions as outlined in the conceptual framework in Chapter 2. This approach contrasts with the rule and norm-centred approach, which has dominated legal studies and enables greater insight into how institutions function in practice. That is, institutions are understood as “...a set of rules for action, but action is not determined by it. Institutions are identified by the work they perform in concrete situations, namely confirming ‘what is’ and ‘what ought to be’” (Calkins et al. 2015, p. 177). Furthermore, institutions here refer to “...those entities that organize social life by enabling things to hold together by creating a reference for action and qualifying objects, persons and situations (e.g., true/false, authentic/inauthentic, official/unofficial). Institutions accomplish this by establishing equivalences and by negotiating between divergent interests that are not given but created and formatted in the process” (p.178). Therefore, this approach emphasises how relationships between social units and property objects are articulated in particular situations. In other words, the interest is in how the rights and obligations take shape and manifest through the concrete actions of the actors involved. The concrete actions of people are nonetheless informed by institutions though not entirely determined by them. As such, the institutional level casts its shadow far ahead into social practice since nobody can be confident that an adversary will not file a case in front of the court. Because of this uncertainty, it is best to base one’s (concrete) claims on standards that a court will sustain if it has to make a ruling on the matter. This could be called “social practice under the shadow of law” or the “anticipatory positioning in the social field of law”²² and essentially captures the dynamics and complex intersections between categorical and concretised property layers.

This chapter’s first section (8.2) discusses hamlet-level dynamics in land property adaptations to contextualise the in-depth analysis of the al-Fūqqara experience presented in previous chapters.

²² I acknowledge Prof. Kurt Beck for these terms and for this insight.

Drawing on Hänsch (2019), the section begins by illustrating the distinction between upper and lower Manāṣīrland and highlights the commonalities at the institutional level of customary claim-making. Section 8.2.1 focuses on the enduring institutions of *warītha* in upper Manāṣīrland, which resume their relevance during the ‘low-reservoir’ season when the old lands reappear. The section also highlights the evidence of the enduring sharecropping relations in these upper territories. Section 8.2.2. then turns to the adaptive institutions of newly reclaimed lands in the desert highlands surrounding the inundated agricultural lands and settlements. Again, drawing on evidence from Hänsch (2019) for insights from the lower-Manāṣīrland territories situates the example of a small-scale community effort from the hamlet of al-Ḥasanāb in Kabna in upper Manāṣīrland. The final subsection (8.2.3) focuses on the new lands created during the ‘low-reservoir’ season. These lands are identified by Hänsch by the type of cultivation practised on them, that of ‘*salūka*’ cultivation, which refers to the traditional tool (*salūka*) used historically to cultivate the flood recession lands of the *jarf*. In this chapter and the next, I refer to the new post-dam categories of lands revealed by the reservoir as ‘*salūka*’ lands to distinguish them from the new categories of post-dam *ḥajīz* lands in the reclaimed hills cultivated during the high-reservoir season. However, this crude distinction does not capture the variation in these ‘low-reservoir’ lands, discussed further below.

The local option was always linked to the promise and possibility of developing large cooperative agricultural projects organised around irrigation schemes which drew on the dam’s reservoir. Historically, there were only a handful of such schemes in the Manāṣīr, for example, the al-Firsib cooperative described in Section 5.2.1.4. Whilst the land tenure developments and changes represented by these large new projects are beyond the focus of this research, their importance in terms of opening new avenues for access and use of land and their contribution to the transformation of land property relations cannot be understated nor ignored. Many of the inhabitants of al-Fūqqara, for example, supplemented their new post-dam tenure arrangements with participation in one such large agricultural scheme near the hamlet, known as al-Hawila on the east bank of the Nile River. The existence and relevance of medium and large-scale cooperative projects are reviewed in Section 8.3.

The final section (8.4) examines the institutional dynamics around land property at the wider legal/institutional layer of property. The Merowe dam has created a rupture in the statutory institutional framework through a series of formal decrees, as discussed in Section 3.2.3. Furthermore, the administrative restructuring (through the creation of a new administrative district of the ‘*Maḥallīyya Ḥawwal al-Buḥāira*’– Administrative District around the Reservoir) has yet to address the land issue, and there is no current Land Department in the Manāṣīr. These developments have resulted in a gap in the legal framework over land matters. Firstly, this gap is examined by looking at its impact on the post-dam dispute settlement institutions and how they deal with the proliferated post-dam land disputes (Section 8.4.1). Secondly, attempts to bridge the legal/institutional gap by developing a proposal for a comprehensive new land law failed to manifest in the face of the overwhelming resistance to the formalisation of land issues. The proposal and reasons for its failure are examined in Section 8.4.2. The chapter concludes with a reflection on the perceived emphasis on preserving the current post-dam dominance of customary institutional land governance in the local option Manāṣīr.

8.2 Post-reservoir hamlet-level institutional dynamics

The adaptations at the hamlet level are influenced by the extent of the loss of land to the reservoir. The experience of the sudden flooding in the lower territories of the Manāṣīr was far more damaging and dramatic than the experiences in the upper Manāṣīrland due to the severity and speed of inundation. In less than three weeks, the lower Manāṣīrland is flooded from Birti to the island of Ūs in middle Manāṣīrland, about 75 km from the dam. The flooding started in ‘Atram on the 23rd of July 2008 and destroyed most of the hamlet’s houses in less than two days. By the time the reservoir tide reached Kabna in December, the people of Birti had already relocated multiple times due to the uncertainty and lack of information as to the final level of the dam’s reservoir (Hänsch, 2019, pp. 123–127).

In the lower Manāṣīrland, the old historical rights to the registered *warītha* lands have disappeared as the reservoir obliterated the lands into which these rights were bundled. Therefore, the old *warītha* system no longer has relevance in these areas, and adaptive responses represent a break from the past. Nevertheless, new property is made through customary institutional processes across these lower territories. In the higher surrounding lands above the reservoir, new agricultural schemes of various sizes are organised under various new arrangements (pp. 245-252). Opportunities arise across the Manāṣīr to transform access to land into customarily recognised property (see Sections 8.2.2, 8.2.3 and 8.3 below). In the upper Manāṣīr territories, however, where the *sāqiya* lands still exist and hold social and economic relevance, new emerging arrangements co-exist alongside the old (Hänsch, 2019, p. 248).

Despite the local variations in adaptations, general trends in the institutional processes behind adaptation can be observable across the different hamlets. The adaptive responses at the hamlet level primarily drew on the same underlying customary norms. For example, in the lower and upper Manāṣīr territories, the unilateral response to the flooding has been to go toward the higher grounds of the surrounding desert (pp.226-230). The fundamental principle governing the direction of flight from the flooding is the customary land law of *quṣād*, (*ḥaqq al-quṣād*, “the principle of the adjacent/opposite”). It was historically used to regulate legal claims to land made through cultivation of new land by limiting the area that can be claimed to the unoccupied land lying in the opposite direction from the river towards the desert from one’s *sāqiya* (Hänsch 2019, pp. 226-227, see also Section 5.2.1.4). In the post-dam context, it has been applied both to govern the direction of flight from the flooding and the appropriation of land for cultivation (pp.226-230).

Though the application of the law of *quṣād* in the lower territories is limited to the flight from the flood, in contrast, this rule directs the claims of new land for cultivation in the upper territories. As Hänsch observes, in the lower territories, “...it is hardly possible to speak of a “right of the opposite”; too many hills, rocks, bodies of water or huts from neighbours lie between the camps and the former villages. It has long since ceased to be an exact “opposite” (2019, p.228). Instead, the customary land law of *wuḍ i’yad* (literally: to place one’s hands upon), whereby unoccupied land could be claimed for cultivation or settlement, informed the processes of concrete land claiming. Therefore, in addition to directing the flight from the flood and the choice of relocation, the historical customary laws of ‘*ḥaqq*

al-quṣād', and more so the customary principle of prescription or '*wuḍ i'yaḍ*' also directs the appropriation of land for agricultural cultivation (pp. 226-230).

Another significant distinction between the lower and upper Manāṣīrland is the disappearance of the historical sharecropping relations of production in the former and its endurance in the latter. In the lower territories, agricultural cooperation emerges as partnerships rather than the historical sharecropping system, and everyone contributes resources and harvests what they have grown (Hänsch, 2019, p.247). Everyone pays in equal parts, and everyone has the same share of land. As a result, there is no longer any reliance on receiving his share of the harvest at the end of the season from sharecroppers who cultivate the land (p.248). The following elaborates on the enduring and adaptive institutions in the local option Manāṣīr.

8.2.1 Enduring local institutions— low reservoir “old lands”

In the hamlets of Kabna, as elsewhere in upper Manāṣīrland, the historically registered *sāqiya* land is revealed during the low-reservoir season. The relevance of the old *warītha* rights of ownership and the adherence to the historically established *bi-ma'āishi* rights of possession continue to exist. These lands are “still going by the old registration” and “everyone maintains their old ownership rights” (Hassan). The previous chapters illustrated the extent of this endurance in al-Fūqqara at both categorical and concretised levels. Similarly, in the Ḥila hamlet, the rights to the registered *sāqiya* lands within the hamlet expressed as '*sābit*' and '*ma'arūf*'—well known/known to all, were observed to be the case.

Despite the repeated assertions of the categorical endurance of the rights to the old *warītha* lands, it seems that Al-Fūqqara hamlet is unique in the endurance of the historical divisions (*taqṣīm al-jiddūd*). In other places, the disappearance of the barriers and landmarks which distinguished the different parts of the *sāqiya* has led to seasonal disputes (discussed further in section 8.4 below). For example, in the hamlet of al-Kīr, on the eastern bank of the Nile, where on a visit during the *sāqiya* planting season, I witnessed the disagreements over the boundaries which had become a daily occurrence. However, the level of detail in al-Fūqqara as it relates to the categorical and concretised continuity in the old *warītha* lands cannot be corroborated in the neighbouring upper Manāṣīrland hamlets I visited.

Further evidence that normative expressions of enduring rights to 'old' lands do not always translate smoothly into practice, is suggested by the historical rights held by the members of the Ḥila hamlet to the registered *sāqiya* lands in the hamlet of ʿAsma. In addition to their own registered *sāqiya* land, the members of the Ḥila hamlet have rights to one-quarter of the *sāqiya* land in the hamlet of ʿAsma. The rights to these lands were acquired historically through a *hība*—gift/land transfer, given to the grandfather of the hamlet by his grandfather. Before the dam, this share was recognised and respected; each year, the Ḥila members would receive their share in the harvest of dates and grains. However, since the filling of the reservoir, the ʿAsma members have been accused by the Ḥila inhabitants of no longer respecting this right. As Fatma relays, “They said ‘yours has disappeared and the land is no longer here’” and yet, according to Musa “they farm it and eat from it themselves”.

These rights to the *sāqiya* lands in the hamlet of ʿAsma were re-established only after a negotiation between members of both hamlets:

“Last year, we went to them and said we wanted our share in the land; we want the share of crops in this land that belongs to us. This land is now productive, without irrigation, without a *bābūr*, and we want our share, we said let's divide it in half—*bil nūṣṣ*. They [ʿAsma people] said they actually do irrigate he said, ‘I irrigate it, so let's divide it into thirds—*bil tilth*, and we agreed to this division of shares, so now we get one-third of the produce in that land” (Musa).

As discussed in Section 5.2, the *bābūr*—or diesel-powered irrigation pump—played an important role in determining the distribution of the different ‘sticks’ of bundles of rights to the different social units involved (Salih, 1999; Beck, 2012). Consequently, rights that would have otherwise been taken for granted as guaranteed under the existing customary institutions were clearly challenged in the post-reservoir relations between members of both hamlets, and as such, had to be re-asserted.

Whilst this example casts doubts on the concretised realisation of categorical assertions of the endurance of *warītha* rights in the ‘old lands’, such common assertions are used to distinguish between the rights in the ‘old’ and ‘new’ lands.

“There are those that had rights in the old lands that are below the water, this right will never disappear, they will come for their rights. But here in the land that is not submerged, they can't come and claim any, they don't have a chance to do that, even if they had a right in the *sāqiya* that is underwater” (Hassan).

Such normative claims of the enduring rights to the old lands may be more representative of how the inhabitants conceive things ‘ought to be’ rather than factual statements of how things ‘actually are’. As the statement above suggests, these claims may have more to do with prohibiting claims on the unoccupied (new) lands than safeguarding rights to the submerged (old) lands.

8.2.1.1 *Post-dam sharecropping relations*

Hänsch observed the endurance of the classic sharecropping relations in the agricultural practices in upper and middle Manāṣīrland (p.247). As she describes, in these areas, the owners of higher-lying cultivation areas make some land available to the neighbours for cultivation and receive part of the harvest in return (p. 248). Whilst I did not explicitly investigate the endurance of sharecropping during my fieldwork, it did present itself through two chance encounters. The first was in the neighbouring hamlet of al- Ḥila. Accompanying Musa to his land as he was irrigating (see photo 51), I encountered two women harvesting fodder. Inquiring about the nature of the arrangement, they claimed it was not their land, though they farmed on it. When asked if this was for free or in exchange for something, they replied: “*Musa yasqī laiyna wa yakhudh ḥaqq al-bābūr* —Musa irrigates and takes the share of the pump”. While I could not investigate the arrangement further, it became apparent that this was a sharecropping agreement. It was clear those members of the hamlet without the necessary resources and means to establish their own agricultural schemes benefitted from access to land and

irrigation which enabled them to cultivate, while the landowner and pump-owner (Musa) benefited from the share of the harvest.



Photo 51: Musa irrigating his land, a portion of which is cultivated by sharecroppers who supply a share of the harvest in return for his irrigation and land.

Another chance encounter in al-Fūqqara with Abdeldiam from the Ḥamdāb hamlet further revealed the endurance of these relations. Abdeldiam met with Hashim earlier that day to arrange a sharecropping contract, as the lands of the *sāqiya* in Hashim’s possession were too much for him and Halima to cultivate on their own. Halima explained that before the dam, many members of the Ḥamdāb hamlet who did not have rights to their hamlet’s *sāqiya* would cultivate on al-Fūqqara’s *sāqiya* for a share of the harvest. She claimed that since the dam, they acquired new land in their hamlet and no longer depended on sharecropping in al-Fūqqara. Nonetheless, these old pre-dam sharecropping relationships can be revived on a seasonal basis to assist in the cultivation, especially when Halima’s children are outside the hamlet (as they were during fieldwork). Furthermore, in some parts of upper Manāṣīrland, sharecropping relationships have an essential function in the cultivation of the land of fallen public institutions, or public *salūka* lands, as will be discussed in Section 8.2.3.1.

8.2.2 Adaptive local institutions—high-reservoir season “new lands”

The process of land reservation and reclamation created opportunities for expanding access to land. Many took this chance to expand their landholdings, no longer confined by the *warītha* system and the limited shares in the fragmented rights to the *sāqiya* lands (p.247). The widening of opportunities to make claims to land was commonly (and jubilantly) expressed by the phrase “*Itsāwayna—now we’ve become equals*”.

The first category of adaptive agricultural projects, which Hänsch (2019) identifies as ‘small individual and community projects’, vary in size from a dozen beds to three faddāns (pp. 247-249). There is a variety of types within this category. Individual families and kin groups could cultivate areas separately or groups of neighbours could build projects together and share an irrigation motor provided by the Agricultural Committee. In the upper and middle Manāṣīr lands, individual projects are often created by farmers who have repurposed their engines to cultivate new areas closer to their old homes and fields. The Agricultural Committee records the number and sizes of these small projects to provide support and services such as fuel and irrigation maintenance (p.247). While it is still unclear as to how the right to inheritance will be regulated in the joint projects, Hänsch posits that these lands will continue to be inherited (p. 248).

As the previous chapters illustrated, in Kabna al-Fūqqara these lands were primarily used during the ‘high-reservoir’ season, when they could be easily irrigated due to the proximity of the water. In other places, particularly along Wadi Kabna (between Sirbajī and al-Ḥasanāb hamlets), the possibility of year-round irrigation is enabled by water availability through the *wadi* even during the low-reservoir season (see Figure 8-1). According to some women I spoke to in al-Ḥasanāb, rights to these lands are claimed by nomadic ‘Arab’ Manāṣīr, who previously had no rights to land in the hamlet and who have since claimed large swathes of land and settled as agriculturalists, abandoning their nomadic lifestyle.

Figure 8-1: Wadi Kabna retaining water during the low-reservoir season. Small agricultural schemes on both sides of the wadi draw on the water for year-round irrigation.

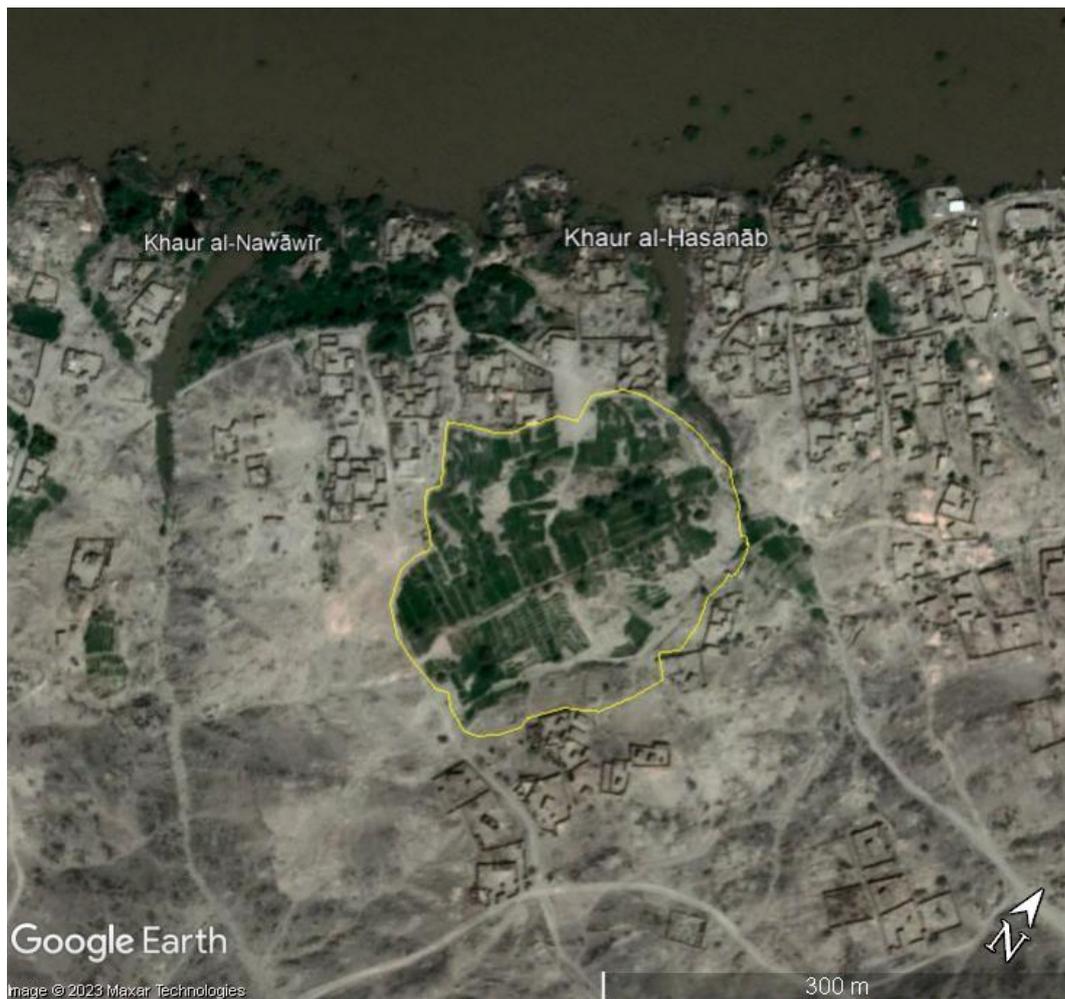


It was reported in some areas that the *lajna sha‘abīyya*—popular committees, played an important role in determining the terms of access to these new lands. For example, in Shirri all the available land was divided amongst the remaining inhabitants. However, this was not the case in al-Fūqqara. Furthermore, while in al-Fūqqara the agricultural schemes were mostly individually established, albeit in cooperation among households which comprise the social units described in the previous chapters, in the hamlet of al-Ḥasanāb, the inhabitants embarked on a communal effort of land clearing and cooperated in the establishment of a communal agricultural scheme. This process is described below.

8.2.2.1 *Small community reclamation scheme in al-Ḥasanāb*

Unlike the members of the Fūqqara hamlet, who took to higher grounds immediately after the flooding in a scramble to reserve and reclaim for cultivation and settlement, the members of the al-Ḥasanāb hamlet organised a joint communal effort to land reclamation. A group of women in al-Ḥasanāb hamlet recall how in the first year after the flooding, the prominent men of their hamlet and the neighbouring hamlet of al-Ḥamdāb proposed they clear space to *khaḍīr li-al bahāyim*" — (literally: "green for the livestock").

Figure 8-2: Aerial view of al-Ḥasanāb collectively reclaimed agricultural scheme.



This would lead to the establishment of a small agricultural scheme (*mashru^c zirā^ci*). They explain that the area was a ‘mountain’—*jabal*, and the local government—*maḥallīyya*, provided a tractor for the heavy clearing and levelling off the ground. The people gathered and contributed to the reclamation process, clearing the area of large rocks and stones and preparing the ground for cultivation.

There is initially disagreement among the women regarding the process. Still, the consensus, in the end, is that they first cleared the land—*naḍafauhū*, then divided it—*gasamauhū*, and then distributed it—*waz^cauhū*. Khadija remembers that she cleared an area which was not allotted to her. Following the clearing and reclamation, the division process began. "They brought a rope — *ḥabil*, and divided the grounds into equal parts...every two families were to share a plot—*kulū nafaraiyn ma^ca ba^caḍ*". This system partnership—*ishtirākah*, enabled all the members of the hamlet and a few of the Ḥamdāb hamlet to have access to land. Before the plots were distributed, the hamlet members agreed who their partnered family would be. Alawiya shares with her brother, Khadija shares with her paternal cousin and Mariam shares with her in-laws. At the scheme's inception, there were 60 saham—shares/paired families.



Photo 52: Ḥasanāb collectively reclaimed land.

The distribution process followed a traditional lottery system called *al-gūr^ca*. The names of all the partnered pairs were written down on pieces of paper. Then, all the plots were divided into segments *ḥaiḍān*²³ (irrigation beds) assigned specific numbers, and likewise written down. These papers were placed in baskets and drawn out at random. The women explained: "They threw *al-gūr^ca* and then whatever fell for you, fell for you—*ramū al-gūr^ca*, wa *al-wag^catlik wag^catlik*".

²³ A *ḥauḍ* (sing.) varies in size although is approximately an area of four meters by six meters.

This randomised distribution system ensured that everyone was satisfied (*rāḍiyīn*) with the distribution process, as not all the plots are of equal desirability. For example, those with plots on the edges of the scheme are at an advantage as they can expand their area into the unoccupied desert hills, following the principle of *quṣād*. “If you are on the edge, you can only expand *qūṣaḍik*—only in the opposite direction of your plots, not encroaching on your neighbour—*mā tamshi li zamīlik*”.

In contrast, those with plots at the centre of the scheme are bound by neighbouring plots and are unable to extend their areas. As a remedial measure, the plots at the centre of the scheme were slightly larger than those at the edges. Alawiya and her brother were given 19 *ḥaiḍān* at the centre of the scheme and could not expand. Khadija on the other hand, is on the edge and over the years, little by little, they expanded to a current area of 30 *ḥaiḍān*.



Photo 53: Reclaimed land in al-Ḥasanāb hamlet.

In the first year, the irrigation pump, *bābūr*, was provided by the local government free of charge and was replaced when it broke down. Everyone paid an equal amount to operate it based on the equally divided plots. The 60 units paid 25 SD each the first few seasons to operate the pump for the six winter months when the reservoir is at its highest point, bringing the total operational costs to 1,500 SD.²⁴ However, in recent years people began complaining as those on the edges expanded their areas. Now it is 20 SD per *ḥauḍ* — “they count the *ḥaiḍān*, taking into account the size of the *ḥauḍ*, and then you pay according to the size of your land”. The community project in al-Ḥasanāb is only operational for six months when the reservoir is high and is abandoned during the low reservoir season as the water is too far to be viably transported for irrigation.

²⁴ Approximately 25 GBP

8.2.3 Adaptive local institutions—low reservoir “new lands”

The low reservoir season in upper Manāṣīrland not only unveils the old lands *warītha* lands but also results in the creation of ‘new lands’—*arāḍī jadīda*. In Hänsch’s typology of post-dam agriculture, this category of land is captured by the traditional cultivation method historically used on the flood recession lands of the *jarf* but adapted to the low-reservoir lands in the post-dam period—that of “*salūka* cultivation” (2019, pp. 253-254). *Salūka* takes its name from the digging tool used to create seed beds in the earth. However, it is not a formal agricultural project but rather an adapted form of flood recession agriculture previously practised by women on the *jarf* lands.

In upper and middle Manāṣīrland, these lands have the added advantage of the rich sedimentation of silt, however in lower Manāṣīrland the silt no longer reaches the flooded valleys (p.253). Hänsch notes that *salūka* contributes to agriculture and, in some areas, replaces the former *sāqiya* summer sorghum cultivation. In the post-dam context, *salūka* cultivation is pursued by women when the reservoir recedes and does not resemble to pre-dam *jarf* cultivation. In lower Manāṣīrland, the reservoir recedes around February, and women combine a mixture of the traditionally grown crops on the *salūka* cultivation, such as *lūba*, millet, chickpeas, pumpkin, watermelon, wheat and crops which were never planted in the *jarf* such as wheat and *birsīm* (alfalfa).

In al-Fūqqara, this type of cultivation is pursued on the new land created by the sedimentation of silt on previously rocky areas (*arāḍī jadīda*) and the land of fallen houses (*maḥal biyūt*) described in the previous chapters. Here the focus is on the *salūka* cultivation of lands of a different nature, the land of fallen public institutions.

8.2.3.1 *New lands of fallen public institutions—“arāḍī ‘āma ”*

Unlike the case of the land of fallen houses, the issue of how to divide the lands of fallen public institutions like that of the schools and hospitals in Kabna was less straightforward, and there are considerable variations in how different hamlets decided to appropriate and distribute rights to these lands. In Kabna, the lands of the fallen public institutions were of considerable size as they included four schools (two primary and two secondary schools) and a hospital.

The old Kabna schools and hospitals, located in the hamlet of ‘Aisāb, were *quṣūd* [adjacent to] the hamlet’s *sāqiya*. The construction of the schools in the 1960s, while welcomed by many, was resented by others as it limited the possibility of expanding the *sāqiya* through reclamation. In the years immediately following the flooding, members of the ‘Aisāb hamlet began cultivating the land in an unorganised ad hoc way on the basis of first claimers. It was not long before frequent disputes over these lands emerged, and the community devised a solution for fair distribution. The distribution process was spearheaded by influential community members, like Ali Bakri—who had lived in Omdurman for most of his life. His community leadership was aided by his previous activities in the local political scene in a major urban centre and his role as the current president of the National Congress Party in Kabna.

According to Ali, the process of distributing the lands to the school in an organised communal way was the result of two factors. Firstly, it was in response to the frequent seasonal disputes that accompanied

the receding reservoir. Secondly (and more importantly), it was a means of solidifying the hamlet's claims to the land that would have otherwise been appropriated for public purposes. Concerning this latter point, he explains:

“I was sitting in a meeting of men from Kabna in which Musa (president of the popular committee) proposed that the land of the school be used to develop an agricultural scheme for the benefit of the school. In my heart I said, come on! We’ve been bearing the weight of this school on our land for more than 50 years. Now that it is freed, you want us to bear another burden. Our people are in need of these lands, the school has other sources of support it can draw on. Because of this, I came and immediately said to these people, come and divide these lands quickly! Musa when he came around and saw that we had divided it, asked about it ‘who did this’ and then it was too late, so he just kept silent!”



Photo 54: Lands of Kabna’s fallen schools in the hamlet of ‘Aisāb subdivided among the hamlet's residents.

This highlights the importance of time. It was too late for Musa to interject because the land was claimed in a way that had institutionally recognised legitimacy among the inhabitants. If these lands continued to be used in the disputed ways as they were before the divisions, Musa may have had a justification to appropriate them for public purposes. However, since the inhabitants agreed, Musa had no authority to interfere.

With the unified motivation of maintaining control of the school lands, the hamlet members had the incentive to come together and decide on a way of allocating the lands among them. Prominent male members of the community like Ali took charge of this process. As he explains:

“First, we conducted a census of the families that were present in the hamlet at that time—we found them to be 28 households. Then we measured the entire area and divided it into equal plots, me and six other men headed this process and started

clearing the land of the remnants of the old buildings so we could organise it into equal-sized plots”.

The division of the lands and their allocation to the different households was described as ‘on the spot’—*wāqi‘īyan*, or based on the immediate reality. “We just counted the people and gave each person a bit. ‘You, you and you, take this big spot and divide it among yourselves’—all the hamlet members were present when we were dividing it”.

The division and allocation process distinguished between those with rights in the *warītha* lands of the *sāqiya* below the school, and those without.

“We made a line after the *warītha* lands and allocated the land immediately after the *warītha* to those who had rights in the *warītha*. So that the ones that had rights to the *warītha* had their lands of the school *quṣād* their land in the *warītha*, with the idea being that they could irrigate their lands together. The area above that was given to those that had no rights in the *warītha*”

The issue of whether those with rights to the *warītha* lands should have a share of the school was negotiated after considering two factors. The first was that they were members of the hamlet, and allocating them a share of the school lands was the best way to keep the peace among them. The second considered the different nature of land rights that the school lands offered. With regard to this latter point, Ali explains:

“We considered everyone in the hamlet to be without land because the people with land in the *sāqiya* anyway it is not *their* land—it is *warītha*, which means that he is holding the land of his father and maybe six or seven of his brothers and cousins are meant to share it”.

Therefore, as the school lands would confer a different type of right and freedom of ownership than the *warītha* lands, they decided it would only be fair that those with *warītha* rights were not excluded. Since the division and distribution of individual plots among the members of the hamlet, they have been regularly cultivating it and consider it to be their property, as Ali explains: “It is now their property, not freehold property, not registered, but customarily. But in the end, it would become their property if they stayed in their place and kept cultivating it”. This statement signals how concrete rights to land acquired through categorically legitimate processes can gain greater categorical recognition at higher levels with time.

The experience of the communal appropriation of Kabna’s school lands is not generalizable as elsewhere in the Manāṣīr, similar categories of public lands of primary schools and mosques were dealt with in different ways. In Shirri, the large area of public lands of the destroyed schools was also distributed among the inhabitants of the adjacent hamlet, but unlike the schools in the ʿAisāb, they decided that the rights to the school should exclude those who had rights in the *sāqiya* lands. In the hamlet of ʿAsma, the school lands were developed into an agricultural scheme to benefit the school. The schools in ʿAsma only recently were destroyed by the underground water seepage (*al naz*), and

the delayed destruction might have been a decisive factor in its allocation to public purposes. The process was spearheaded by Hassan Hasaan, a leading community member who explains:

“The schools in ʿAsma are *quṣād* a *sāqiya*, they are in a place where the people of the *sāqiya* could claim it, but I took charge of the area and proposed to the ʿAsma hamlet people that we develop the area for the sake of the school, we don't give it to anyone so that it becomes a public right—*ḥaqq ʿāmm*. We will bring farmers/sharecroppers who will cultivate the school for us according to the known terms of sharecropping, they take half the harvest and give us half the harvest as public revenue for the school.”

As the school lands are *quṣād* the *sāqiya*, it is institutionally legitimate for it to be claimed by the *sāqiya* right-holders through the rule of *quṣād*. The fact that they did not do this enabled Hassan to interject, unlike Musa's inability to do so in ʿAisāb, and direct the process to different ends. As these examples illustrate, the initiative of key local leaders is one of the critical factors in determining the process and outcome of appropriating public lands. Furthermore, they highlight the importance of the timing of concrete actions and the institutional legitimacy of these actions based on social consensus. In the ʿAsma example, the ‘known terms of sharecropping’ enable the distribution of the bundle of rights to these lands in a socially legitimate way. The following section presents a brief review of post-dam agricultural cooperatives before a more thorough discussion of the local option's wider institutional dynamics.

8.3 Post-reservoir agricultural cooperatives

The post-dam reality in the Manāṣīr opened a lot of new opportunities for access and use of land beyond the examples cited above. An important dimension of this expansion of land rights is the establishment of agricultural cooperative schemes (sing. *mashruʿ taʿaun*) (Hänsch, 2019, pp.249-252). The local option settlement was always connected to the possibility and promise of large cooperative irrigation projects. According to Hänsch, some representatives of the Manāṣīr demand that these areas receive public services, schools, hospitals, and infrastructure if at least 300 families settle in the locations of the large projects (p. 252).

Under statutory laws, agricultural cooperatives established on governmental land by communities are held in as usufruct lands under long-term leases by the registering cooperative, depending on the nature of the scheme and organisational structure. However, they are customarily inherited per the Islamic and customary inheritance laws (Awad, 1971; Calkins *et al.*, 2015). Hänsch describes how these cooperative projects are of great importance for the Manāṣīr and notes how they essentially change property relations from the *warītha* of the *sāqiya* to cooperative. She identifies two types of cooperative projects in the post-dam Manāṣīr, medium-sized projects of over 1000 faddān (2019, p.249) and state-organised large-scale projects which range from 1000-3000 faddāns (p.251).

Before the Merowe dam, there were only a handful of such projects in the Manāṣīr. Hänsch notes that at the start of 2008, there were only three such projects in all Manāṣīrland (p. 255). These projects were started locally as cooperative projects in the 1980s and 1990s. These were al-Firsib in the lower

Manāṣīrland (also described in Section 5.2.1.5), al-Amrab on the east side of the upper Manāṣīrland, and Umm Safaya on the west side.

Hänsch similarly describes the historically established Umm Safaya agricultural scheme, which has expanded since the 1990s to cover an area of 300 faddān in 2009. She notes how since the onset of the Merowe dam's reservoir, the irrigation efforts have been eased by the rise in water levels. The local option Manāṣīr applied similar efforts to these historical examples in the post-dam context (p.255). The following presents a brief account of the establishment, structure and operation of these post-dam agricultural cooperatives irrigated by the Merowe dam's reservoir from Hänsch's research.

8.3.1.1 *Medium-sized cooperative projects*

According to Hänsch, there are more than seven medium-sized agricultural projects in the post-dam Manāṣīrland, some of which cover more than 1000 faddān in total area. These include Jabal al-Fi'al, (1600 faddān), 'Aqaba Hawwa (1500 faddān), al-Baida (350 faddān), and as-Silay'iyya (300 faddān). The estimates are the total area that could be made available for cultivation, not what was cultivated. For example, only 30 of the 350 faddān of the area in al-Baida scheme were used to grow wheat at the time of her research (p.250).

She describes how farmers establish these projects: digging irrigational canals, setting up diesel-powered irrigation pumps, and reclaiming the land for production. A management committee provides the necessary infrastructure. Irrigation requires two pumps, one feeding the other, due to the distance between the projects and the Nile and the size of the projects. This system, known as "naqqāl", uses the first irrigation pump attached to the Nile to fill a central irrigation canal where a second pump is attached to transport the water to the fields (p.250).

The cooperative is headed by an elected project management team that secures loans from agricultural banks in Atbara or Abu Hamed and distributes diesel, fertiliser, and seeds to all registered farmers. Any farmer wishing to participate can register for a plot of land. Farmers cultivate their allotted plots and repay the loans provided by the management team at the end of the season in a share of their harvest.

8.3.1.2 *State-supported, cooperatively organised large-scale projects*

As in medium-sized projects, large-scale projects are organised as cooperatives. However, unlike medium-sized projects, the state is heavily involved in their establishment and operation (pp.251-252). These projects are as big as 3,000 faddāns in some cases. Hänsch identifies the potential area of six such planned projects for winter cultivation in 2008/09. These are Birti Gharib (1200 faddān) and Umm Sidairi (2000 faddān) in the lower Manāṣīrland, Shirri (1000 faddān), as-Saihib (1600 faddān) Wadi al-Hawila (3000 faddān) in the middle Manāṣīrland and al-Hilbiya (3000 faddān) in the upper Manāṣīrland. Her figures represent the total area that can be cultivated rather than the total area used (p.251).

A project management team of representatives from the relevant municipalities organises the construction of the canals and the establishment of irrigation infrastructure. Loans are similarly

obtained from the agricultural bank. The farmers who participate in these schemes come from all over the Manāṣīr, though they usually engage in the scheme closest to their local option settlements (p.251). Participation is based on simply registering interest and 'signing up' at the start of the growing season. For example, in the winter of 2008/09, there were 260 farmers from four neighbouring communities cultivating around 130 faddāns (of the total potential area of 1,6000 faddān) of wheat in the as-Saihib project and 500 farmers from communities between al-Kāb and al-Amarin were registered to cultivate in the Wadi al-Hawila project located near Kabna (p.252).

According to Hänsch, there are significant challenges in the maintenance of these large projects, such as the need for rigorous organisation and a strong local community that consistently performs the necessary maintenance of the canals and ensures the smooth running of the project. Other farmers, on the other hand, prefer to focus on small and medium-sized projects as they can exercise greater control and cultivate areas in closer proximity to their homes. Hänsch quotes some men in Kabna who are reticent about the al-Hawila scheme for the same reasons they rejected the government-built resettlement schemes outside the local option: "al-Hawila is a state project. The engines come from the government. Sometimes the engine breaks down, sometimes it's something else. You are then in the hands of other people. It is better to cultivate locally" (p.252). She notes how the many of local option Manāṣīr wish to retain as much autonomy as possible by developing their own agricultural projects.

Furthermore, she reports expectations that rent will have to be paid in the future for large projects. In contrast to the small and individual schemes claimed under the prevailing customary land laws and where the rights of ownership are at least customarily recognised, the insecurity of tenure on these large-scale cooperative schemes, as well as the diminished autonomy of management, is enough of a deterrent for some (p.252).

8.4 Post-reservoir wider legal/institutional dynamics

The emergence of a variation of new post-dam arrangements of land rights through the proliferation of concrete claim-making has been largely directed through customary institutional processes (as previous sections discussed). The flexibility of these institutional processes, while enabling adaptations, is also potentially a source of instability as the outcomes driven by *ad hoc* processes could also become a source of grievance. In the absence of a clear overarching institutional framework for how the different categories of 'new' lands ought to be appropriated, the concrete actions in some areas and the different outcomes of land rights led in some cases to outcomes perceived as unfair, the proliferation of disputes, and a general atmosphere of volatility.

This section discusses the land property dynamics at the wider legal/institutional level, which are still in the process of emergence in the local option. The section first discusses how post-dam disputes have been customarily settled, before elaborating on one failed attempt to create a new post-dam institutional framework.

8.4.1 Institutions of dispute settlement

Under the conditions of legal pluralism, the overlapping customary and state institutions function in complex, interrelated ways in the adjudication of disputes, and the boundaries are not easily distinguishable in practice. The customary institution of dispute mediation—*jūddīya*, and various state institutions, including the formal local administrative bodies known as the popular committees—*lajna sha‘abīyya*, the local courts—*maḥkama ahalīya* and the federal state courts in Abu Hamad (district capital of the River Nile State), are all involved in settlement of disputes in the Manāṣīr. The legal frameworks drawn upon by these institutions are also plural in nature, including customary law, state law, and Islamic law.

Various factors combine to produce a unique legal-institutional challenge in the post-dam situation. This includes the proliferation of disputes, the emergence of new types of land disputes, and the incoherent legal land framework. This incoherence is not only due to the plurality of legal norms but also due to a rupture in the legal institutional dimension of land property in the aftermath of the dam covered in the next section (8.4.2).

Before delving into the testimonies of key informants, it is vital to highlight the unique challenges and limitations presented by investigating such sensitive issues as land disputes and their adjudication in the politically tense post-dam context through interviews. With the help of Hashim Tayfour, I met with the head of al-Kāb local court, Osman al-Wali,²⁵ in his office in Khartoum. Also present were other (older male) members of the Manāṣīr, and the atmosphere of the interview was very restricted and restricting. As such, while evasive of most of my line of questioning, his acquiescence to my observation of the proliferation of disputes and his calculated silence in this regard (contrasted with his openness on other subjects of discussion) indicated that there was more to be uncovered on this matter. Furthermore, meeting with jurors in al-Kāb proved challenging and required some trust and rapport building. For example, Taj al-Sir, a juror of the local court in al-Kab, a man in his 70s or 80s, interrogated me suspiciously before allowing me to interview him. In response to his question, “How can I know for sure that you are who you say you are?” I thought to prove it by pulling out Salih’s (1999) manuscript from my bag and showing him the detailed maps of all the Manāṣīr hamlets, reading them out loud to prove that I was a researcher conducting an academic study in a foreign country. His demeanour completely shifted when he was convinced, and he became very open and talkative, freely pouring forth information and stories. His manner of speaking was very precise yet very colourful and poetic. My impressions of his words were that the weight they carried and the effect they had was a practised art from all his years in mediating disputes. Through his open testimony, I understood the deeper hidden meanings in other informants’ silences and ‘public’ narratives. Under conditions of legal pluralism, the ‘public’ narrative I heard was often echoes of formal statutory systems interwoven with customary systems, as will be illustrated further below.

²⁵ I got explicit informed consent to use the real names of the key informants cited in this section.

8.4.1.1 *Novel types of post-dam land disputes*

Since filling the Merowe dam's reservoir, land disputes in the Manāṣīr territories have proliferated as the disruption to the territorial landscape was matched with disruption in the land relations. On the one hand, the reservoir has caused locals to attribute new value to the unoccupied desert hills (*khala*) that were previously insignificant. Hence, the rising competition over their reservation and reclamation is a source of many disputes. On the other hand, the emergence of new '*salūka*' lands, claimed concretely in the absence of explicit categorical norms, is another source of disputes, as reflected in the words of one juror who stated, 'the disputes have their season' (Omar). Furthermore, the topographical disruptions caused by the reservoir and the resultant loss of landmarks and barriers used to identify the old land divisions on the *sāqiya* had led to seasonal disputes accompanying the resurfacing of these land.

These two types of novel land disputes are reflected in the testimonies of the key informants. According to the head of the al-Kāb local court, the types of disputes are mainly over land claims made on governmental lands—*arāḍī hakūmīyah*, with some minor seasonal disputes over boundaries on the old, registered lands where the barriers and landmarks distinguishing the old divisions, have become eroded. Referring to the first type of proliferated disputes, a juror of the local court in al-Kāb states: "Since the dam brought the water to higher grounds, the problems increased greatly" (Taj al-Sir). The second type of proliferated 'seasonal' disputes was also suggested through observations and discussions with other jurors to apply to the new lands created by the receding reservoir (*salūka*) which, unlike the registered *sāqiya* lands, have a greater categorical ambiguity.

Governmental lands or '*arāḍī hakūmīyah*'—are understood to be "... [lands] which the government did not incorporate into its registers. They are simply considered unoccupied/unused governmental land, with no claims of *wuḍ i'iyad* (prescription) upon them" (Hamid). All the non-*sāqiya* land (i.e. unregistered land), lands that were never surveyed, in the Manāṣīr are considered governmental land. This is regardless of whether they are concretely claimed and these claims are customarily recognised.

These unregistered governmental lands began to acquire a different value in the post-reservoir Manāṣīr, and as the practices of land reservation and reclamation increased, so too did the disputes. As Omar explains:

"The reason [for the increased disputes] is that the lands below are flooded by the dam, and now the lands above that are unclaimed governmental lands are exposed and have the water near them, and so now everyone reserves and cultivates, even women started reserving land!"

Omar's surprise that even women engage in land reservation highlights the expansion of claim-making on these lands. The typical form of dispute is summarised as "one came to develop it and the other said don't develop this land is mine, *but it doesn't belong to either party*" (Omar). Omar alternates between the public narrative, sometimes asserting the state's claim to land, and the private narrative of the Manāṣīr where he acknowledges the legitimacy of customarily claimed land (as in the discussion on the application of the rule of *quṣād* in Section 8.4.1.2.3).

8.4.1.2 *Customary institutions of dispute settlement under legal pluralism*

There are three key institutions responsible for local land dispute settlement in the Manāṣīr. These are the *jūddīya/ajwadīya*—customary mediators, the *lajna sha‘abīyya*—popular committee and the *maḥkama ahlīya*—local courts. There is considerable overlap between these institutions as it is often the case that the *ajwadīya* includes members of the popular committee. The primary dispute settlement mechanism across these three institutions is the customary mechanism of *ṣulḥ* (literally peace) or peaceful arbitration, appeasement, and conciliation. These three institutions are here introduced in turn before illustrating how they each settle disputes.

8.4.1.2.1 *Three key institutions: Jūddīya, lajna sha‘abīyya, and maḥkama ahlīya*

The *jūddīya* is a customary institution for conflict mediation across Sudan, and it is not confined to the Manāṣīr. While in the rest of Sudan, particularly Darfur, the institution is referred to as *jūddīya* (Abdal-Kareem, 2018), in the Manāṣīr, the slight variation of *ajwadīya* is used more frequently than the latter but nonetheless interchangeably. Consequently, they are both used here interchangeably. The *ajāwīd* are the members of the *jūddīya*, translated as ‘generous person’. Membership of the *jūddīya* varies based on where a dispute arises but is generally composed of the most well-respected and influential community members. Often, they are recruited from the surrounding area to settle a minor local dispute in a process described as follows:

“If there is any disagreement between people, people from the neighbourhood or hamlet get involved and try to solve it. If the neighbours’ efforts are not successful, and the disputed parties still don’t agree, they widen the involvement a little, getting more people involved, from other hamlets, or they get the elderly and respected members of the community that may have greater influence involved” (Musa).

However, it is usually the case that biases exist among those in the immediate areas such that “usually people don’t go with the suggestions of those living next to them because their alliances are known, but those that come from other areas are considered to be more impartial” (Hassan).

The popular committee—*lajna sha‘abīyya*, is the local representation of the central government and is responsible for public affairs at the village council level. Membership is limited to 12 representatives elected from a group of nominees from the different hamlets in each village council. The organisational structure comprises a president, a secretary, and a treasury, who are likewise elected.

There were 33 popular committees in all the Manāṣīr. However, five new committees were added in the post-dam period (al Ghaba, al-Qiwait, al-Silamaniya, and Umm Safaiyah east and Umm Safaiya west), bringing the total to 38 (Abdelkhair). Despite being representative of the central government, the primary loyalty of members is to the local option Manāṣīr, particularly within the context of the political resistance discussed in Chapter 3. As such, they traverse the formal and customary institutional realms.

The local court—*maḥkama ahlīya*, similarly traverses the statutory and customary systems. It is the lowest level of the formal systems of jurisprudence. While I am not certain how the membership of these courts are appointed, based on my conversations with the members it seemed that, like the

jūddīya, membership was composed of respected and influential community figures. There are two local courts in the Manāṣīr, one in al-Kāb (visited during fieldwork) and another in Shirri.

8.4.1.2.2 *Ṣulḥ- customary mediation mechanisms*

As in the pre-dam period, the first point of contact in dealing with a dispute is usually the *jūddīya* and the *lajna shaʿabiyya* (popular committee). Where their efforts are unsuccessful, cases would be taken to the local or state courts. In all instances, the primary emphasis is placed on *ṣulḥ*—peaceful arbitration.

Ṣulḥ is described as “an informal agreement that appeases both sides” (Osman al-Wali). It is flexible and varies based on the context and particularities of each dispute. “We would deal with each dispute based on its specific characteristics” (Abdelkhair). Furthermore, it takes into account moral considerations, such as notions of fairness and the socio-economic conditions of the disputing parties:

“We would see the situation and either divide the disputed land and appease both parties, or we would put pressure on the one whose [socio-economic] situation is better off to compromise with the other party who is less well off” (Abdelkhair).

The emphasis is on reaching an agreement which is then put down in writing—*maktūb*. A *maktūb* is a written agreement from a successful customary mediation/arbitration/negotiation or *ṣulḥ*. Both parties sign it, and the responsible popular committee or local courts file it. The *maktūb* serves as a record and institutional guarantee of the agreed-upon terms of settlement: “we make a *mūkātaba* [written agreement] so that they don't disagree again” (Omar).

If the immediate local *ajāwīd* fails to reach an agreement, then the popular committee gets involved. As the current head of Kabna’s popular committee relays, the involvement of is volunteered “either you hear of a dispute and get yourself involved” or it is explicitly sought “they come to you for help to resolve it” (Musa). The role of the popular committee is significant as:

“Even the judge, would consult us for insight into disputes. If, for example, a case was brought to him where two people were fighting over land, he would first request the input/opinion of the popular committee responsible for the area” (Musa).

However, the emphasis of the popular committee is also on *ṣulḥ*:

“...in many cases, it would be resolved through *ṣulḥ*. We would write the *ṣulḥ* and the judge would just relay our recommendation to the higher-up legislative body” (Abdelkhair).

Ṣulḥ is also emphasised by the local courts, and “The majority of cases of land disputes are solved through *ṣulḥ*; never did the ruling involve a fine or a prison sentence” (Omar). The dispute settlement procedures among the local courts are described as “we go to the disputed parties in their location, and we see the opinions of each, and we make a pact (*tawfiq*) between them or divide the disputed land and appease both parties”. Appeasing all parties is an essential aspect of *ṣulḥ* emphasised by all informants.

In the post-dam Manāṣīr lands, there emerged such difficult disputes that mobilised *jūddīya* drawn especially from *Majlis al-Mut’athirīn* –the Council of the Dam Affected People. These were gathered from all over the Manāṣīr territories to settle especially tricky disputes.

One such dispute occurred on the island of Dirbi, which was entirely submerged by the reservoir. The inhabitants of the island relocated to the river’s western bank and lived among its original inhabitants, rebuilding their settlements and farming on lands that were *quṣād* (adjacent to) their homes. When the reservoir recedes, the island re-emerges in the river. As such the islanders would have claims to land on the bank as well as on their old island. The people on the riverbank complained that since the lands of the island are farmed by the islanders, they should not have a right to land on the river bank. As Hassan who was also a member of the *jūddīya* sent to Dirbi and a prominent member of the *Majlis* explains:

“this created a big problem, they physically fought over it, and it even went to the state courts. It would never be resolved by the judge, of course, the judge would not know what type of solution would solve this type of dispute. He would only deal with the criminal issue of assault and leave the land issue unresolved”.

The *jūddīya* visited five times before they could resolve it. The final resolution was through distinguishing the point on the riverbank where the island lands begin emerging and establishing a boundary at that point beyond which the islanders have no rights to the lands. As Hassan explained:

“When the river makes a step back here the island appears in the same step, we made boundaries at the point where the land revealed by the receding reservoir on the bank corresponds with the reappearance of the island. We placed pillars of rock to mark this point, we said to the islanders, you are allowed to farm until this point. From this point downwards you have no right to the land on the bank. Both parties agreed and were satisfied with this solution. We put it down in writing”.

The written agreement identified the established barriers and further gave the islanders the right of passage across the lands of the bank inhabitants.

“*katabnāhūm* [verb of *makātaba* or *maktūb*]—we wrote down the agreement and made them sign. This was about five or six years ago; since that time, no other dispute between them arose, and there are many cases like that” (Abdelkhair).

This example of a post-dam dispute illustrates the value of the *jūddīya* institutions in practice, as the lack of a legal framework and the novel nature of post-dam disputes such as these makes their successful adjudication through formal courts challenging.

Furthermore, the emphasis on the *ṣulḥ* serves a practical purpose in settling disputes after the dam, as in the absence of a legal framework, cases taken to the higher-level state courts would be filed indefinitely. If the dispute cannot be resolved through *ṣulḥ*

“...the judge would just respond by saying the land ‘*tahjiz*’ or ‘*yahjiz*’—which means that neither party is allowed to use the land. In the past, this *tahjiz* ruling was

temporary until the case could be settled legally, but now there is no law to govern the lands” (Abdelkhair).

The inability of a judge to make a ruling is because in the post-dam period, the dam has practically transformed the physical landscape. As such, there is a rupture in the legal framework that applies to the area's lands. As Hamid explains, the state judges are currently in a bind.

“When you rule on a dispute, there should be a clear rule/norm/framework—*qa’ida qānūniya*—on which you base your judgement, but he [the judge] doesn’t have such a framework, so all the disputes brought to the higher courts would just sleep—*tanūm* they are not allowed to settle the disputes”.

The ambiguity in the current legal framework is reflected in the current uncertainty about the application of existing local land laws, as illustrated in the following discussion on the post-dam rule of *quṣād*.

8.4.1.2.3 Ambiguous interpretations of *quṣād*

The issue of the unclear legal norms on which to base judgements over land disputes is a problematic point not only for the state courts but among the Manāṣīr customary institutions as well. This is best exemplified by the ‘rule of *quṣād*’. The current application of the rule in reserved and reclaimed lands (*hajiz*) is problematic, ambiguous, and the source of many land disputes.

The ambiguous nature of the *quṣād* rule was made clear during a discussion with a member of the local court in Al-Kāb, during which his wife was present. As he was explaining the rules of *hajiz*, his wife interrupted with her interpretation; this is then debated between them:

Omar: So long as you reserved land, that’s it. No one else can come to interfere with your claim.

Souad: But you can only reserve land adjacent to your own place—no one can come and reserve land in front of someone else’s land.

Omar: No, I swear they can reserve... [gives an example from al-Hiba in which this was done] ...the clever one is he who is first to clear the land.

Souad insists on her interpretation of the *quṣād* rule, adding another qualifying statement to justify her understanding of the rule:

“If you reserved land before the dam, that’s it, then you won’t be forced to move, but after the dam, you go only in front of your own area. This is the new customary law. You only go in front of your own land”.

The disagreement between them continues as Omar insists that the *quṣād* rule has no relevance:

“There is no such thing as *quṣād*, *quṣād* doesn’t exist, in this time/era that we are in now, there is no such thing as *quṣād*. Someone cleared a plot of land, and when he

planted, no one came to ask him / dispute him. Then that's it! From then on, the land is his/he owns it! No one else can ever come to challenge him then”.

The disagreement between Omar and Souad is emblematic of the situation in the Manāṣīr. New and old rules are interpreted, challenged, and asserted differently to suit different ends. Omar suggests the pre-eminence of *wuḍ i'iyad* through which unoccupied land can be claimed and made into property. However, he also highlights the application of this rule must be undisputed. As the *quṣād* rule, as Soud suggests, is still relevant, it is likely that *wuḍ i'iyad* claims will not be made in areas *quṣād* existing land claims where they can be disputed. The lack of clear consensus over the application of the customary law of *quṣād* in the reservation of land is one of the most frequent causes behind disputes in the post-reservoir Manāṣīr.

This disagreement is also the root of the contentiousness of Higazi's, from al-Fūqqara hamlet, claim to land lying adjacent to the Ḥila hamlet (Higazi's scheme (SD4) see Section 6.3.2.1). Though, it is claimed by his sister and cousin that his claim to the land was established many years before the dam and is thus valid under the customary law at the time. While Higazi's claim to the land was initially ignored — as the land was neither agriculturally viable nor desirable — it was disputed only after the flooding, by Musa (from the hamlet of al-Ḥila). The details of the dispute and its resolution were limited to Musa's statement, that “in the end, we solved it through *ṣulḥ* we made peace and let him have it”. Higazi himself was reluctant to discuss the dispute and denied that his claim to the land was ever disputed, simply asserting that “I reserved it a long time ago”. Due to the sensitive nature of investigating disputes and the risk of re-igniting latent resentments I did not pursue this case.

According to Hassan, the customary law of *quṣād* as it is understood in the Manāṣīr deviates significantly from the legal state definition of the law. He explains:

“We refer to *quṣād* in the *khala*, unoccupied mountain lands, but the *quṣād* that is known legally by the government is in the river. Say I am living on the banks, if there is an island in the river that appears then the *quṣād* rule dictates that the people that have rights to the *sāqiya* or are living in the area on the bank have rights to the new land that appears in the river. This is what '*quṣād*' actually refers to. What we think is *quṣād* in the *khala* is governmental land that you have to formalise your claims in order for it to become yours”.

He argues that the *quṣād* law of the Manāṣīr limits the potential for agricultural development and as such is not recognised by the formal legal system as:

“In the eyes of the government, our rules of *quṣād* would prevent development because anyone can say this is *quṣād* us and claim the entire area in the mountains as their own. So if there is a dispute between *quṣād* and *wuḍ i'iyad*, the government usually rules in favour of the *wuḍ i'iyad*, but here in the Manāṣīr, the hamlet doesn't go *quṣād* another hamlet”.

These competing interpretations of the rule of *quṣād* highlight how existing normative categorical understandings are challenged by the changes in concrete post-dam social practices. Under the

conditions of legal pluralism, this challenge is significantly more complex. The next section discusses the roots of this current ambiguity, attempts to ameliorate it, and the significant challenges presented by such attempts.

8.4.2 Institutional rupture and Hamid's failed proposal

There are various sources of the current legal land ambiguity in the Manāṣīr, the common root of which is in the yet-to-be-settled political battle with the state over the development of the local option settlement and the yet-to-be-met state obligations for fair compensation of land. Whilst these issues are beyond the focus of this research, they are reflected in the following testimonies of key-informants regarding the challenged attempts to address these ambiguities through the creation of a new post-dam legal land framework. The words of these informants are particularly revealing of the political factors which permeate land tenure issues in the post-dam Manāṣīr and highlight the multifunctional nature of property which cannot be separated from the political, social, and cultural dimensions of life.

8.4.2.1 *Statutory ruptures in the context of ongoing political battles for compensation*

To recall from Chapter 3, the Merowe dam has created a rupture in land institutions at this level as the Law of Compensation and Resentment of 2002 confiscated all the lands around the Merowe dam for the public purposes of the dam's construction. Following the political resistance of the Manāṣīr in favour of the local option settlement, presidential decree No. 70 returned what was referred to as '*ma mūtabaq'*—the remaining lands, to the Manāṣīr for the development of the local option, without further measures which stipulated how land matters over these territories should be governed as well as the yet to be resolved issue of land compensation. The post-dam administrative restructuring, which resulted in the creation of the new Administrative District for the local option (*Maḥallīyya Ḥawwal al-Buḥāira*), consists of all the administrative bodies of governance (health, education, agriculture etc.) except for a land department.

This has implications for the formalisation of land tenure (*taqnīn*) as the pre-dam procedures of land registration with the relevant land and agricultural departments are yet to be reconciled with the new administrative restructuring. As such, there is currently no formalisation of tenure—*taqnīn* in the Manāṣīr. Land tenure formalisation cannot be addressed until the matter of land compensation is fully settled. As the negotiations over proper compensations continue, the government has yet to compensate the freehold land property—*milik ḥurr*, nor the usufruct registered property—*ḥikir*, of the Manāṣīr, despite allocating monetary values to both these types of land.

"The *taqnīn* still didn't come because the government has yet to compensate the *milik*, the six faddān of land that was given [to the resettled] was just a *minḥa* [grant] and it was a *minḥa* only for the people that were married and had established families at the time of the census".

The government is legally obliged to compensate freehold property (*milik ḥurr*) as it is stipulated in a constitutional article that "Freehold property may only be effected by the law of public interest and

in exchange for just and immediate compensation.”²⁶ (Hassan) As the government has failed to meet its obligations for fair and prompt compensation, it is therefore denied its rights and the authority for the formalisation of tenure. The lack of a procedure for ‘*taqnīn*’ or formalisation of tenure in the post-dam context should therefore be viewed through the lens of the ongoing political battle with the state, as reflected in the following testimony:

“There is no *taqnīn* because until now we here in the local option are not responding to the state because we consider that we have rights (unfulfilled) with the government. Give us our rights and then come here and we will give you your rights - but she has not given us our rights. And God bless her, she did not come to us, she only comes for the light taxes for the shop owners, and this is only recently, but not for a long time, and not for the agriculture” (Sidahmed).

According to Hassan, the issue of land compensation is a complex one and one that is not likely to be easily settled as “until now we are not sure what the government will do, and it’s still not clear how the government will unravel the ties between the *aşil* and *miswaq* in the registered land”. Some of the Manāşir argue that they are after the compensation of the *maghrūsāt*—products of the land, only and not of the land itself. Hashim for example argues that “our issue of compensation is not for the land, it’s for the *maghrūsāt*, because if we accepted compensation for the land, it would be as if we sold our land”.

Similarly, Hassan explains:

“In my opinion, the compensation for the *milik* lands when it is distributed according to *warītha* would be meaningless, but if it is saved for the family in its place it is of greater value because for us it would be a way of guaranteeing our place—*tasbīt lī al-mawq‘i*, it would tie people to the area—*tarbūt al-nās bī al-manṭīqa*, and it would ensure our existence and maintain our rights of *milik*—this is your grandfather’s *sāqiya*, and its present for all future generations, until judgment day, in its place, this is its place, we want it to remain like this, but the government has given it a monetary value”.

His testimony reveals the deep attachment to land as a source of identity, social belonging, and connection to place. Existential continuity is tied to the territory. The sense of permanence which continued occupation of the land conveys “until judgement day” can never be compensated. He further argues that “even when the government comes to settle this, we will complicate the matters for her, we will create complications, we will challenge her to find a way to unravel/divide (*fartiq*) the *aşil* and *miswaq*”. This resistance to accepting land compensation reflects the social value of land in his above testimony. Read in this context, accepting compensation for land is akin to relinquishing one’s attachment to it, with all the negative implications of being unrooted.

²⁶ Article 2 of the Interim National Constitution of 2005: “No private property may be expropriated save by law in the public interest and in consideration for prompt and fair compensation. No private property shall be confiscated save by an order of a court of law.” (cited in Babiker 2018c; p. 307)

He also makes reference to the Halfa experience and warns that they don't want the same thing to occur in the Manāṣīr: "take the example of Halfa right now, there are people there from areas that have nothing to do with Halfa, outsiders that came in and formalised their claim of the land in Halfa through *wuḍ i'ṣyad* prescription". In light of the wider politics of land in Sudan reviewed in Chapter 2 and the threatening processes of commodification, such threats of land alienation are ever-present. And indeed, as highlighted in Chapter 3, this is one of the motivations for the informal local option settlement.

8.4.2.2 *Proposing a new legal-institutional framework*

In light of this legal rupture and the proliferation of disputes, there was a pressing need to address to 'land problem' in the Manāṣīr by developing a new legal-institutional framework to match the new post-reservoir land reality. In the absence of such a framework, disputes were confined to being handled locally through the customary means of settlement described in the previous section. However, this in itself was interpreted as being very problematic by some, as "...every popular committee would settle disputes in a random way—*tariqa 'ashwā'iyah*, that was different from the other areas. And people talk, they would say so and so in this village was given his land, and I was not given" (Hamid). These incongruities escalated the land problem and further emphasised the need for a more comprehensive solution.

To address this issue, representatives of the *Majlis al- Mut'athirīn* —Manāṣīr Dam-Affected Peoples Council, met with the land department in el Damer, the capital city of the River Nile State, which suggested to them that they form a committee and come up with a set of recommendations that can then be codified as law. As Abdelkhair explains:

"We went to the land department in al-Damer as the *Majlis al- Mut'athirīn* and suggested that we formulate a set of laws, they said to gather all your people and bring all your proposals together for how to handle land matters after the *ghamr*—flooding, and bring it here, all that we would have to do then is to give it to the *Majlis al- Maḥallī*²⁷ that would then give it the legal stamp/approval and then we would sign it, and it would be a law. Then the judge would be able to make rulings over land matters. We went and we distributed notices of what was required to all the popular committees".

This was the first step in the attempted 'institution-making': to initiate a democratic deliberative process whereby law is created 'from below' or 'from the ground'—based on the reality of the types of post-dam land disputes that were encountered and how these disputes were settled.

"We held a seminar here (in Kabna school) for all the presidents of all the Manāṣīr popular committees. We told every popular committee to bring us the types of land disputes that they saw after the flooding, and bring proposals for solutions. What were the solutions you envision, and what ways of settling the disputes did people generally

²⁷This is the admiring term used to refer to the old local council of the pre-dam era, not to be confused with the post-dam new administrative district for the local option— *Maḥallīyya Ḥawwal al-Būhāira*

agree with—*taṣāwīr al-bi rāḍih al-nās*. Everyone gathered here in Ramadan, with full attendance of all the popular committees, and they did come with their *taṣāwīr*—visions/proposals”.

The most comprehensive proposal was developed by Hamid Sulieman Karar, who held the title of Vice Deputy for Political Affairs —*nā-ib al-mūʿtamad lil shi-un al-sīyasīya*, at the Prefect Governate and was an active member in the Prefect from the time of its establishment in 1989. He developed a comprehensive survey which aimed to get the opinions of the heads of all the popular committees on how to handle disputes and included many legal and organisational issues. It proposed solutions to various post-dam land scenarios and common land disputes as a basis for discussion and aimed to initiate a process of law-making to aid in the settlement of post-dam land disputes. It is important to emphasise that the intentions of this ‘survey’ as a basis of discussion were not clear to the members of the meeting in the reading of what follows, particularly in understanding why his proposal failed.

Hamid explains his process of developing it as follows:

“All of the cases that were encountered by the popular committee are cases that I either lived through, assisted in or heard about, so in light of that, and in light of things in my mind that I knew about how land issues were dealt with in our area from a long time ago ...I made harmonisation between what was required and what has happened in the past, and I began creating the paper. I even consulted the land department of the state in the River Nile State and took the laws of the land they had... There is something that is referred to as the law of the *quṣād*, and there is *wuḍ iʿyad*, and when does the *wuḍ iʿyad* become a right, and when is it a light claim, because right now someone could sit somewhere for ten days and say he placed his *yad* (hand) on it, when is *wuḍ iʿyad* a proper recognizable claim or have any weight, I looked at all these issues and took them into account. The paper aimed to eventually become *qānūn*—a law, *tafaṣīl*—that would be used to settle land issues and disputes, and it indeed would have been a *mūfaṣīla*—a settling document”.

Praise for Hamid’s proposal from Abdelkhair was high, who claimed, “his proposal is the best solution to the problem of land in the Manāṣīr”. He likewise identifies the various considerations Hamid made in taking account of customary and state laws:

“Hamid even consulted the people in the courts (land lawyers and people in the land departments) for example, they would say that *al-quṣād* and *al-tarkība*—these are two types of land that are customarily recognised—according to the land department, the *tarkība* is the land that is above the *sāqiya*/ reclaimed upland and the *quṣād* is land that appears as an island adjacent to the *jarf*—in the Manāṣīr the interpretation of these land types was reversed according to the customary understanding here”.

Among the various post-dam land scenarios included in Hamid’s proposal was the issue of how rights to the land of fallen public institutions, and the land rights of those who accepted compensation and resettlement should be dealt with.

With regards to the land of the fallen public institutions, Hamid himself claims that his proposal was that “the landless people, those with no lands in the village and that are present in the village, that these lands would be divided among them”. Yet a contrary testimony about how these public institution lands from Sidahmed highlights the misunderstandings of the ‘survey’ process he intended, and perhaps signals wider confusions as to the purpose of the meeting (i.e., democratic, deliberative institution-making). Sidahmed claims that “in his [i.e., Hamid’s] opinion, this right to the land belongs to the institutions—*al mū-asassā*, so it belongs to the school. If the school cultivated this land and produced some 20 -30 sacks of grain and a sack of grain is sold for 1,000 Sudanese Pounds, this revenue could be used by the school” (Sidahmed). This discrepancy in testimonies they relayed about how the school lands were ‘proposed’ to be dealt with can be attributed to the lack of transparency and clarity about what the intention of the meeting was and may have contributed to its failure, as highlighted in the following section.

The issue of how the rights of those that resettled should be handled was more contentious. Those that chose resettlement and accepted the compensation for the lands are known as ‘*ṣārīf*’—literally meaning ‘he who cashed out’. The *ṣārīf* as opposed to the one who stayed in the local option, known as ‘*maḥallī*’—literally ‘local’, created a problem over land rights. “In Hamid’s opinion, the rights of those that went to Mukabrab should be allocated by the popular committees among the people who stayed behind” (Sidahmed). In Hamid’s words, his justification for appropriating and allocating the land rights of those that chose to be resettled (*ṣārīf*) among those that stayed behind (i.e. *maḥallī*) is as follows:

“If someone had a lot of land before the dam, but they left, they chose to be resettled, this resettled person became the problem. We who had stayed behind would know whose land is where, but he who left would say this is my land from the outside, that is not possible. A lot of red cards were raised against the resettled: since you refused the homeland, you are no longer welcome”.

His testimony suggests that those that accepted resettlement still wanted to maintain their land rights in the local option.

“The one who left wanted to have a foothold and stable right and the one who stayed behind does not recognise the rights of he who left: you didn’t defend your right, this right we starved for and guarded it, you didn’t starve with us, how can you come and ask for the right of the one who defended it. This is what brought the first problem”.

Though not explicitly investigated, the land ‘problem’ created by the *ṣārīf* must be read in the context of the social ruptures that emerged around the choice of settlement location experience reviewed in Chapter 3. The testimony reveals the trauma of these ruptures is still very much present and that there are still unresolved tensions between the *maḥallī* and *ṣārīf* which are expressed and reflected in problems over post-dam claims to land. Abdelkhair highlights Hamid’s proposal “...was an opportunity then to say that all those that moved away (*hājarū*) have lost their rights to land here if that’s what people would have agreed to”. However, people could not agree to the proposal and the majority rejected it outright, as the testimonies in the next section illustrate.

8.4.2.3 *Rejecting Hamid's Proposal*

The meeting in Kabna in which Hamid presented his proposal erupted into a chaotic dispute. As Hamid relays, still visibly distraught and agitated over his wasted efforts:

“...there were many interjections over this paper, they started to argue over it ‘it is a good idea, not a good idea, if you do this you will regret it’ then I got upset—*infa‘alt*, I took the paper and collected all the copies from them and I said ‘I swear there will come a day you will look for this type of paper and not find it’ Am I not the one who wrote it? I will take it back thank you very much! I took the paper and kept it in a safe place, I swore that I would not give it to anyone again, not even to read it. Go and do this type of work yourself and present it and we left it on that point”.

Reasons for the eruption were interpreted as stemming from different sources. This section examines the testimonies of key informants’ reasons for the failure of the meeting and rejection of the proposal.

According to Abdelkhair, one of the reasons for the meeting’s failure was the lack of understanding and transparency as to what the implications of the proposal would entail:

“There were some that spread the rumour that the government wants to do away with them, wants to get rid of them and take away their land rights, soon as this rumour spread the meeting erupted. Of course, this process would do the opposite of this, it would strengthen the rights of the people to the land, but they misunderstood it. What's more, is that it was influential and respected members of the community that brought up and spread this rumour”.

The post-dam atmosphere of uncertainty and deep distrust of the state allowed such rumours that the proposed formalisation would threaten existing claims to land to have a stronger footing. The lack of understanding about what it would entail in an already politically tense context contributed to the spread of fear and eruption of chaos. The ‘respected members of the community’ who spread this rumour had their reasons. One such member, Hassan Hasaan, a prominent member of the *Majlis al-Mut’athirīn* explains his reasons. Despite being one of those who had initially proposed that such an initiative to address the ‘land problem’ be developed, he takes responsibility for ruining the meeting. He argued that the main issue of the political battle for rightful compensation is yet unresolved and understood this process of formalizing land issues to cause further problems and disputes among those in the local option. He explains his position as follows:

“They say to me Hassan you ruined the meeting. I realised this thing would create problems, Hamid proposed a plan for the newly reclaimed lands—*hijazāt*, and how to distribute them after the flooding, and he proposed a paper. I stopped the development because I considered it was a distraction from the main issue”.

The ‘main issue’ Hassan is referring to is the yet unresolved negotiations with the state regarding compensation of lost property. In light of the political struggle and the social schism this caused since the onset of the dam, the social cohesion seemed to him to be threatened by the proposal:

“We have a main issue [of compensation] that we have yet to resolve, and you are proposing a new avenue that will further create problems between the people. This proposal would create a problem—*fitna*. I caused the meeting to fail because, in my understanding, I considered this meeting would create another battle. We are still battling over our original lands we have not been given our rights to. This proposal, for us, is not the right time”.

Hassan’s assumption that the proposal would create problems is curious, as the meeting intended to find a way to resolve the proliferation of land disputes through the deliberation of a framework that can people can agree upon—*al-bi rāḍih al-nās*. It is difficult to say what kind of problems between people he was afraid the proposal would create. Nonetheless, his expectations of disagreements and problems—*fitna*, between people reflect how contentious and politically charged the process of ‘institution-making’ can be.

Furthermore, his resistance to dealing with the state in matters of land tenure formalisation may reflect a deeper resistance to recognise the state authority to authorise land claims when the issue of land compensation is yet to be settled. The fear that the involvement of the state in land matters prematurely when the political resistance is unresolved reflects wider dynamics of property and political authority (Sikor and Lund 2010). Finally, his statement that “this is not the right time” is very revealing as the longer that the concrete claims to land are settled upon, cultivated, and possessed, the higher the likelihood that these claims will gain categorical recognition.

Hassan’s recognition of the need for a post-dam institutional framework to address the land problem diverged from Hamid’s proposal. Hassan’s proposed vision for ‘institution-making’ was limited to the settlement of land disputes through the establishment of a *jūddīya* committee rather than developing a more comprehensive institutional framework as proposed by Hamid:

“I proposed to them that we establish—*jūddīya* committees, in each of the village councils of the Manāṣīr and a higher committee—*lajna kūbra*—that would handle disputes that were too difficult for the smaller committees. This was my proposal—considering that this thing (Hamid’s proposal) would only create more problems. We postponed this proposal, and people agreed with me in the end”.

His reasoning for this proposal was that each area has its own *sālif* (customs) and particularities and that there is no unifying custom across all the Manāṣīr territories:

“you won’t find in the Manāṣīr that the *sālif* is the same. Just as in the way the schools were divided differently, in my opinion, we should resolve the problems of each area in accordance with their *sālif*. This is my understanding; you can’t set down a general framework to solve all the problems”.

Hassan defends this position by referring to the rule of *quṣād* proposed by Hamid’s paper. According to him:

“Hamid’s paper would say that the rule of *quṣād* should be used to rule over disputes, but there are some places where the *quṣād* would not work. For example, if someone

doesn't have land in the *sāqiya*, the *quṣād* rule would mean that he couldn't claim land above those who do not have rights to the old lands would be disqualified by the *quṣād* rule, it would exclude people; that is why I proposed that this issue be dealt with based on the nature of each area. But if you solidified a proposal—*sabit taṣāwur*, it would disadvantage some others because each area differs from the other”.

To illustrate this point further, he gives an example from his own *sāqiya*:

“In the hamlet of al-Huqna there are some Arabs (nomad Manāṣīr living with them) they are now cultivating on lands in the hamlet, the *sāqiya* belongs to us and they came and settled from the *khala*—desert, they don't have any rights in the land, the area belongs to us, if we adopted the *quṣād* rule they wouldn't have any rights, they wouldn't be entitled to claim anything, it's all our *taṣjīl* (registered land)—that's why it won't work, there are some areas, where the people of the hamlet have rights in the *taṣjīl* and are the only inhabitants in the hamlet, that's where the *quṣād* rule would work”.

Reading between the lines of Hassan's justifications, it is clear the issue is more complicated than he presents. He emphasises the desire to maintain the current predominance of customary authority as it is flexible and specific to each local context. Yet the ambiguity and conflicts which arise are also recognised by him and he acknowledges the need for some type of institutional solution to this, just not the type proposed by Hamid.

Abdelkhair also attributes the failure of the meeting and rejection of the proposal to the sensitive issue of how to handle the rights of those that accepted resettlement (*ṣārīf*), as he explains it:

“When the possibility that the person who resettled would still have claims to land here was suggested, people erupted into chaos, insisting that the person who resettled away doesn't have any more claims to land in the local option. This is what let the meeting fail. There were some people that were *ṣārīfīn*—cashed out and went to the Mukabrab, and these people of course in the end would lose all their rights”.

The issue of the *ṣārīf* is more complex than the above testimony suggests. It is also featured in Ali's testimony who explains that some had cashed out on their lands yet still lived in the local option and held rights to reclaimed lands. He explains:

“They had options at the time of compensation: you either cash out, or you take 10 million [10,000 SD] and you are considered as not wanting in resettlement sites and not wanting here”.

Some opted for this (stigmatised) cash settlement. Ali refers to one such member who cashed out and stayed in the local option and to whom he attributes the failure of the meeting. According to Ali, this person:

“.. took the 10 million, so he didn't have any rights anymore, but then he started to build his relationships with certain people, the central figures and started building

relations with people that 'had long arms' (i.e., were politically connected) in the popular committee or municipality, anyone he could find, and he was one of the people that disrupted the meeting. He got a lot of lands here; it could sustain another ten families!”

Ali claims there were others like him who ‘cashed out’ on their lands, stayed in the local option and claimed a significant amount of land:

“When they knew the meeting was happening, they came to defend this issue, they knew what time the meeting was happening and came especially with the sole purpose of destroying it”.

This also highlights the desire to defend the concrete land claims made in the opportunistic atmosphere of the post-dam context and the feared threat that formalisation of tenure posed to these claims. Hamid also acknowledges this as he states:

“People opposed to the proposal are those that are worried their current claims would be lost, those who have no proof for their land claims, or they scrambled and grabbed something that he doesn't want to lose; he would be opposed to this situation....keep in mind that this paper would potentially strip him of his current claims if it were developed”.

Ali testimony also highlights the challenges of the democratic deliberative process of law-making in the post-dam context, complicated further by the issue of the *ṣārif*:

“The meeting organisers made a mistake by making it an open meeting. You can't come up with such a law that is implemented on people, some of which are *ṣārifīn* and staying here. If you invite them to the meeting, you will find they will stand against you. I told the leaders of the popular committees, that they should have sat by themselves, came up with a land law that is perfected by them and then come to implement it. Once the law was developed and authorised by all the different bodies, then they could come and see, does this land belong to someone who is *ṣārif*? Then it is governmental land; you distribute it to the ones that are not ‘*ṣārif*’, but if you came here and said that this is what you propose to do, of course, people would stand against you, and that's what they did, and they made the meeting fail, this was the mistake of Abdelkhair who organised the meeting as an open meeting. They should've just kept it as a closed meeting just with the heads of the popular committees; you make a law—for example, one that said that the land belonging to a *ṣārif* becomes considered as governmental land, then it can be claimed by those staying and or distribute among them”.

Ali's procedural suggestions and the preference for a ‘closed meeting’ highlights the difficulties in the process of law-making. His arguments highlight the need for the development of law ‘from above’ which in his words is ‘perfected’ behind closed doors and then ‘implemented’ on the ground.

This is countered by Hamid's considerations of the need for open democratic deliberative processes to allow for the emergence of law 'from below'. He argues that the only way forward is to reach an agreement among the community members, as his failed proposal attempted to do. He further warns that any pre-emptive attempts at implementation for example through the surveying of lands for formalisation of claims are an ill-advised step:

"I remember in the *maḥallīyya*²⁸ there was a meeting between the minister of planning and some members of the land departments, they proposed sending survey teams, and I said that any man who is a part of a survey team coming into the Manāṣīr areas better watch out and those that sent him better be ready to be responsible for them. *There will be death!* People would fight in a moment if you give this person and not that person. People here would have no problem physically attacking them. Other than solving the problem, you would be exacerbating it".

This ominous precaution highlights the serious challenges in post-dam land law-making, as illustrated by the eruption of the Kabna meeting. According to Hamid, the only way forward is through open and transparent deliberation:

"If the government really wanted to solve this issue, they would be advised to establish land committees to study this issue and come up with proposals, which would then have to be discussed with us in a series of workshops and then based on these discussions we would agree on some plan which would then be taken up by the surveyors. But to just introduce surveying, there would be very heated disputes. There must first be a full transparent agreement on these issues before they can start dividing the lands; without this, it would not be possible to settle these issues. [Resolution] would come through deliberation and then establishing a legal framework and only after that would the surveyors be welcome".

Yet the attempts to initiate such a process of discussion and deliberation highlight the intense challenges this entails. All the above testimonies reveal the complex difficulties which are connected to the processes of 'institution-making' and 'law-making', which are considerably more complex in the context of the ongoing contestations over matters of compensation and the establishment of the local option settlement. Considerations of transparency, democratic deliberations, and negotiations in an atmosphere of uncertainty present inherent challenges as proposals for discussion are viewed as threats to existing insecure post-dam tenure. There is little doubt that some benefit from the lack of formalised land system as they can exploit the customary system in their favour. However, this does not benefit everyone, as some elements of the customary system disadvantage the politically weak. As such, the customary system unchecked with other institutional balances might create a situation where the strong exploit the weak. Prospects of mending the institutional rupture without an

²⁸ The *maḥallīyya* or 'locality', is the administrative division below the *muḥāfaẓa* or district (not to be confused with the new administrative district created for the local option *Maḥallīyya Ḥawwal al-Būhāira*).

approach like Hamid's are unlikely. However, there is a need to find a way to overcome the political challenges that were encountered at the Kabna meeting.

8.5 Conclusion

This chapter has outlined some of the key institutional processes behind the adaptations of land property rights in the post-dam Manāṣīr. As has been shown, the hamlet-level adaptations have been driven by a combination of enduring institutions of *warītha* rights to the 'old' lands of the *sāqiya*, *īdayg*, *ashau* and *jarf* and adaptive institutions directing the emerging rights to the 'new' land rights in the reclaimed plots in the desert hills and the lands created by the receding reservoir's silt sedimentation. The institutional processes around the categories of 'new' lands have an emergent quality and interact with the social practices of concrete claim-making. People act by claiming land and cultivating it and justify these actions through the existing laws of *wuḍ i'ḡad* and *quṣād*. Yet at the same time, as the discussion in section 8.4 highlighted, when such (concrete) actions are challenged, the categorical basis of these actions is also brought into question. Therefore, existing rules around the establishment of land property claims justify the actions of inhabitants at the same time as being reformed and updated by those actions. This is particularly evidenced in the proliferation of post-dam land disputes which highlight emerging categorical developments around the shifting understandings of land laws.

Without a clear legal framework, land disputes are primarily handled through the customary mechanism of mediation—*ṣulḥ*. While some see this as an advantage and tout the desirability of the flexibility of customary approaches and mechanisms of mediation, others see it as a destabilizing factor which potentially could give rise to chaos and injustices. An attempt to redress this gap in the legal framework was presented in the form of a comprehensive proposal for establishing a new post-dam institutional framework by a leading figure of the Manāṣīr in a local forum gathering. The proposal, drawn up by Hamid, was prematurely rejected by those present in the meeting before it could be properly discussed and negotiated. As discussed above, the various speculations as to why his proposal received such a negative response highlight a common understanding that formalised rules present a threat to some who have benefited from the atmosphere of ambiguity.

The proposal and its widespread rejection highlight the polarizing nature of land issues in the post-dam context and raise many questions as to the future of land tenure institutions in the Manāṣīr. The assumed implications of formalisation by those who see the current ambiguity as problematic is that a unified framework would restore order to the land issue and enable tenure security as well as facilitate the process of dispute settlement. Those who see formalisation as a disadvantage value the flexibility of the customary system and its ability to honour the particularities of each area or can exploit the ambiguity in their favour. The emphasis on the customary land system and defending the freedom of the customary institutions over land is understandable in the wider context of resistance against resettlement and distrust of the state.

Chapter 9: Dynamics of land tenure adaptation in the post-dam Manāṣīr

9.1 Introduction

The evidence and analysis of the preceding chapters have detailed the variety of ways by which the ‘local option’ Manāṣīr adapted their land property system after the land was inundated by the reservoir of the Merowe dam. Examination of the micro-level dynamics in the hamlet of Kabna al-Fūqqara in Chapters 5 to 7 revealed how these adaptations unfolded and were negotiated amongst the hamlet’s inhabitants, while Chapter 8 shed light on how these transformations were directed by customary institutions at the hamlet level beyond al-Fūqqara and how they manifested in wider institutional dynamics. Although there is considerable variation in this adaptation across the ‘local option’ Manāṣīr, the most marked distinctions are between the lower Manāṣīrland territories that have been completely inundated and where local people had to start ‘from scratch’, and the upper Manāṣīrland where the remnants of the historical land property system coexist alongside other post-dam adaptive measures. Adaptations varied in their processes and outcomes but were nonetheless directed by the logic and understanding of existing customary norms and historical customary practices.

To understand further these land property system adaptations at the local option, this chapter examines them through the lens of property as it exists on the two distinct yet very much interrelated layers of social organisation: categorical property and concretised property. To recall the discussion of the theory elaborated in Chapter 2, *categorical property* refers to the legal-institutional layer and thus manifests in the rules and normative expressions that seek to direct property relations. *Concretised property* exists at the layer of actual social practices and manifests as the actual enactments of land property relationships, or how they are experienced ‘on the ground’. (F. von Benda-Beckmann, K. von Benda-Beckmann, and Wiber, 2006). Although the layers of categorical and concretised property are distinguished analytically (since they relate to different types of interdependent social phenomena), they are in fact interrelated through different types of social practices that create, maintain, and transform what property is at both layers. The dynamic interactions between these layers themselves thus becomes an important dimension of analysis.

Application of the property framework identifies two such types of social practices which are relevant to this analysis of the adaptations of the land property system of the local option Manāṣīr. The first relates to social practices through which actual social units, whether individuals or groups relate to an actual property object, such as the cultivation of a specific plot of land. These types of (concrete) social practices have important implications for the construction of property at the categorical layer. For example, in many cases a legal (categorical) right to a plot of land is established based on continuous and undisputed use. Therefore, the various concrete practices of land, reservation, reclamation, and cultivation described in the previous chapters, have categorical effects of conferring customarily recognised rights of ownership. This is the case only if they are claimed under the prevailing categorical customary rules of ‘*wuḍ i‘yad*’ and ‘*ḥaqq al-quṣād*’ (as discussed in Chapter 6 and 8) and these

concrete claims are not disputed by others. It can be expected that, in time, with the continued uninterrupted and undisputed use of these lands, these customary categorical rights of ownership are strengthened and rights to these lands are passed down through inheritance. Under the conditions of legal pluralism, it is still uncertain how these customary categorical rights will be recognised as, under statutory law, these lands are considered 'state lands'. The institutional dynamics discussed in the previous chapter suggest that there is great potential benefit and incentive to remaining beyond the jurisdiction of the state as a way of securing these customary categorical rights.

The second social practice relates to types of activities through which the nature of categorical property (or property rules/laws) are replicated or transformed, "...in which the nature of property law is explained, discussed or disputed in interaction settings such as courts, parliaments, universities, the mass media or local forums" (F. von Benda-Beckman, K. von Benda-Beckmann, and Wiber, p. 15). This is the case, in instances where the nature of categorical property is brought into question by actual land disputes. These challenge the prevailing interpretations or applications of such rules, thereby forcing a reinterpretation or redefinition of categorical property. As we shall see in Section 9.4, such social practices addressing categorical property are particularly important to the analysis of the wider level institutional dynamics (discussed in Section 8.4) and are particularly important to the analysis of the institutional land property dynamics represented through one resident's proposal for reforming categorical property and the resistance he faced.

The following analysis is framed around two themes which were prevalent in the data. These are the dynamics of 'continuity and change' and how property is made in the margins, and at times in the 'shadow of the law'²⁹. The dynamics of continuity and change are unpacked at both categorical and concretised layers of property. The social practices through which continuities of practice are maintained and through which changes are coordinated and negotiated are analysed. As will be illustrated below, various concrete actions were directed by the ambiguous and *ad hoc* application of customary categorical understandings, with different categorical effects. The current categorical ambiguity creates a situation where property-making in the post-dam Manāṣīr is pursued without a clear legal framework. I use the term 'property making in the margins' to indicate two related factors. The first is to signify how existing categorical customary laws (*quṣād* and *wuḍ i'iyad*) cast their shadow over how concrete claim-making activities occur. The second is to highlight how, in the broader context of institutional rupture and the failed attempts at 'institution-making', this property-making occurs in a kind-of legal-institutional semi-vacuum, in the 'margins', and beyond the jurisdiction of statutory law. However, a case of collective customary agreement in response to concern over possible state intervention may be understood as 'anticipatory positioning' - indicating the notional presence of a 'shadow of the law' (as illustrated by the case of 'Aisāb). The discussion of these themes reveals clues as to why dam-displaced peoples resist being displaced and formal resettlement schemes and favour directing their own resettlement.

This analysis is introduced by a discussion of the categorical and concretised dynamics of the main master categories of (new) post-dam land property in Section 9.2. This is followed by an elaboration

²⁹ I acknowledge Prof. Kurt Beck for suggesting this term and insight.

of the first theme, the categorical and concretised continuities and changes observed throughout the Manāṣīr in Section 9.3. The second theme, the dynamics of property making in the shadow of the law, is elaborated in Section 9.4. The conclusion offers some insights as to why the local option Manāṣīr prefer their self-directed efforts of resettlement to the state-built resettlement sites.

9.2 Categorical and concretised property dynamics in the local option Manāṣīr

The marked distinction in the adaptations undertaken by people in the lower and upper Manāṣīrland territories is due, at least in part, to the degree to which the land was inundated. The historical registered lands of the *sāqiya* and *ashau* have been eliminated by the reservoir in the lower territories and only partially inundated in the upper territories, where the categorical rights are still relevant and upheld despite changes to the concrete property objects. The detailed case study of al-Fūqqara (Chapters 5 to 7) showed how categorical and concretised continuity to the old *warītha* lands coexisted alongside the concrete changes to these lands which lay submerged for half the year. As highlighted in Chapter 8, this endurance of the old categories of land is likewise categorically maintained in other parts of upper Manāṣīrland despite being concretely transformed by the dam's reservoir.

New post-dam categories of land across both the lower and upper Manāṣīrland emerged in the reclaimed (*ḥajiz*) lands in the higher surrounding areas (referred to here as 'high lands') and in the new lands created by the receding reservoir (referred to here as 'lowlands'). These reservoir-created lands are referred to here by the type of cultivation practised on them — that of *salūka* cultivation. There are variations in both these new categories of 'high' and 'low' lands, as illustrated in the previous chapter and summarised in Table 9-1 below. For example, reclaimed high-lands vary from the small individually reclaimed lands for settlement and agriculture (as illustrated by al-Fūqqara hamlet in Chapter 6), to community-organised reclamation efforts for small agricultural projects (the hamlet of al-Ḥasanāb, described in Section 8.2.2), to the reclaimed lands of the medium and large-scale agricultural cooperatives described in Section 8.3. Similarly, the *salūka* lowlands vary from the privately claimed lands of fallen houses (*maḥal biyūt*) and new lands which were claimed through customary laws of *quṣād (arāḍī jadīda)* illustrated in al-Fūqqara, to the lands of fallen public institutions like hospitals and schools (*arāḍī ʿāma*) discussed in Section 8.2.3. The appropriation of public *salūka* lands varied as well; contrast the school lands in Kabna, which were distributed equally among the ʿAisāb hamlet's inhabitants, with the appropriation of the school lands in ʿAsma, which were claimed as a 'public right' (*ḥaqq ʿāmm*) to generate revenues for the public institutions. Table 9-1 below captures the breadth of the variety and lays the frame for the following sections to examine the emerging categorical and concretised dynamics in these lands and analyses the various continuities with and changes from historical (pre-dam) arrangements at both these layers of property.

Table 9-1: Summary of the general characteristics of the post-dam land property in the local option Manāṣīr and the various rights ‘bundled in’ to them

	Master Categories of New Post-Dam land property	General characteristics and the rights that are bundled in (according to the prevailing customary normative framework)
High lands	Small individual and community-driven reclaimed land	<ul style="list-style-type: none"> • Lands cleared and reclaimed in surrounding desert land • Customarily negotiated processes of land reservation—<i>hajiz</i> • Concrete actions justified on adapted categorical rules, such as the rule of ‘<i>quṣāḍ</i>’ and <i>wuḍ i‘yad</i>. • (exclusive) rights of ownership, possession, use and transfer for reclaiming social units and their immediate kin • Customarily considered as heritable property by descendants of reclaiming party • Not subject to the same <i>warītha</i> system of rights of the old categories of land • Ambiguity and uncertainty in the application of old customary rules lead to an atmosphere of disputes
	Medium and large-scale agricultural cooperatives	<ul style="list-style-type: none"> • Lands cleared and reclaimed collectively and allotted to plots to registering farmers. • Rights of use, possession, cultivation • May be passed down to descendants of right-holding social unit
Low lands	Private <i>salūka</i> lands	<ul style="list-style-type: none"> • Lands created by the reservoir’s sedimentation of silt on land of fallen houses (<i>maḥal biyūt</i>), or previously unclaimed land (<i>arāḍī jadīda</i>) • <i>Maḥal biyūt</i>—emerging customary rules that rights belong to the owners of the house or their immediate kin (see Section 6.3.3.1.) • Rights of ownership, possession, and use of the previous house owner and their immediate kin • May be passed down to their heirs • Right to exclude others from using it • <i>Arāḍī jadīda</i>— Rights of ownership and use established through concrete actions following their revelation after receding reservoir • Concrete actions justified retroactively on adapted categorical rules, such as the rule of ‘<i>quṣāḍ</i>’. • Ambiguity and uncertainty in the application of old customary rules lead to an atmosphere of disputes. (see Section 8.4.1)
	Public <i>salūka</i> lands	<ul style="list-style-type: none"> • Lands created by the sedimentation of silt on previous lands of public institutions (schools and hospitals) • Appropriated communally or appropriated for public purpose • If appropriated communally, rights resemble private <i>salūka</i> lands above • If appropriated for public purposes, sharecropping relations to cultivate and revenues from land appropriated for public purposes
	Old categories of ‘ <i>warītha</i> ’ lands in upper Manāṣīrland: <i>sāqiya, ashau, jarf</i>	<ul style="list-style-type: none"> • Stable plots with clearly bounded divisions appear seasonally when the reservoir recedes • Eligible heirs have all their rights bundled in these lands • Rights to <i>jarf</i> are shifting across the different plots, the rotational system of rights and similarly co-shared among eligible heirs • Continuity in historical divisions of rights and honouring the <i>warītha</i> property system

9.2.1 Small individual and community-driven reclaimed lands

Across the Manāṣīr affected by the reservoir, the most common adaptive response to the flooding of the reservoir has been to take to higher grounds and reserve land in the desert hills above their inundated lands. The process of land reservation and reclamation varied from one hamlet to the next,

yet this study has found that all concrete practices to be informed by the same underlying logic of existing customary categorical rules. Namely, the pre-dam social practices of *wuḍ i'yaḍ* (customary principle of prescription) and the rule of *quṣāḍ* (rule of adjacent or opposite) were the categorical basis upon which concrete claims were made. The variation in outcomes is a factor of the micro-local contextual factors through which the customarily negotiated processes unfolded. For example, the in-depth analysis of al-Fūqqara's process of land reservation, described as a chaotic 'scramble' for land, is contrasted with the experience of other places where the available land was communally reclaimed and divided equally among the remaining inhabitants, as was the case in Shirri. This was also reflected in the more regulated process in the hamlet of al-Ḥasanāb, where the community came together and collectively cleared the land for the establishment of a small agricultural project for '*khiḍair*' (growing green fodder) during the high-reservoir season. In the case of the latter, the presence of strong local leaders gathering in the mosque and spearheading the communal reclamation effort was an important factor in the establishment of the communal scheme. The absence of such leadership and direction in al-Fūqqara can be interpreted as one of the factors behind the 'free-for-all' land grabbing, which followed the immediate period after the flooding. As the inherent flexibility in the categorical customary institutional framework allows for a variety of concrete claim-making activities (which gain categorical recognition if not disputed), there is a range of potential interpretations of variations in the resulting property constellations of reclaimed lands.

One significant categorical change in these lands is that they are no longer '*warītha*'; that it is not subject to the same complex rules of inheritance and limitation of inalienability as the old freehold registered lands of the *sāqiya* continue to be treated in the upper Manāṣīrland territories. Another marked change is the increased importance of lands identified as either '*khala*' (unoccupied land/no man's land) or '*arāḍi hakūmīyah*' (governmental land) and which were previously considered undesirable and unusable wastelands. Whilst scholars have pointed out that the Manāṣīr always viewed the "wasteland as reserve land" (Hänsch, 2019, p.227), i.e., there for the expansion of their future settlements, the significance of these lands certainly seems to have grown in the post-dam era. Furthermore, although the practice of reservation and reclamation of lands has long been practised, the proliferation of these practices in the post-dam context and the increased importance of these lands through the proximity of water for irrigation brought by the dam's reservoir has categorically redefined the property object of reclaimed lands that were historically known to the Manāṣīr. This has also resulted in changes to the categorical customary rules and rights associated with them. For example, the customary rules of access were adjusted by restricting reservation activities within the boundaries of one's own hamlet, a rule which did not exist prior to the dam. Furthermore, the changing interpretations and applications of the customary rule of *quṣāḍ*, as evidenced by the competing understandings of the rules post-dam validity and the pre-eminence of the *wuḍ i'yaḍ* rule (Section 8.4.1), signify further categorical shifts.

Furthermore, the evidence gathered suggested there was a categorical shift in the statutory administration of these reclaimed lands, namely with respect to the absence of a state-based legal framework. As such, the tenure of new lands is only recognised on a customary basis and is not formalised. Unlike in the pre-dam era, there are no clear procedural directives to acquire formalisation

of land rights in this context. This represents a rupture at the categorical layer, with implications across the plural legal order which previously administered land rights (discussed further in Section 9.4).

9.2.2 Medium and large-scale agricultural cooperatives

Although not treated in great depth here, the evidence of the new post-dam agricultural cooperatives bears further witness to the dynamics of continuity and change. The existence of collectively reclaimed agricultural cooperatives in the historical experience of the Manāṣīr, as discussed in the example of land reclamation in Chapter 5, is a further example of the extension of concrete historical practices of property making into the post-dam period. While there were only a few such cooperatives historically, their expansion in the post-dam period, brought by the increased ease of irrigation due to the proximity of the dam's reservoir, is a significant development in the local option

These lands and the social units who make use of them hold rights of possession and use under the categorical customary system and, like the reclaimed lands discussed above, they represent a change in ownership structures away from the *warītha* system. Under the current ambiguous categorical framework and rupture with statutory systems caused by the dam, it is unclear how rights to these cooperative schemes will be administered in the future. Nonetheless, the expanded opportunities for access in the historically land scarce Manāṣīr is an important development. As in the historical example of al-Firsib cooperative, it can be assumed that the right-holding social units also can pass down their shares through inheritance to their descendants (Hänsch, 2019, pp. 249-252).

9.2.3 Private *salūka* lands

The new '*salūka*' lands created by the receding dam's reservoir are important categories of post-dam land as they expand the opportunities for access to non-*warītha* lands and enable new constellations of property to emerge. The private ownership of these lands, freed from the obligations of *warītha* that apply to the *sāqiya* and *jarf*, highlights significant categorical changes and heightens the value of these new property objects.

As the detailed account of how these lands were appropriated through concrete actions and the emerging customary categorical rules in al-Fūqqara revealed (see Sections 6.3.3.1 and 7.2.2.2), the new property objects of these lands in the absence of a clear categorical framework meant that concrete claim-making preceded and directed the categorical norms *ex post facto*. The Fūqqara case showed the variable customary categorical norms as they applied to these lands only when distinguishing between lands of fallen houses (*maḥal biyūt*) and the more ambiguous 'new lands' (*arādī jadīda*) which were previously unclaimed. In the case of the former, the evidence collected showed a unambiguous normative understanding that rights to these lands belonged to the house owners or their immediate kin. The ambiguity surrounding the latter suggests that concrete actions in the first years when these lands appeared conferred the categorical rights which were observed during fieldwork. These concrete actions were justified based on adapted categorical rules (*quṣād* and *wuḍ i'iyad*). Elsewhere in the Manāṣīr, there is evidence that the ambiguous categorical framework leads to a proliferation of 'seasonal disputes' during the low-reservoir season when these lands emerge (Section 8.4.1).

The contextualizing evidence of the Fūqqara's experience presented in Section 8.2.3 highlights how these new property objects are important across the local option and in many areas replace the former *sāqiya* summer cultivation of sorghum (Hänsch, 2019, pp.253-254). This is an important resource for women who can cultivate more than their historical *jarf* varieties. For example, the early recession of the reservoir in the lower Manāšīrland offers the possibility of cultivating wheat and *birsīm* (alfalfa), impossible in the historical *jarf*. While this was not explored further, it may be assumed that continued concrete use of these lands will confer greater categorical rights and, as in the case of reclaimed *hajiz* lands, these rights will be passed down to the descendants of the concrete social units.

9.2.4 Public *salūka* lands

The public *salūka* lands (*arāḍī ʿāma*) refer to the lands created by the receding reservoir on the lands of fallen public institutions like hospitals and schools. As the evidence in Section 8.2.3.1 highlighted, there was great variation in how these lands were appropriated, reflecting the unpredictable dynamics of concretised and categorical property under the conditions of the post-dam categorical ambiguity. Without a clearly defined categorical normative framework of how these lands should be dealt with, the emerging categorical rights to these lands were largely determined by the concrete practices of the social units in the hamlets in which they appeared, which were in turn influenced by specific contextual factors. The example of the school lands in ʿAsma which were publicly appropriated for the establishment of an agricultural scheme that would generate public revenue to benefit the school is contrasted with the experiences in Shirri and ʿAisāb, where land of fallen public institutions was communally appropriated by the members of the hamlet. In the case of ʿAsma's public *salūka* lands, these are categorically constructed as a 'public right' (*ḥaqq ʿāmm*) for which sharecroppers would be contracted to cultivate it for a share of the harvest. In contrast, in the case of Shirri and ʿAisāb, rights to these lands were communally appropriated by the hamlet's inhabitants and resembled the categorical rights of the private *salūka* lands discussed above. While in Shirri, the communal appropriation did not include those who held *warītha* rights to the *sāqiya*, in ʿAisāb, the appropriation and distribution of these lands among all the inhabitants regardless of whether they held *warītha* rights, highlights further contextual variations. The different experiences of ʿAisāb, ʿAsma, and Shirri demonstrate that important contextual factors at the local level determine the trajectory and nature of institutional responses. Therefore, it is crucial to understand the specific historical and social context of each community when analysing the micro-level processes of land appropriation and the resulting institutional responses.

The communal appropriation of the old school lands in Kabna, located in the hamlet of ʿAisāb, illustrated how categorical rights were conferred by concretised actions that are socially sanctioned and regarded as legitimate. This case highlights an important dynamic in the interactions between categorical and concretised layers of property which has only been alluded to thus far. Namely, it reveals how concrete actions and social practices are positioned in ways that are aligned with vague categorical norms, even in situations of normative rupture and the absence of clear normative frameworks. It is an interesting example of how social practice unfolds 'in the shadow of law'.

As the description of this process in Section 8.2.3.1 has shown, the initial concrete claims to these lands were made on a first-come priority basis among the hamlet members and soon became the

cause of frequent and recurring disputes. These frequent disputes made it difficult for the establishment of categorical rights, as the claims to the land were recurrently challenged. The categorical rights of the hamlet members were only conferred after a communal agreement was reached as to the fair appropriation of these lands and their distribution. It is indicative that the incentive to reach an agreement arose when the possibility of public appropriation (i.e., using the lands to develop an agricultural scheme that would be a source of public revenue) was suggested in a public meeting. Threatened with the possibility of losing any of the categorical claims and concrete rights of use they had, and to ensure that the inhabitants benefited communally from the acquisition of categorical rights, the inhabitants reached an agreement which would enable their concrete (and dispute-free) use of the land to be recognised as a categorical right. This took the form of the social practice whereby the nature of rights to these lands was concretely decided in the local forum of the hamlet's public space.

The remedial approach spearheaded by community leaders and the concrete activities of dividing and distributing the school lands could be viewed as anticipatory positioning in the social field of law.³⁰ Unlike the initial *ad hoc* individual and dispute-ridden claims in the initial years after the flooding, the subsequently adopted systematic approach better positions the members of the hamlet to gain categorical recognition of the concrete property-making practices, which are reached through mutual agreement and based on what is viewed as 'fair'. The evidence of how this process unfolded reveals how concrete practices of the measurement of the land, its division into plots and its allocation among the inhabitants of the hamlet represented a communally directed process of creating property with implications at the level of categorical and concretised property relationships. The importance of timing is illustrated by the experience of the 'Aisāb's hamlet's response. As one of the members who led the processes testified, he instigated the process of dividing the lands in haste after hearing discussion of the possibility of public appropriation. The communal concrete actions of the inhabitants in dividing the lands among them preceded the public appropriation of the lands, and subsequently conferred the categorical rights which legitimised their concrete claims.

Furthermore, the choice of including all the hamlet members, irrespective of whether they had a share in the *sāqiya* land or not, was justified by the different nature of the bundle of rights held to these public lands. The categorical rights created in these lands confer a different bundle of rights than those in the *sāqiya* land which are subject to inheritance (*warītha*). As in the reclaimed *hajiz* and private *salūka* lands, the nature of ownership as it pertains to these lands is not subject to the confining *warītha* system of the *sāqiya* and represents an important categorical shift. The next section discusses the dynamics of continuity and change in the land tenure adaptations across the local option Manāṣīr.

9.3 Continuity and change

The evidence considered in the preceding chapters clearly demonstrates that there are elements of the old land property system still present in the local option Manāṣīr, on top of the new system that is emerging. The examples of land tenure adaptations presented in the previous chapters show how

³⁰ I acknowledge Prof. Kurt Beck for suggesting this term and this insight.

local people attempt to maintain as much continuity with their historical system as possible, and where this is no longer feasible or practical, they adapt and change this system pragmatically to fit their new contexts. These dynamics are understood here in terms of ‘continuity and change’, though neither can be readily separated from the other. The continuity that is maintained is itself done so based on a new alignment with the changed physical post-dam circumstances. Likewise, the changes that are experienced draw on the existing customary categorical repertoire, making necessary adaptations to it. In other words, the dynamics of continuity and change at categorical and concretised levels of property are co-constitutive and do not fit neatly into different classifications of ‘things that stayed the same’ and ‘things that were transformed’. They are enmeshed through the interactions between the categorical and concretised layers of property that have contributed to the current configurations of land property rights in the local option Manāṣīr.

Dimensions of continuity are evident not only in the enduring elements of the historical system in upper Manāṣīrland but also in the various measures across the local option (upper and lower Manāṣīrland alike) through which adaptive responses were pursued within the framework of existing cultural practices, customary norms, and understandings. Where these practices, norms and understanding proved inadequate or irrelevant, they were reformed and updated with new understandings which emerged in tandem with the concrete practices that were pursued. As illustrated in the discussion above, the historical cultural experiences informed the innovations and adaptations. This was evidenced in the extension of the historical practices of land reclamation and reservation in the higher lands above their hamlets, and in the processes of appropriation and cultivation of the new property objects of the *salūka* lands created by the receding reservoir below their settlements. Whilst land reclamation was historically practiced in the Manāṣīr, these practices expanded, proliferated, and assumed greater importance in the post-dam period with significant categorical effects. As the pre-dam legal framework for reclamation is also transformed in the post-dam period, these concrete activities both draw on and reform the customary categorical rules of land reservation and reclamation.

The experience of the people in the hamlet of al-Fūqqara, is partially representative of the wider dynamics in the upper Manāṣīrland territories. The dynamics of continuity and change in the hamlet capture both the *enduring* elements of the historical land property system—seen in the concrete and categorical continuity in the rights to the old (pre-dam) categories of *warītha*, and the *innovations* to this system that have led to the emergence of a new land property system—through the concrete actions which led to the creation of categorical rights to the new (post-dam) categories of reclaimed and new *salūka* lands. The in-depth analysis of al-Fūqqara’s hamlet’s experience in Chapter 7 illustrated the micro-level dynamics of how these processes unfold. The partial inundation of the historical *warītha* lands can be interpreted to have been met with a certain ‘clinging to the old’ alongside the adaptive innovations and changes which enabled and directed the ‘emergence of the new’. At the categorical layer of property, the continuity with the historical property system is expressed in the enduring *warītha* rights to the agricultural lands of inhabitants’ forefathers. The fact that all the case study social units cultivated the same plots of *sāqiya*, *īdayg*, *ashau* and *jarf* plots following the dam as they had prior to its construction is a testament to the continuity of these rights—rights that have successfully survived submergence.

As discussed in Section 7.3, these rights to old lands are categorically maintained through the maintenance of the *'taq̄sīm al-jiddūd'*, or the divisions historically established by the grandfathers due to the variability in the land's quality before the dam. Yet, the function served by this division is no longer relevant in the post-dam context, the reservoir's silt sedimentation (*tammī*) having levelled the quality of the land. The insistence on maintaining this system by the inhabitants, validated with words such as *'sābit'* (established/ permanent and unchanging) and *'ma'arūf'* (known to all, well recognised), indicates the importance of maintaining symbolic ties to the old hamlet, even if only in the cultural imagination of the current inhabitants. This 'clinging to the old' serves as a stabilizing influence after the disruptions to the long-established rhythms and seasons of agricultural life along the Nile. Resistance to change in these categories of land reflects a broader adherence to social continuity that is symbolised in the *warītha* property system. Justifications that there is concern among the inhabitants in changing this system through consolidating plots that grouping them together might cause *'zulum'* (injustices) as people would start to feel that some had more than others, are indicative of the moral social function bestowed through this maintained continuity. Furthermore, there is a continued (if not heightened) importance of land and the social value attributed to holding it, which has always been deeply entrenched in this land-scarce region. Land remains valued not only for the material benefits it bestows but also for the social prestige and status that continues to be associated with it. This was illustrated for example, in the efforts made to defend categorical rights to the physically and practically insignificant *jarf* lands, which were desired for no other reason than *'zūma'* (see discussion in Section 6.3.3.1).

The clearest changes in the land property system are attributed to the visible changes in the hamlet's concrete property objects of the *warītha* lands and the uses of these objects. The loss of the ability to cultivate date palms on the *ashau* lands, the loss of the date palm property system itself, along with its associated social system of *'warītha'* or date inheritance, is a result of these concrete changes to the property objects brought by the reservoir. Furthermore, these changes necessarily entail a loss of the old ways of relating to the lands through the cultivation of three different seasons of grains and other subsistence and commercial crops. As mentioned, an important categorical change lies in the fact that the new post-dam categories of land (both the high-reservoir *hajiz* lands and the low-reservoir *salūka* lands of *maḥal biyūt* and *arāḍī jadīda*) are no longer subject to the old *warītha* system that apply to the *sāqiya*. For example, those social units which developed reclaimed agricultural schemes and invested them with year-long irrigation potential managed to cultivate date palms and unlike the old system of *'warītha'* that was associated with dates, the right to the fruits of these dates are held solely by the cultivating social unit and there is no obligation to share. Despite this, the 'culture of sharing' and moral code of the Manāṣīr means that harvests of date fruits are often still shared with immediate kinfolk.

Beyond the hamlet, continuity and change co-mingle in dynamic and varied ways such that the adaptative measures pursued are guided by the repertoire of historical cultural practices and norms. Their evidence shows a certain continuity in the underlying norms which informed the appropriation of new land for cultivation across the Manāṣīr as most if not all the concrete actions of claim-making were justified and defended by the customary laws of *quṣād* and *wuḍ i'iyad*. In upper Manāṣīr, the continuity in the sharecropping relations of production was also observed amidst the changes in the

lands on which these relations had historically found expression. Furthermore, there is a continuity in the logic of cooperation and partnership in the establishment of post-dam agricultural schemes of various sizes, despite the changes through which this logic is applied.

The customary land tenure system has been the basis for all the adaptations to the post-reservoir reality. This was flexible in its ability to rearrange the bundles of rights that the remaining local-option social units can hold with regard to the old and new property objects at the hamlet level. However, the existing customary laws and their interpretations were necessarily adapted in their applications to the post-dam context. The variations in the adaptations across different hamlets enabled by the flexibility of the customary system are clear through the variations in the resulting land tenure arrangements explored in the previous chapter. The variations are also evidenced in the various ways in which land-disputes were customarily settled as well as in the different approaches to appropriating public lands of fallen schools and hospitals.

The continued existence of this customary land tenure system is arguably the most significant continuity through which all the changes and adaptations were directed. The four dimensions which make up the “structural commonality” in customary tenure regimes which Wily (2017) identifies and argues are an important basis for their protection (reviewed in Section 2.3.3) are mirrored in the experience of the local option Manāṣīr’s defence of the customary basis of land tenure in their homeland. It also aids in our understanding of the categorical and concretised layers of property dynamics of continuity and change in land tenure adaptation in the local option elaborated above.

First, as customary tenure systems attribute rights based on the existence of a social community, they cease to exist in the absence of a community or a geographical space over which the norms of the community apply. The continued existence of *Dār al-Manāṣīr* guarantees the continued relevance of customary categorical norms, as evidenced by the continued relevance of *wuḍ i’yaḍ* in enabling property making in the unoccupied land through the concrete actions of reservation and reclamation. Furthermore, the successful struggle for the local option settlement and the continued presence of the Manāṣīr around the area of the reservoir guarantees the continued existence not only of their customary tenure system, but more importantly of their social identity. The most common justification given for the choice to remain was “*al-balad fiyha al-amān*—the homeland contains security/safety”. Considering the discussions in the preceding chapters on the dynamics of property making in the post-dam context, the ‘*amān*’ (safety or security) that was so often referred to takes on a different meaning. As the basis of this identity is inseparable from the ties to the homeland, the value of ‘*al-balad*’ goes beyond the merely physical value of the land and includes the social relations that are embedded in the land as well as the values of identity, belonging, and community. ‘*Amān*’ and ‘*balad*’ become almost synonymous and the continuity of the homeland’s existence is almost equated with the continuity of the Manāṣīr people.

Second, as the use of land (concrete social practices) in these systems dictates the norms (categorical rules), the changes in land use and its distribution have far-reaching effects in transforming these norms and as a result, the right to land of a community or its members can take many forms and shapes depending on current or planned uses. This is evidenced in the discussions on the dynamics and interrelations between categorical and concretised property in the preceding section. Concrete

social practices have categorical effects and the dynamics between both these layers of property account for the variation in post-dam land property constellations across the different areas of the local option.

Third, local communal jurisdiction, as opposed to external or state jurisdiction, most consistently constructs customary regimes. This jurisdiction is exercised in each hamlet through the concrete social practices of its members. The categorical norms which inform these practices (*quṣād* and *wuḍ iʿyad*) are also subject to the local jurisdiction at the hamlet level. This is evidenced by the variations through which different hamlets pursued adaptive responses. For example, the variations in the dynamics of the reclaimed (*ḥajiz*) lands in al-Fūqqara and al-Ḥasanāb as well as the *salūka* lands of fallen public institutions in ʿAisāb, ʿAsma and Shirri. Within the overarching categorical framework of customary laws, there are variations in local (hamlet-level) interpretations and applications. The challenge of ‘institution-making’ and particularly Hassan’s resistance to the widening of the jurisdiction beyond the local level of each community (discussed in Section 8.4.2.3) can be read (among the various complex reasons discussed in the section) in light of this aspect of the structural characteristics of customary systems.

Finally, what property and ownership mean in customary regimes are fluid, shifting, adaptable and dynamic, and depend on various factors, including the availability of land and the political climate. The preceding chapter’s analysis demonstrated this fluidity at concretised and categorical layers of property. The availability of the unoccupied wasteland *khala*, the increased concrete claim-making, the emergence of new customarily recognised property and ownership of these lands all demonstrate this shifting and adaptable characteristic of customary regimes. Furthermore, the implications of the political climate of the embattled relationship with the state over the contested local option settlement (discussed in Chapter 3), matters of compensation and the wider legal institutional ruptures (discussed in Section 8.4.2) have further implications for the meaning of property and ownership. These are explored in the following section.

9.4 Property making in the ‘margins’

The proliferated concrete activities of post-dam property making in the Manāṣīr through the reservation and reclamation of lands in the higher surrounding *khala*—‘no man’s land’ or ‘wasteland’), and the concrete claims to the *salūka* lands created by the dam’s reservoir occur without a clearly defined legal framework. While there is no existing statutory legal framework, as the previous section illustrated, concrete actions are nonetheless informed by the existing categorical customary institutional framework. However, the categorical ambiguity in the application of existing customary land laws such as the law of *quṣād* and *wuḍ iʿyad*, has led to an atmosphere of proliferated disputes, as discussed in Section 8.4.1. This suggests that the old categorical customary rules have not yet caught up with the concrete activities. As such, property-making occurs in the ‘margins’, or in the ‘shadow of law’. This is defined here in two ways. The first is the customary categorical margins, where the shadow of existing *customary* laws informs concrete actions. The second is the marginal space, where the vacuum of *statutory* law leads to an ambiguous legal space, in which anticipatory positioning in relation to the ‘shadow of (statutory) law’ can be a fluctuating concern.

Attempts to update the categorical framework to the post-dam situation through concrete social practices of ‘institution-making’ represented by Hamid’s proposal, failed to deliver a redefinition and reinterpretation of categorical property and perpetuates the marginal shadow spaces at both the customary and statutory legal systems.

The Merowe dam (and the process by which it came into being) has caused a rupture in the prior entanglement of the customary land system with state institutions and laws. Within the wider context of the embattled relationship between the Manāṣīr and the central state, resistance to the attempted ‘institution-making’ described in Section 8.4.2 can be understood as an expression of the desire among the Manāṣīr to maintain as much autonomy as possible from the formal state in matters of land tenure and governance. The resistance to the efforts made by some to re-establish and reintegrate the local land property system with the different state administrative bodies can be explained by the desire of some who wish to remain beyond the reach of the state, which in Sudan, has a bleak track record of respecting and upholding customary land rights.

As the Manāṣīr have historically always eschewed the formal gaze of the state and enjoyed the autonomy and freedoms which this entailed, the desire to keep the state ‘at arm’s length’ is understandable. They perceive the state not as a benefactor or service provider, but as a predator and threat and this has historically always been the case in the Manāṣīr as they have lived in relative isolation (as described in Chapter 3). The local option Manāṣīr thereby continue to retain a degree of autonomy and freedom by keeping the state at a distance, and property-making occurs in the margins informed primarily by historical customary laws (which at one point were categorical statutory laws of regimes past) .

This section discusses these dynamics by first looking at how the proliferation of post-dam disputes are managed in the absence of a clear legal framework (9.4.1) and second by exploring the thwarted attempts to create such a framework (9.4.2).

9.4.1 Customary dispute adjudication in the margins

Under the prevailing conditions of legal pluralism, the interweaving of state and customary institutions for dispute settlement continued into the post-dam context. However, the transformed concrete post-dam reality in which these plural categorical frameworks operate leads to a unique situation where disputes are settled in the ‘margins’ of both customary and statutory legal systems.

The first customary categorical margin is exemplified by the ambiguity of existing customary laws. A key example is the problematic nature of rule of *‘quṣād’*, or rule of adjacency. As discussed in Section 8.4, the ambiguity of this categorical property rule in the post-dam period and the different ways in which it is invoked to justify or contest different concrete actions is the cause of much of the disputes across the post-dam Manāṣīr. The ambiguity is complicated by the different customary and statutory interpretations of this rule that existed in the pre-dam period. The customary version of this rule in the Manāṣīr applies to lands adjacent to one’s own land in the opposite direction from the river; this would give the inhabitants at the far edge of the hamlet the priority right to make claims on the

governmental lands. However, the state-recognised version of this categorical rule applies to the lands that appear in the river, i.e., to the islands that are created by fluctuations in the river.

In the post-dam period, the evidence suggests that the customary rule of *wuḍ iʿyad* has gained pre-eminence over *quṣāḍ* as the proliferation of concrete claims on the unoccupied wasteland based on *wuḍ iʿyad* are categorically recognized at the customary level. Nonetheless, such claims are made with some observation of the *quṣāḍ* rule to ensure that they are not subject to being challenged and thereby threatened.

The statutory categorical margin is exemplified by the statutory legal system's limited ability to settle land disputes. The three main institutions of dispute settlement comprised of the customary institution of *jūddīya*, the popular committees (*lajna shaʿabiyya*), the local courts (*maḥkama ahalīya*) and the district and federal state courts continue to operate categorically. However, the practical ability of the higher-level state courts to rule on disputes is greatly limited by the absence of a legal framework suitable for the post-dam reality of lands. As the testimony of a key informant in Section 8.4.1 revealed, state judges are in a bind as there is currently no clear *qāʾidah qānūniya*—legal framework on which to base their judgements. This has effectively debilitated and immobilised the function of statutory legal systems such that all the disputes brought to the higher courts “*tanūm*—would just sleep” and be placed on hold indefinitely.

An interesting dynamic in this regard is how, under these conditions, local courts are quite able to continue to operate in this statutory categorical margin despite the challenges faced by the higher-level state courts. As they are subject to the same limitations of a lack of a legal framework, they are more able to adapt to the less differentiated categorical rules that are elaborated customarily and, consequently, are more able to reach a settlement. The incoherence in the categorical property guidelines (largely a result of the institutional rupture caused by the dam, as discussed in Section 8.4.2) has created a vacuum that the customary institutional processes have, in practice, filled. Foremost among these processes is the customary mechanism of mediation known as ‘*ṣulḥ*’ (or appeasement/peaceful arbitration), whether practised by the *jūddīya*, local courts or popular committees. The evidence and testimonies of informants underscore the importance of concrete customary practices in resolving disputes and maintaining social order without a clear categorical framework.

This limitation of state institutions in settling post-dam disputes and the ensuing empowerment of customary institutions was best exemplified in the case of the dispute on the island of Dirbi. As explained in Section 8.4.1, this rather serious dispute concerned the inhabitants of the submerged island who resettled on the western bank, living among the host communities. The escalation of the dispute and the involvement of violence eventually brought the district court judge, who dealt with the criminal issue of violence but was unable to make a ruling on the land issue. It was only resolved through the (repeated) efforts of the *jūddīya*. The various testimonies emphasised how these institutional processes are more attuned to the concrete social realities.

Despite the adaptability of the customary mechanisms of *ṣulḥ*, there are considerable variations across the contexts of every village council, and even across hamlets, in how these disputes are settled. While

some see this as an advantage, arguing that the flexibility of customary mediation is an asset that allows it to be adjusted in a way that best suits the specific environment of the dispute, others see it as a grave limitation, and argue that the incongruences cause an escalation of the land problem, further emphasizing the need for a more comprehensive categorical solution. The following section analyses the implications of the failed attempt to reach such a solution.

9.4.2 Institutional rupture and Hamid's failed proposal

Hamid's proposal, pitched during a symposium of the members of all the popular committees across the Manāṣīr, was an attempted process of 'institution-making' whereby the harmonisation of the institutional responses to land issues might ultimately lead to a codification of categorical post-dam land property rules. As an example of the concrete social practice through which categorical property is redefined, the case highlights how contentious and politically charged such processes can be. As discussed in Section 8.4.2, this proposal was prematurely thwarted and rejected. The failure of the meeting and its subsequent eruption into chaos is indicative of the instability and sensitive nature of the current configurations of categorical and concretised land property relations in the Manāṣīr. The customary categorical margin whereby concrete property making occurs in the shadow of existing customary laws, and the statutory categorical margin represented by the shadow of the ruptured legal-institutional framework persist in the face of the failed attempt at 'institution-making'. To better analyse these interpretations, it is helpful to delineate what implications to categorical and concretised property relations would have been had the proposal been successful.

At the categorical layer, Hamid's proposal would have initiated the codification of a new set of laws, applicable to the post-dam context, which would have filled the current shadows in both the customary and statutory legal frameworks. At the statutory categorical level, this elaboration of new categorical property laws would then have served as a basis upon which formalisation of tenure (*taqnīn*) could be established. Furthermore, a clearly elaborated legal framework would have meant that the state judges would have a clear basis on which to adjudicate land disputes. At the customary categorical level, it would have resolved the current ambiguity in the categorical rules, which is the primary cause of disputes, such as those concerning the *quṣād* rule discussed above. It would have also created a unified framework against which issues such as how to deal with lands of public institutions could be uniformly settled.

At the concretised layers, these formalised categorical norms could potentially oppose existing concretised land claims that have been made in the shadow cast by existing customary laws and the rupture of statutory law. For example, the different ways the school lands were concretely appropriated in ʿAisāb, Shirri, and ʿAsma may be challenged by a unified categorical framework which applied to these lands. Furthermore, if the proposed legal framework were to settle the current ambiguity around the *quṣād* rule by affirming its validity in the reclaimed lands, this would inevitably threaten the concrete claims based on *wuḍ iʿyad*, which violate these rules. Likewise, if it decided that *quṣād* no longer applied and *wuḍ iʿyad* was categorically empowered, it would limit the current ability to dispute claims by invoking the rule of *quṣād*.

Given these concretised implications, the common interpretation among those present at the failed meeting point to speculations that those involved in instigating the failure are those who are concerned that their current concrete claims (which are currently categorically recognised) would be threatened should an alternative categorical formulation of legitimate land claim-making be elaborated. This highlights both the concretised benefits of remaining in the margins and maintaining the categorical indeterminacy, as well as the serious challenges and complexities involved in reconciling these through processes of ‘institution-making’.

9.5 Conclusion

The Manāṣīr, who have always cherished land and were historically confined to fragmented shares on the *warītha* lands have, amidst the devastating loss of their pre-dam ways of relating to land, enjoyed burgeoning opportunities from the new post-dam lands. Considering all the new categories of post-dam land property and the expanded opportunities for property making in the local option, the choice of self-directed settlement seems a favourable and reasonable one. One of the most common reasons provided for the choice of the local option was that “land in the Manāṣīr is free” (Section 6.2.1). When weighed against the commodification of land elsewhere in Sudan, this free access to land was often considered in the context of meeting present needs but more importantly, in the forecasting of future needs. Reflecting on the Manāṣīr counterparts who moved to governmental resettlement sites, a common narrative was that in the *balad*—homeland, they are always able to reserve and clear a plot of land for their married sons and the expansion of their families for generations to come.

As the analysis in this chapter has highlighted, the basis of this “free” access to land is the continued existence and relevance of the customary land tenure system, one of the most essential continuities guaranteed through local option settlement. Although the customary categorical system is undergoing a transformation in adapting to the post-dam reality, it continues to enable the possibilities of concrete property-making in the post-dam period. As the concrete social practices of property making and the new emerging concrete property constellations reform and update the customary categorical norms, the customary land property system has proven to be flexible, adaptable, and amenable to the post-dam reality. The wide range of local-level property constellations is primarily enabled through the local-level communal jurisdiction of the customary land property system, which is variable even at the hamlet level. Each hamlet can determine the course of its land tenure adaptations in ways fitting with its specific contextual factors. The freedom, flexibility, adaptability of this system, and the security of the extension of this into the future are important factors which explain the preference for self-directed resettlement in the homeland.

Chapter 10: Post-dam land property dynamics of the local option Manāṣīr

10.1 Introduction

The central research question that this study addressed is: ***How do local people adapt their land property system in contexts of dam displacement where formal resettlement is rejected in favour of self-directed (re)settlement?*** The case study methodology drew on the experience of the local option Manāṣīr who resettled themselves along the shores of the Merowe dam reservoir. It focused on the experiences of one hamlet located at the tail end of the reservoir to examine the micro-local level dynamics of change and adaptation. The hamlet of al-Fūqqara in Kabna was only partially inundated and was therefore selected for the insights it offers into the dynamics of adaptation as the historical (old pre-dam) land property system coexists alongside the (new post-dam) adaptations to this system.

The Fūqqara's experience is by no means representative of the experience of all the local option Manāṣīr, particularly as the communities in the lower Manāṣīr territories experienced a complete break with the historical system which predominated before the construction of the dam. Nonetheless, the hamlet reveals some of the dynamics in the upper Manāṣīrland territories and is also valuable as an "intrinsic case study" since it enables significant insight into how these processes evolve at the most immediate level of the hamlet. Furthermore, the contextualisation of the in-depth analysis in al-Fūqqara with developments in other parts of the Manāṣīr has shed light on the general processes and dynamics of land tenure adaptations across the Manāṣīr, a process which is still very much in the making.

By examining the adaptations of land rights, driven by customary institutions in the post-dam context, this study has shed light on why many dam-affected people prefer to try to exert some control of their fates by pursuing a 'local option'. They retain their customary land tenure system and create new property constellations out of the available unoccupied land, which was regarded as wasteland/reserve land, in their homeland. The evidence and analysis in the preceding chapters highlight why local people prefer to stay and pursue self-directed resettlement rather than be uprooted and dependent on the uncertain, impersonal, and arbitrary vagaries of government-built and administrated resettlement villages.

The adopted theoretical framework of property (outlined in Section 2.5) enabled rigorous analysis of the transformations at the local level land property system in the hamlet of al-Fūqqara by distinguishing between categorical and concretised land rights and relations. Tracking the dynamics of land tenure adaptations was further aided by conceptualizing property constellations, composed of the three constituent elements of social units, rights and obligations and property objects.

The analysis drew on evidence beyond the hamlet of al-Fūqqara to locate the case study within the transformations happening throughout Manāṣīrland. It illustrated the variations in the adaptive responses across the different areas of the local option, distinguishing between the lower Manāṣīrland territories where the old *warītha* lands no longer exist and the upper Manāṣīrland where they still

bear some relevance. Across the local option Manāṣīr, it revealed how the customary land property system is created by local communal jurisdiction, which varies from one hamlet to the next, resulting in different processes and outcomes of land tenure adaption.

This final chapter concludes this study by addressing the specific research questions introduced in Chapter 1:

- 1) How do the Manāṣīr along the Merowe dam's reservoir relate to land after being forcibly displaced and not formally resettled?
- 2) What are the land tenure dynamics of their informal settlement along the reservoir?
- 3) How have the historical land tenure rights and land tenure system of the local option Manāṣīr been transformed in the aftermath of the Merowe dam and the inundation of land?

The first section summarises the key finding of this research (Section 10.2) and highlights its contributions to the enduring blind spot in dam-displacement literature around self-settlement. The main contribution of this research is the insight it generates into why dam-affected people resist displacement and why struggles against displacement are rightfully framed as struggles over land (Section 10.3). Extrapolating from these contributions, some insights are offered for the development of resettlement policies that honour the attachment to customary land tenure systems, which are often neglected in the current policy planning focus on resettlement and rehabilitation (Section 10.4). Finally, the limitations of this research are discussed (Section 10.5) before some closing remarks are offered (Section 10.6).

10.2 Summary of key findings

The evidence and analysis in the preceding chapters have illuminated how the Manāṣīr, who have resisted formal resettlement and settled along the Merowe dam's reservoir, adapted their land property system after being flooded out. The primary means through which the process of land property systems adapt are through the actions and the concrete social practices of local people. These practices are informed by existing local categorical customary frameworks drawn upon and adjusted through various actions of inhabitants across the different local option areas. The analysis in the preceding chapters revealed how this dynamic between concretised and categorical property unfolds. Existing categorical customary rules and understandings informed concrete social practices that reformed and updated those understandings. This dynamic process is still very much underway as the processes of land tenure adaptations continue to evolve in the local option, even at the time of writing 15 years since the flooding of the Merowe dam. This section summarises the key findings of this research. It first addresses the three main sub-research questions stated above. Then it returns to the overall question stated above by reflecting on what the case of the local option Manāṣīr reveals about how local people adapt their land property system in contexts of dam-displacement where formal resettlement is rejected in favour of self-directed (re)settlement.

1. *How do the Manāṣīr along the Merowe dam's reservoir relate to land after being forcibly displaced and not formally resettled?*

The Manāṣīr along the Merowe dam's reservoir continue to relate to the land of their ancestors by occupying it and, through their occupation, securing it for generations yet to come. Despite all the changes in land tenure adaptations illustrated in the previous chapters, more fundamentally, the Manāṣīr people continue to relate to the land as they have always done, as their homeland—*al-balad*, a safe haven from the outside world. The existential continuity of *Dār al-Manāṣīr*, the historical homeland of the Manāṣīr people, is not only guaranteed by the local option settlement, but it is also the basis of the construction of their new post-dam lives along the reservoir. The continued existence of the territory is intimately tied to the existential continuity of the Manāṣīr people. As such, the sustained sentiments of associating land with identity, family, belonging, safety, and security, is one of the most important continuities in how the Manāṣīr people relate to the land after being forcibly displaced and not formally resettled.

As the Manāṣīr have always viewed the “wasteland as reserve land” (Hänsch, 2019, p.227) it seems only fitting that the unoccupied *khala* land in their territory beyond their original hamlets is the basis of their post-dam settlements as the Merowe dam's reservoir displaced them further into their ‘reserve’ territories. Across the local option, the unilateral response to the flooding has been to take to higher grounds in the surrounding desert hills, re-establish their settlements, and adapt their agricultural practices to the new post-dam reality. Under the conditions of legal pluralism, this unoccupied desert land is viewed by the government as state land. This however, of little to no significance to the Manāṣīr, who view it as their Manāṣīrland territory and continue to treat it as such.

Considering this major continuity, the emerging post-dam land relations drew on the historical repertoire of cultural practices to adapt to their new post-reservoir existence in the local option. The clearest example of this is the proliferation of post-dam land reservation and reclamation practices. Whilst land reclamation was always historically practised, it expanded in the post-dam period and took on various forms. These ranged from individual and small community schemes to the establishment of larger agricultural cooperatives. Historically, land reclamation in the land-scarce Manāṣīr was a means of increasing land shares as family sizes (and co-inheritors in existing lands) expanded. Presently, it is one of the most important means through which local option Manāṣīr restored their agricultural livelihoods and kept their livestock alive after their agricultural lands were lost to the dam's reservoir. Though this practice became more prevalent in the post-dam period, with significant transformations at the layers of concretised and categorical property, discussed further below, it has historical precedence.

This historical experience and repertoire of cultural practices of the Manāṣīr were drawn upon to innovate, extend, and experiment in the adaptations to the post-dam reality in myriad ways. The emergence of agricultural cooperatives described in Section 8.3 is a further example of this. Whilst only a few such cooperatives existed in the pre-dam period, the already existing cultural knowledge and experience were drawn upon and informed the extension of these into the post-dam period. Furthermore, flood recession agricultural practices, which historically were confined to the seasonally appearing *jarf* lands, are now practised on the various new categories of ‘low-reservoir season’ lands. In upper Manāṣīrland, these new lands exist alongside the historical *warītha* lands of the *sāqiya* and *ashau*, which are revealed by the receding reservoir. In lower Manāṣīrland, where the old *warītha* lands never reappear, this is practised on the *salūka* lands created by the dam's reservoir.

The basis of these adaptations was through customary land tenure institutions and institutional mechanisms, which are the most relevant at the local level and through which the local option Manāṣīr continue to relate to the land. As the evidence in the preceding chapters highlighted, these institutional mechanisms enable a wide variety of possibilities for the construction of property and have proven to be fluid, flexible and amenable to the various local contextual factors at the hamlet level. The detailed description and analysis of how the Manāṣīr in al-Fūqqara turned to the unoccupied *khala* beyond their inundated agricultural lands and the process of land reservation and reclamation, which unfolded as a ‘scramble’ for land, contrasts with the experience of the neighbouring hamlet of al-Ḥasanāb. Here, strong community leaders in the hamlet directed a communal land reclamation process for the establishment of a community agricultural scheme. The process of individual land reclamation in al-Fūqqara was sparked by those first to be affected by the flooding. These ‘first-comers’ initiated a ‘scramble’, and others in the hamlet followed suit. Chapter 6 described in detail how this process unfolded and was negotiated between the ‘first’ and ‘late’ comers to the land reservation process. As customary land tenure institutions are most consistently constructed through the local level communal jurisdictions, the variations of the different local option communities’ adaptations are explained by these types of variations in the contextual factors in these communities, such as the extent, severity, experience of and reactions to the initial flooding, the relationships between the members of the hamlet, and the presence of local community leaders and influential figures. The variations in the local level customary institutions are also apparent in how the lands of fallen public institutions in the hamlets of ʿAisāb, ʿAsma and Shirri were customarily appropriated and the resulting concrete and categorical property rights which emerged, as discussed in Chapters 8 and 9.

2. *What are the land tenure dynamics of their informal settlement along the reservoir?*

The analysis of the land tenure dynamics of the local option Manāṣīr in the preceding chapters revealed the various ways through which access to land is negotiated and turned into property. This occurred through concrete practices which drew on existing customary categorical norms that were themselves updated and reformed in the process. Rights to new lands were historically usually established based on these two customary rules of ‘*ḥaqq al-quṣād*’ and ‘*wuḍ iʿyad*’. As described in Section 5.2, the *quṣād* rule gives priority of claiming land that is adjacent to one’s own plot, whereas ‘*wuḍ iʿyad*’ is similar to the legal principle of prescription whereby the right to a plot of land is granted on the basis of peaceful, uninterrupted continuous use. The application of these two rules in the post-dam period has resulted in various adaptations and changes to the categorical and normative understandings. For example, the *quṣād* rule historically was applied to claiming land in the outermost unoccupied lands beyond one’s *sāqiya*. The relevance of this rule in the post-dam context of proliferated land reservation and reclamation is diminished, and the rule of *wuḍ iʿyad* predominates. As illustrated in the discussion in Section 8.4.1, the increased land disputes in the post-dam period often rule in favour of claims made under the *wuḍ iʿyad* rule. Those with the means to do so were swift in ‘placing their hands’ on land for cultivation. If the land claimed was adjacent to (*quṣād*) another and this led to a dispute, the evidence suggests that there is a higher likelihood that the swift cultivators’ rights would be recognised. Nonetheless, the direction of *wuḍ iʿyad* claims is directed by *ḥaqq al-quṣād*, as evidenced by the movement of hamlets uphill. The observation of the *quṣād* rule is

evidenced in the normative claims of inhabitants that land can be claimed through *wuḍ iʿyad* so long as it is not *quṣād* another's (as discussed in Chapters 6 and 8). Therefore, these two rules more or less go together as one can claim land that is adjacent to them, in their *quṣād*, by reserving it and cultivating it (*wuḍ iʿyad*). Furthermore, whilst *wuḍ iʿyad* historically was not confined to one's own hamlet, post-dam, there is evidence of this changing to be "*quṣād ḥilatak*" limited to the opposite direction of one's own hamlet.

The ethnographic evidence from al-Fūqqara in Chapter 6 illustrated the micro-level processes of this dance between concrete practices and categorical normative understandings. In al-Fūqqara, the period immediately following the flooding witnessed a flurry of concrete property claim-making amongst the hamlet's inhabitants in a 'scramble' to reserve land in the higher surrounding areas (described in Chapter 6). These activities resulted in new categorical rights in the reclaimed and reserved *ḥajiz* lands being asserted. While the emergence of categorical rights to these newly reclaimed lands was primarily driven through the concrete actions of the members of the hamlet, their actions were nonetheless directed by observing the existing customary categorial framework (namely the inhabitants' interpretations and applications of the existing customary land norms of *ḥaqq al-quṣād*' and '*wuḍ iʿyad*'). The process as it evolved in al-Fūqqara reveals one example of the micro-level processes of how the interrelationships between the two layers of property are expressed. Namely how concrete actions are directed by categorical norms and how categorical rights emerge and become legitimated because of concrete claim-making activities. The concrete property making through reservation and reclamation of land in the higher surrounding areas of the hamlet was justified and legitimated through existing categorical customary norms. These norms are articulated through practice and, as a result, take on new meanings.

Likewise, with regards to the new *salūka* lands created by the receding reservoir, categorical rights emerged because of the concrete actions of cultivation in the first years when these lands emerged, which in themselves were directed by categorical normative understandings. Evidence from al-Fūqqara reveals how the unambiguous normative understanding that rights to the land of fallen houses, *maḥal biyūt*, belonged to the house owners or their immediate kin, contrasted with the more ambiguous new lands *arāḍi jadīda*, which despite being *quṣād* (adjacent to), the Fūqqara's *sāqiya*, where claimed by members of the Nawāwīr hamlet as it lay *quṣād* the land of their fallen houses. Similarly, the categorical ambiguity regarding the land of fallen public institutions has led to a dynamic whereby the concrete actions of inhabitants where these lands emerged have categorical effects. The detailed account of the fallen school lands in Kabna illustrated how the concrete actions of the members of the ʿAisāb hamlet in claiming and dividing these lands resulted in the establishment of categorical rights. It is important to note that concrete practices such as these, in the absence of clear categorical frameworks, are made in anticipation that claims to the land will not be challenged. As the process of dividing and distributing the school lands in ʿAisāb illustrated, the frequent disputes and disagreements of individual claims to the land in the first few years after the flooding increased the threat that all claims would be challenged and revoked. The lands would then be appropriated instead by the public institutions (becoming a public right *ḥaqq ʿāmm*), as was the case with the school lands in the hamlet of ʿAsma. This threat of challenging concrete claims encouraged the emergence of a

communally regulated process of concretised claim-making whereby the land was divided and fairly distributed to all the members of the hamlet, described in Section 8.2.3.

To sum up the land tenure dynamics of the local option Manāṣīr, concrete actions of reserving and reclaiming the wasteland above the old hamlets result in the emergence of new concrete rights of exclusive possession and use of land. The longer these concrete rights are exercised, the greater legitimacy these rights gain at the categorical level. The same applies to the new concrete rights created through claiming, appropriating, and cultivating the new *salūka* lands created by the receding reservoir below their settlements. Concrete social practices have categorical effects. New categorical rights of transfer, inheritance and ownership of these newly concretely claimed lands can be expected to emerge in the future.

There is another dynamic of land tenure adaptations as it relates to the institutional ruptures caused by the Merowe dam. The analysis revealed the primacy and predominance of customary institutional mechanisms. While the historical conditions of legal pluralism still exist to some extent, the institutional rupture caused by the dam and the yet unsettled matter of compensation creates an atmosphere of great ambiguity, which enables various opportunities for property-making to emerge in the shadow of the law. The disentanglement from statutory systems represented through the institutional rupture caused by the dam and resistance to the formalisation of an institutional framework for post-dam land tenure were discussed and analysed in Chapters 8 and 9.

The Merowe Dam created a rupture in land institutions at this level as the Law of Compensation and Resettlement of 2002 confiscated all the lands around the Merowe Dam for the public purposes of the dam's construction. Following the political resistance of the Manāṣīr in favour of the local option settlement, presidential decree No. 70 returned the land around the reservoir, what was referred to as '*ma mūtabaqī*'—what is left unaffected by the dam, to the Manāṣīr for the development of the 'local option'. However, the return was without further measures which stipulate the way in which land matters over these territories should be governed and without resolving the issue of land compensation.

There are two important categorical implications in this regard. The first is that in the case of the state-based formulations of categorical land rights, there is no existing elaboration of rules for allocating rights to the new categories of lands, no procedures for the formalisation of post-dam reclaimed lands, and no legal framework for the adjudication of disputes. The second is that this gap in the state-based categorical legal order is filled by the customary formulations that were expressed largely as the normative assertions and interpretations of existing customary norms and rules. These norms guided ad hoc decision-making in the aftermath of the flooding. As such, the categorical rights to the 'new' categories of post-dam lands in the local option are justified by the normative assertions that the hamlet's inhabitants made to legitimise their concrete actions. These assertions were, in turn, informed by interpretations of the already established customary categorical rules as well as agreed-upon notions of fairness.

Furthermore, the administrative restructuring (through the creation of a new Administrative District around the Reservoir— '*Maḥallīyya Ḥawwal al- Buḥāira*') has yet to address the land issue, and there

is no current Department of Lands presence in the Manāṣīr. Decree no.70, the administrative restructuring and the pending land compensation matters, resulted in a gap in the legal framework over land matters, as the pre-dam legal/institutional procedures around land right formalisation and dispute settlement have come to a standstill in the local option. In light of this institutional rupture, the customary mediation mechanism of *ṣulḥ* assumed precedence in settlement of disputes. The emphasis on the *ṣulḥ* serves a valued practical purpose for the rapid management and settlement of disputes after the dam, as in the absence of a legal framework, cases taken to the formal state courts would be filed indefinitely. Attempts to bridge the legal and institutional gap through the development of a proposal for a comprehensive new land law (Hamid's proposal) failed to manifest in the face of the overwhelming resistance to the formalisation of land issues. The reasons for this resistance, discussed in Chapters 8 and 9, relate to the threats this would pose to the current opportunistic concrete property-making and a desire to maintain as much autonomy as possible from the state.

3. *How have the historical land tenure rights and the land tenure system of the local option Manāṣīr been transformed in the aftermath of the Merowe dam reservoir and the inundation of land?*

The historical land property system of the Manāṣīr described in Chapter 5 has undergone a radical transformation despite the enduring elements of this system in upper Manāṣīrland. The in-depth detailed ethnographic evidence from al-Fūqqara in Chapters 6 and 7 illustrated the extent of its endurance at the categorical level and the transformation at the concretised level of property. In al-Fūqqara and across upper Manāṣīrland, the historical *warītha* lands continue to have relevance for the inhabitants and categorical rights are still upheld despite the changes to how these rights are concretely practised. During the *low reservoir season*, when the reservoir recedes, the reclaimed plots in al-Fūqqara are largely abandoned as the focus of activity returns to the historical agricultural lands of the hamlet. These retain the same historical categorical rights and concretised divisions of the lands among the resident households of the hamlet, albeit with different concrete uses of these historical lands. No longer resembling the historical irrigated lands, the *warītha* lands of the *sāqiya*, *ashau* and *jarf* are now administered as flood recession lands, as they are only revealed when the reservoir recedes.

The continued existence of this system in the upper Manāṣīrland is met with new opportunities for non-*warītha* property making across the upper and lower territories alike. The new categories of post-dam lands in the reclaimed lands above and *salūka* lands below represent significant categorical shifts to the Manāṣīr who were historically confined by the *warītha* system and the complex rules of inheritance. One important way in which the nature of the rights to these new post-dam lands are categorically distinguished from the rights to the old categories of pre-dam lands is that these lands are individually owned with no obligations to distribute the rights to them among the members of a sub-descent group—expressed as “*bigat mā warītha*”—are not subject to the *warītha*” and are freed from the co-sharing obligations of inheritance which still apply to the old-lands of the *sāqiya*, *ashau*, and *jarf*. This categorical trait indicates the shift towards a land property system which is liberated from the confines of heritable subdivisions and the resulting fragmentation of shares, potentially signalling a shift towards more individualised forms of ownership. Whilst we still do not know how

these lands will be inherited in the future, it can be assumed that they will be passed on as per the customary and Islamic laws of inheritance to eligible heirs of the current right holders.

How do local people adapt their land property system in contexts of dam displacement where formal resettlement is rejected in favour of self-directed (re)settlement?

In addressing the above overarching research questions, this exploratory case study research has revealed that local people adapt their land property system in contexts of displacement without formal resettlement through concrete actions and social practices of property making. These are directed by local-level customary categorical norms and understandings, which are themselves updated and reformed by these concrete actions. They adapt through the dynamic interactions of property at both these layers of social organisation (categorical and concrete), which take on new forms in the process of adaptation.

In the case of being displaced by a dam's reservoir, the initial concrete actions are those of survival, taking to higher grounds to avoid being flooded by the rising water. This process of escaping the deluge sparks a process of concrete claim-making on surrounding lands. This is followed by a longer process of re-establishing livelihoods after the loss of productive agricultural land and resources to support themselves and feed their livestock. These concrete actions of reservation, reclamation, and occupation of land for the re-establishment of life are informed by the existing categorical norms at the local level of the community, and in the process of the new and changed concrete land use patterns which emerge, these norms take on different forms and meanings.

These dynamics of land property system adaptations serve wider social and political ends of ensuring continued territorial occupation for future generations and preventing the loss of territorial claims to ancestral lands. The case of the local option Manāṣīr suggests that analogous processes may be present in other contexts of dam-displacement whereby resistance to displacement and resettlement reflect deeper sentiments of resisting being alienated from one's homeland.

10.3 Significance and contributions of this research

Whilst dam displacement is a social phenomenon which has been heavily studied, there is an enduring absence of research into cases where the affected people reject formal resettlement schemes in favour of self-directed (re)settlements on the edges of their inundated lands directed through their own customary institutions. The central shortcoming in dam-induced displacement and resettlement literature is a lack of in-depth investigations not only of these cases but also of land issues and, consequently, an insufficient understanding of the land-based relations of the displaced in their original contexts and in the new resettlement contexts. Frequent references to the submergence of land, the loss of property and common property resources, and the inadequate attention to and compensation of customary land rights have paradoxically not led to a greater in-depth analysis of the land tenure dynamics. This research makes an important contribution in highlighting this blind spot and directing attention to why dam-displaced people frequently resist resettlement and prefer to 'stay behind'.

The autonomous, self-directed settlement of the Manāṣīr's local option exemplifies the freedoms and opportunities which local people value and willingly fight to defend when threatened by development-induced displacement and state-driven resettlement schemes. These freedoms, articulated in customary land tenure systems, are otherwise subsumed under statutory systems, through which affected people would become subjects in state-built resettlement sites.

This research made some significant strides in understanding processes through which a community exercises agency to 'self-resettle' after displacement, focusing particularly on land tenure dynamics. This study shows how communities exercise agency to restore their livelihoods and determine the trajectory of their existence after being forcibly inundated. Customary tenure systems and associated customary authority structures are often viewed prejudicially by modern states as traditional, premodern relics. Nevertheless, we see in this case how they are valuable cultural resources which communities draw and rely upon in their adaptations to displacement, in ordering their social worlds, strengthening community cohesion and assuring more equitable outcomes (Alden Wily 2017; Toulmin and Quan, 2000).

Dam-displacement research has for far too long been dominated by the state-centric reformist managerial approach, which seeks (and is almost exclusively obsessed with) policy-oriented research that can inform 'successful' resettlement (i.e., state subject-making) projects. This research problematises the underlying assumptions that it is ethical to support state subject-making in this way, questions state resettlement policy, and recognises the great value local people typically place on defending their agency and freedom in the context of major infrastructure projects. This has been a study of displacement from below, as opposed to the top-down state-centric view of displacement. Understanding why people resist formal resettlement projects and investigating various alternatives to formal resettlement that they develop following their displacement can lend crucial insights to policy and planning – particularly the importance of inclusive, deliberative processes engaging communities.

In this case, we have seen how the ability of the local option Manāṣīr to exercise agency both collectively and individually in a manner which navigated the challenges of both government planning and environmental change bought on by the creation of the reservoir led to the community making the most out of the possibilities, whilst preserving the community identity and cohesion. I have no 'counterfactual' resettled village to compare this 'local option' with, but having interviewed a few Manāṣīr in al-Mukabrab resettlement villages in 2013 prior to conducting this research, it was clear the social disarticulation which resulted from their move was weighing down on them.

The struggles and challenges of adapting to life on the reservoir remain ever-present, especially in the face of continued neglect state and inadequate service provision. Those local option Manāṣīr without economic ties outside their territory struggle to survive on the adapted agricultural practices. Life is difficult and made even more difficult by failed state institutions and systems of accountability. Poverty and human misery are still widespread, and injustices are a daily occurrence. Despite the empowering experience of self-settlement and community cohesion in defence of the homeland, there is still much work to be done to ensure better development outcomes.

10.4 Policy recommendations

The most significant contribution this research can make to development-induced displacement and resettlement policy and planning is to centre the protection and continuity of the customary systems of land tenure which are displaced by development projects. It is not enough to enumerate the land properties which were held under these systems and to find ways of compensating them; the system of customary tenure itself must be maintained and considered in resettlement planning.

As customary tenure institutions are the primary mechanisms through which local people adapt their land tenure system in the context of displacement with or without formal resettlement, these institutions need to be an integral part of any resettlement planning. Current emphasis in resettlement policy on compensation for lost property assets rather than rights regrettably only considers those with formal legal titles and, as such, only recognises individual claims of registered ownership (Bartolome *et al.*, 2000). This effectively denies the entangled and embedded rights conferred through customary systems to land access and use. Policymakers should place greater emphasis on understanding how these systems function at local levels. Resettlement policy planners should move beyond the land-for-land compensation and resettlement model and develop alternative models which enable the continuity and integrity of these customary land tenure systems to exist.

10.5 Limitations, shortcomings, and avenues for future research

As with any study, this study has necessarily involved choices and has been constrained by time, resources, and expertise. The study has been conducted by a single PhD researcher within a multi-disciplinary 'international development' framework, focussing on property transformations, and selecting an in-depth qualitative case study approach to understand the process, over a comparative multi-site quantitative approach. Despite drawing upon anthropological literature and a legal pluralism and anthropological framework of property, this research should not be viewed as lying entirely within the anthropological discipline.

An inherent limitation of the case study methodology is the focus on a single hamlet which does not speak much about the developments elsewhere in the Manāṣīr, despite contextualizing the experience of al-Fūqqara drawing on published research by Hänsch (2019) in Chapter 8. Nonetheless, this in-depth approach has provided fruitful insights that may not have been gained through a broader spread, especially as they required long-term trust and rapport building that can only emerge from anthropological immersion.

The focus on the hamlet of al-Fūqqara in the village council of Kabna for an in-depth ethnographic investigation was informed by assumptions prior to fieldwork that the location of the hamlet at the tail end of the reservoir and its partial inundation would yield fruitful insights into the dynamics of land tenure adaptations. Whilst these assumptions were to some extent valid, they were not enough to extrapolate general findings on the processes and dynamics of adaptation. Therefore, there is an urgent need for further research across the local option to widen our understanding of the adaptive capacity of customary institutions in re-establishing life along the reservoir. Research which compares

the experience of different hamlets and areas of the local option is vital in this regard. For example, much can be gained by comparing the experiences of those areas of the Manāṣīr, which have been totally inundated due to their proximity to the dam and have had to rebuild from scratch (such as Birti) with the experiences of those areas which have been partially inundated.

With more time and resources, a broader engagement with other sites and in-depth analysis of other adaptation processes, including engagements with other stakeholders, especially representatives in the local government and exploring the post-dam local option cooperative schemes, further research could lead to more significant insights.

Further research efforts could consider local courts in more detail to investigate the adaptive responses of these institutions in directing post-dam adaptations. For example, the seasonal disputes that proliferate during the low-reservoir season alone could be a basis of an entire PhD. Understanding the norms and general legal practices which are employed in settlement of post-reservoir land disputes is an important first step in understanding and assisting the development of a new legal framework to direct land governance in the Manāṣīr local option. The possibilities of looking at these legal processes both at the local level and how these local processes interact with wider dimensions are vast. Within the current climate of political reform in Sudan, there is a pressing need to address the wider and longstanding issues of land tenure reform which have never been properly addressed since independence. The work of legal anthropologists is vital in this regard as understanding customary land tenure is an important first step in developing policies to safeguard the rights of millions of Sudanese who depend on these institutions to access the resources they need for their livelihoods.

A further avenue of research which this study has uncovered is the complicated and yet unresolved issues of compensation for lost property. This is a vast and rich research topic. As alluded to in Chapter 8, the challenges to compensation posed by *warītha* property, namely a large number of entitled heirs and, more importantly, the social and symbolic value these lands hold in tying people to a place across time, is one which has received insufficient attention in the literature. In the case of land compensation for those affected by the Merowe dam, there was preliminary evidence among the Manāṣīr to suggest that compensation for land was viewed by many as a form of land alienation and therefore informed a large part of their resistance struggle. The words of one key informant which have stuck in my mind relates the refusal to be compensated for the land to the refusal to be alienated from the land as he put it: “if we accept the compensation for the land, it is as if we sold our land”. His and another’s words highlighted the practical impossibility of compensating *warītha* lands of the *sāqiya* and *ashau*. This highlights the need for further research into this complex issue of compensation to ensure fairer outcomes for the Merowe dam-affected people and contribute to wider theoretical debates around land compensation issues in development-induced displacement.

10.6 Closing remarks

Observations made over three decades ago by researchers like Abdelrahim Salih and Kurt Beck about the deep emotional attachment to land among the Manāṣīr still hold true today and have been heightened in the context of the Merowe dam’s threat to its existence. The courageous efforts of their

resistance and their victorious defence of the homeland ensured the existential continuity of *Dār al-Manāṣīr* and thereby securing the continuity of the Manāṣīr people whose existence is intimately tied to *al-balad*, the homeland.

Persevering against all odds, the Manāṣīr of the local option valiantly survived the deluge and ongoing blows of injustices. Taking everything within their stride, they rebuilt and restored their lives along the reservoir, in their ancestral lands, refusing to be alienated from their territory. It is a tenacious spirit which can withstand losing everything that was familiar and sacred in the name of 'sacrificing for the common good', be denied any fruits of those goods and go on thriving anyway. Where others might lament the neglect they experienced, the Manāṣīr proudly hold to their solidarity which continues to carry them forward. As one Manṣūrī pointed out, this is just the beginning of their story, the start of a new life they have successfully secured for generations to come.

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Glossary of terms

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‘aḍum	literally bone, a traditional measurement of land area. Typically, a <i>sāqiya</i> plot consists of 12 bones
ahl	family
ajāwīd	members of the <i>jūddīya</i> , the customary institutions of dispute mediation
arāḍī jadīda	the new lands created by the recession of the dam’s reservoir
arāḍī hakūmīyah	governmental land
ashau	the strip of land between the <i>jarf</i> and the <i>sāqiya</i> on which date palms are cultivated
bi ma‘āishi	literally ‘for subsistence’, refers to land held in possession for subsistence use
burūsh	a type of mat made of thatched palm fibres that are sown together.
dār	tribal territorial homelands
dūra‘	customary measurement unit of land used to allocate <i>jarf</i> land shares
faddān	unit of land. 1 faddān is equivalent to approximately 1.04 acre, or 0.42 hectare
ḥajiz	<i>reclaimed lands – post dam lands created through customary reservation and reclamation processes in the unoccupied wasteland</i>
ḥaqq al-aṣil	right of the <i>aṣil</i> (original owner), or ‘original right’
ḥaqq al-miswaq	right of the <i>miswaq</i> (cultivator)
ḥaqq al-quṣād	right of the adjacent/opposite, refers to the customary law as applied
ḥikīr	licensed usufruct use rights on governmental land
īdayg	category of land unique to al-Fūqqara, in between the <i>ashau</i> and the <i>sāqiya</i> . Refer to Figures 5-8 and 5-9
jarf	seasonally appearing floodplains on the banks of the Nile River
jarīda	frond of a date palm, which serves as the measuring unit on <i>jarf</i> lands
jūddīya	customary mechanism of dispute mediation

karazai	synonymous with traitor – a term used to refer to Manāṣīr who accepted resettlement payment, after Afghan president Hamid Karzai (plural: Karazaiyat)
khiyār al-maḥallī	local option
lajna sha‘abīyya	popular committee, the lowest level of the official administrative structure
lajna tanfīdhiya	Manāṣīr Executive Committee
maḥal biyūt	‘place of houses’, refers to the land of fallen houses now cultivated by the previous owners and/or their close kin
maḥallī	local, refers to a Manāṣīr person in the local option
maḥallīyya ḥawwal al-buḥāira	Administrative District around the Reservoir, refers to the newly created administrative district for the Manāṣīr of the local option
maḥkama ahalīya	local courts
majlis al- mut’athirīn	Council of the Affected People (Manāṣīr)
milik ḥurr	freehold private ownership
minḥa	usufruct rights on land which was allotted to formally resettled Manāṣīr in the government-built resettlement sites
mīrī	leasehold land, also referred to as <i>ḥakūma</i>
miswaq	cultivator
muhajirr	migrant, refers to the Manāṣīr resettled outside of the local option
nisba	genealogical pedigree/ ancestry record of a particular <i>qabīla</i>
qabīla	often translated as ‘tribe’, the term refers to the social groups who maintain an identity which is often associated with a territory
qānūn	law
quṣūd	‘adjacent to’ or ‘opposite’
rawākīb	plural of ‘ <i>rākūba</i> ’, a semi-permanent structure
sāqiya	the irrigated lands which derive their name from the traditional ox-powered water wheel
ṣarif	literally ‘cashed out’, refers to a Manāṣīr person who accepted compensation/resettlement

ṣulḥ	refers to customarily mediated processes of reconciliation
taqnīn	legalisation, refers to the state formalisation processes of land tenure
taqsīm al-jiddūd	division of the grandfathers, refers to the historically established divisions of the hamlet's <i>sāqiya</i> lands among its sub-descent groups.
‘urf	custom
‘urfiyan	customary / customarily
warītha	rights of inheritance, also refers to the category of lands which have rights of inheritance bundled into them (<i>sāqiya</i> and <i>ashau</i>)
wuḍ i‘yad	<i>literally</i> placing one's hand, refers to the customary land law of prescription

APPENDICES

Appendix A: Presidential decree no. 353 of 2002

ملحق رقم (١٢)

The Republic of The Sudan الجريدة الرسمية لجمهورية السودان
Gazette الصادرة بتصريح
Published by Authority

(Issue No: 17)

Kh. On 17/11/2003 الخرطوم في ١٧/١١/٢٠٠٢م

**قرار جمهوري رقم (٣٥٣) لسنة ٢٠٠٢
بإعلان نزع ملكية أراضي لغرض عام**

رئيس الجمهورية:

عملاً بأحكام المادة ٤٢ (ط) من دستور جمهورية السودان لسنة ١٩٩٨م مقروعة مع
المادتين ٥ و ٢٨ من قانون نزع ملكية الأراضي لسنة ١٩٣٠م، أصدر القرار الآتي نصه :
١. اقتزاع الأراضي المتأثرة بقيام سد مروى والبالغ مساحتها (١٣٦٤ كيلومتر مربعاً)
والواقعة بولايتي الشمالية ونهر النيل وتمتد من منطقة الحامد أب (جزيرة مروى) بمحافظة
مروى حتى منطقة أم سفاية (خور أبو حراز) بمحافظة أبو حمد المحددة بالخرطة المرفقة
بهذا القرار بالإحداثيات الآتية:

(١) (١٨٣٩ ش، ٣٢١٥ ق) (ب) (١٨٣٩ ، ٣١٤٥)
(ج) (٣١٤٥ ، ١٩٠٠) (د) (٣٢٠٠ ، ١٩٠٠)
(هـ) (٣٢ ، ١٩١٥) (و) (٣٢٠٥ ، ١٩١٥)
(ز) (٣٢١٥ ، ١٩٢٥) (ح) (٣٢٠٠ ، ١٩٢٥)
(ط) (٣٢٠٠ ، ١٩١٥) (ي) (٣٢٤٥ ، ١٩١٥)
(٢) (٣٢٣٠ ، ١٩١٥) (ج) (٣٢٤٥ ، ١٩٠٠)
(٣) (٣٢٣٠ ، ١٨٤٥) (د) (٣٢٣٠ ، ١٨٤٥)

٢. يسري هذا القرار من تاريخ التوقيع عليه.

صدر تحت توقيع في اليوم الحادي عشر من شهر رجب لسنة ١٤٢٣هـ.
الموافق اليوم السابع عشر من شهر سبتمبر لسنة ٢٠٠٢م

الضيق الركن / عمر حسن أحمد البشير
رئيس الجمهورية

(٢٨)

ملحق رقم (١٣)
The Republic of The Sudan
Gazette
Published by Authority

الجريدة الرسمية لجمهورية السودان
الصادرة بتصريح

(Issue No: 22)

Kh. On 10/9/2003 الخرطوم في ١٠/٩/٢٠٠٣م

رئاسة الجمهورية
اللجنة السياسية العليا لتروغ سد مروي
قرار رقم (٢٧٧) لسنة ٢٠٠٣
إعلان نزع وتخصيص ملكية أراضي لغرض عام

عملاً بأحكام المادة ٤٣ (ط) من دستور جمهورية السودان لسنة ١٩٩٨م مقروءة مع المادتين ٥ و ٢٨ من قانون نزع ملكية الأراضي لسنة ١٩٣٠م وبعد الاطلاع على القرار الجمهوري رقم ٣٥٣ لسنة ٢٠٠٣م .. أصدر السيد/ رئيس الجمهورية القرار الآتي نصه :

- ١- نزع ملكية أراضي المشاريع المحددة كمواقع لتوطين المتأثرين بقيام سد مروي والمبينة احداثياتها في الجدول الملحق بهذا القرار وهي :
 - ١- مشروع المتقى لمجموعة الحامداب.
 - ٢- مشروع وادي المقدم لمجموعة أمري.
 - ٣- مشروع وادي المكابر والمشاريع حول بحيرة السد لمجموعة المناصير.
- ٢- تخصيص ملكية أراضي المشاريع المنزوعة في الفقرة (١) لصالح وحدة تنفيذ مشروع سد مروي .

صدر تحت توقيعي في اليوم الثامن والعشرين من شهر رجب لسنة ١٤٢٤هـ الموافق اليوم العاشر من شهر سبتمبر ٢٠٠٣م

الفريق الركن / عمر حسن أحمد البشير
رئيس الجمهورية

(٢٩)

رئاسة الجمهورية
قرار جمهورية رقم (٧٠) لسنة ٢٠٠٦ م
بشأن الاراضى الناتجة عن سد مروى والواقعة بولاية نهر النيل
رئيس الجمهورية

عملاً بأحكام المادة ٥٨ «١» «م» من دستور جمهورية السودان الانتقالي لسنة ٢٠٠٥ م .. وبعد الاطلاع على القرار الجمهوري رقم (٣٥٣) لسنة ٢٠٠٢ م .. اصدر القرار الآتى نصه:

١- تقوم الجهات المختصة بولاية نهر النيل بالعمل على تخصيص الاراضى الناتجة عن بحيرة سد مروى والواقعة فى ولاية نهر النيل لصالح الولاية على ان تتولى تخصيصها لمستحقيها.

٢- مع مراعاة الاحكام الواردة فى لائحة تعويض المتأثرين بقيام سد مروى لسنة ٢٠٠٣ م تتولى ولاية نهر النيل القيام بالاجراءات الاتية لأغراض البند (١) اعلاه.

(أ) تكوين اللجان القاعدية الخاصة بتأثرى سد مروى فى نطاق ولاية نهر النيل.

(ب) عمل الدراسات والمسوحات اللازمة لمشاريع الخيار المحلى لاعادة التوطين حول بحيرة سد مروى داخل حدود الولاية.

٣- على والى ولاية نهر النيل والجهات المختصة بولاية نهر النيل وضع هذا القرار موضع التنفيذ وذلك باتخاذ الاجراءات اللازمة لذلك.

٤- يسري هذا القرار من تاريخ التوقيع عليه.

صدر تحت توقيعى فى اليوم العاشر من شهر ربيع الاول سنة ١٤٢٧ هـ
الموافق الثامن من شهر ابريل سنة ٢٠٠٦ م
المشير
عمر حسن احمد البشير
رئيس الجمهورية



البلدان اشمعية لوحدة شري - الكتاب بانتعاون مع مجلس المتأثرين بسيد مروى منطقة المناصير

استمارة حصر ممتلكات الاسر المتأثرة بسيد مروى منطقة المناصير No 004051

الوحدة الادارية : المجلس : القرية : اسم رب الاسرة :

بيانات الاسرة		بيانات الفروعيات				النزال والامل والسواقى		مقومات عينية / زراعية			
الاسم	العمر	النوع	العلاقة	الفروعيات	شهر	غير مثير	فسيحة	المساحة	النزال	القيمة / العدد	النوع
				تفيل					اخرى		بصل
				برتقال							ذرة
				قريب							قمح
				مانجو							دقيق
				جافة							مانجو
				بوز							برتقال
				ليمون							جافة
				اخرى							بلح
											قريب
											واورات
											مواجين
											مواجين
											حمام
											الثابت
											زرائب وواشي
											اخرى

إستعداد مجلس المتأثرين :

إستعداد اللجنة الشعبية :

إستعداد رب الاسرة :

Appendix D: Sample of popular committee census

Appendix E: Sub-descent groups in al-Fūqqara

Figure E-0-1: Colour-coded genealogical diagram of the Fūqqara, representing the three sub-descent groups. The colours correspond to the colours in Table -1 below

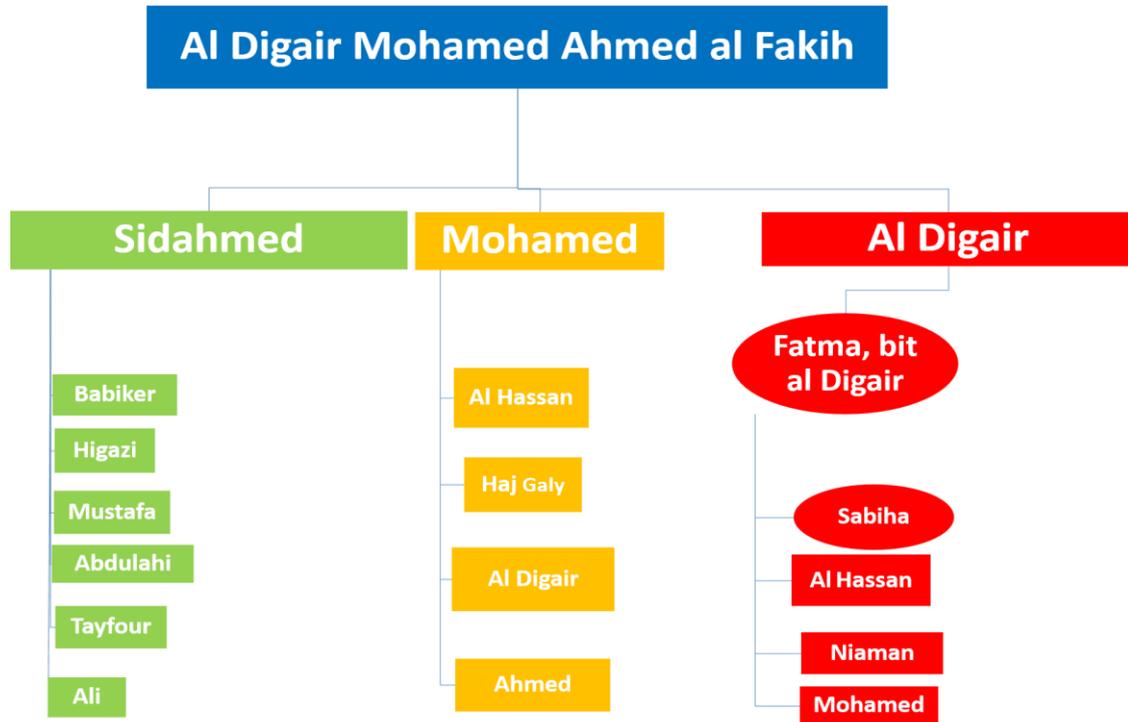


Figure E-1 above is a color-coded representation of each sub-descent group (with the sub-descent branch of Sidahmed, Mohamed and al-Digair represented in green, yellow and red respectively) accompanied with Table E10-1 which represents of all the current households in the hamlet. Table E-1 identifies all 29 households of Al-Fūqqara, by their male and female heads, and offers basic descriptors. The table's colour coding is aligned with that of Figure 5-6 in order to represent the sub-descent group membership of each male head of household and (where they were married within the wider Fūqqara clan) the sub-descent group membership of the female head of household. Finally, the table also identifies the case-study social units (consisting of one or more households) in the first column by case study codes which are elaborated in the following sub-sections (5.2.1.1 to 5.2.1.4).

Table E-1 All households in al-Fūqqara, color coded to represent the sub-descent group membership of each member

Note: this corresponds to Figure 5-3 above. The case-study codes introduced in subsequent tables are included here as a reference.

*Case study code	No.	Male Head of Household	Female Head of Household	Number of children/ basic description of household
* SD1	1	Hashim Tayfour Sidahmed	Halima Mohamed HajGaly	3 sons, 2 daughters—Hashim spends most of his time away from the hamlet and returns during the time of labour intensive agricultural work, Halima resides in the hamlet permanently and all of their children recently moved away (in the past 2-3 years) either studying at university and/or working in Omdurman.
* SD2	2	Moatasim Ali Sidahmed	Hanniya	3 sons, 1 daughter— Moatasim works in gold mining and Hanniya takes care of agricultural and household duties, with help from °Asma (no. 3 below). Their daughter is in secondary school and sons of primary school age.
	3	Mohamed Ali Sidahmed	Asma Mansour	3 sons, 2 daughters— Mohamed is a teacher at the school in Kabna and shares in the agricultural work with wife Asma who takes care of household duties. One daughter in secondary school and the rest of their children are in primary school.
	4	Abdallah Ali Sidahmed	Souheir	2 daughters—Though these members were not present in the hamlet at the time of research, and have recently migrated to Khartoum, the presence of their house and shares in land held by their immediate kin (2 and 3—SD2 above) indicates their established presence in the hamlet despite their physical absence.
* SD3	5	Ahmed Mustafa	Aisha Ibrahim	3 sons, 1 daughter— Ahmed and Aisha share agricultural work and Aisha takes care of household duties. Their daughter is married (see no.22 below), one son is employed outside the hamlet and two are in secondary school.
* SD4	6	Suleiman Higazi (deceased)	Al Mina Tayfour (deceased)	2 sons and 4 daughters—both Suleiman and al-Mina are deceased. Both their sons (Higazi and Mohamed Osman) remain in the hamlet with one son married to his paternal cousin (see no. 7 below) and the other was unmarried at the time of research (though has since married a young woman from the neighbouring hamlet). Three of their daughters are married and migrated away from the hamlet and only one unmarried daughter (Ikhlas, middle aged) remains in the hamlet.
	7	Mohamed Osman Suleiman Higazi	Khadija Issah Higazi	2 sons, 2 daughters—Mohamed Osman works in gold mining and spends most of his time away from the hamlet while Khadija, together with her with and her in laws (also paternal cousins—Ikhlas and Higazi) take care of the agricultural work. Their children are all very young, infants and pre-school age.
* SD5	8	Mohamed Mustafa (deceased)	Himallah al-Hassan Osman	7 sons, 3 daughters—Mohamed Mustafa is deceased and Hiqmallah lives with her 3 of her adult sons (one of which is married, no. 9 below) and one of her adult daughters. The other (adult) children have migrated away from the hamlet. Hiqmallah runs a store from her house, stocked with goods transported by her son Tawfiq.

	9	Tawfiq Mohamed Mustafa	Hala Hamza	1 son—Recently married couple and at the time of research Hala was pregnant (she has since given birth to a son). Tawfiq owns a lorry and works as a merchant, supplying the hamlets in the region with basic household goods, food and non-food items and gas canisters (usually used to power refrigerators).
	10	Hassan Babiker Sidahmed	Sabiha Mohamed HajGaly	5 sons and 2 daughters—Hassan and Sabiha and all their adult children (with the exception of one son, see no. 11 below) live permanently outside the hamlet but continue to maintain strong connections. (Sabiha was one of the first women I spent time with in the hamlet as she was visiting as she often does for prolonged periods during holidays).
	11	Babiker Hassan Babiker Sidahmed	Halima Hassan	4 sons and 1 daughter—all of very young, infants and of primary school age. Babiker spend most of his time away from the hamlet and only returns periodically to bring supplies and tend to the labour intensive agricultural work, while Halima tends to day-to-day agricultural and household duties with the help of Babiker’s maternal aunts (see no. 18) below. In this regard the social units of 10 and 11 are very much entwined with no. 18)
	12	Mohamed Hassan Babiker	Safa Ali Babiker	Newlyweds—not in hamlet at time of research, though their presence is established and recognised.
	13	Mahjoub Tayfour Sidahmed	Amna Hasan Hasaan	1 daughter—This family was reportedly temporarily away, though their established presence is recognised. Their daughter is of primary school age.
* HG1	14	Ali Haj Galy (deceased)	Fatma Ahmed Ali	6 daughters, 2 sons—Ali (same as no.16) is deceased as is Fatma. Only one of the sons maintains a connection with the hamlet (see no. 15 below). Four of the daughters are present in the hamlet, while the other two have permanently out-migrated (one of these out-migrated married daughters lives in the nearby hamlet of al-Kūra ^c and frequently visits). Only one of the four daughters present is married (Zeinab, see no. 19 below). The other three adult middle-aged daughters (Aisha, Bukheita, and Zahra) are unmarried and live together with their niece (see no. 15 below). Bukheita works as a teacher in Kabna, and Zahra works for the agricultural department of the Maḥalliya (administrative district), while Aisha is unemployed. The three of them share the agricultural and household duties among them.
	15	Issah Ali Haj Galy	Bouseina	1 son, 2 daughters—Issah and Bouseina live primarily in Khartoum with their son and daughter. One of their daughters (Mes’a) was born and raised in Khartoum but moved to live with her the 3 paternal aunts who reside in the hamlet (Aisha, Bukheita, and Zahra) while she completed secondary school in Kabna and was present at the time of research. Issah periodically returns to help his sisters and visit his daughter despite the primary residence being in Khartoum.
* HG2	16	Ali Haj Galy (deceased)	Sa’adiya Issah Siddiq	4 sons, 1 daughter—Ali (same as no. 12) is deceased while Sa’adiya lives with her 4 sons and 1 daughter. Her youngest 2 sons are in secondary school. One of her oldest sons, HajGaly (see no. 15 below), is recently married and his homestead is adjacent his mother’s house. He works as a gold miner and spends most of his time away from the hamlet while his wife, Safa, shares in the household duties of her in-laws. Her other oldest son, Osman, is the primary care-taker of all the

				agricultural duties for his family, (particularly the labour intensive irrigation tasks). Her young adult daughter Mariam is unmarried and works as a teacher in the school alongside her agricultural and household duties.
	17	HajGaly Ali HajGaly	Safa al- Hassan	Newly-weds, no children. HajGaly works in gold mining and Safa takes care of goats and helps her in-laws with the farming.
* HG3	18	Mohamed Haj Galy (deceased)	Zeinab Ahmed Ali	4 sons, 5 daughters—Mohamed is deceased and Zeinab is the oldest inhabitant in the hamlet (in her late 80s-90s). 2 of the daughters are married with adult children (Sabiha no. 10 and Halima no. 1) and 3 daughters are unmarried and in their middle age (40-50 year old) and live with their elderly mother. Of these three unmarried women, two work as teachers in Kabna’s primary and secondary school (Sa’adiya and Mariam respectively) and one is Zeinab’s primary care-taker and primary agricultural worker (Seyda). Seyda also spends most of her time helping Halima Hassan (no. 10) with her agricultural and household duties and since Halima’s husband Babiker spends most of his time away, usually lives with her. All of the sons work outside the hamlet, either in gold or employed in Khartoum/Omdurman. One of the sons is married to his paternal cousin and his family resides in the hamlet (see 15 below)
	19	HajGaly Mohamed HajGaly	Zeinab Ali HajGaly	4 sons, 3 daughters—HajGaly works as a gold miner and is rarely present in the hamlet. Zeinab lives with her children (4 sons of primary and secondary school age, and one daughter of secondary school age). Two of their daughters are studying at university in Khartoum.
	20	Ali Mohamed HajGaly		Divorced. Works in gold mining and odd jobs away from the hamlet and his wife lives with her family in Shirri.
* DG1	21	Ibrahim al- Hassan Osman (deceased)	Fatma Niaman Osman	5 sons—Ibrahim is deceased and Fatma is disabled. One son is deceased, two migrated and employed elsewhere, two reside with Fatma in the hamlet. Of the two that migrated, one works in the army in Atbara and the other works in gold. Both return periodically during holidays and to visit their mother. Of the two resident sons, one is married and takes care of all agricultural work (see 28) and the other assists though is employed as a teacher in the Kabna school. The teacher is divorced with two daughters who live with their mother in Khartoum.
	22	Ayman Ibrahim al- Hassan	Alawiya Ahmed Mustafa	2 sons—Recently married, Ayman and Alawiya both reside in the hamlet. Ayman takes care of all the agricultural work with some help from his brother Haitham, and assists his widowed mother. They had one infant son at the time of research, though Alawiya was pregnant and gave birth before the end of fieldwork.
*DG2	23	Khalifa al- Hassan Osman	Khadija Himeda	4 sons—Both Khalifa and Khadija are present in the hamlet, Khalifa was previously married to Khadija’s sister who has since passed away, and had 4 sons. Khadija is the maternal aunt to her current step-sons. 3 of the sons are married with wives in the hamlet (see no. 24-26 below) while one of them is married and a permanent out-migrant.
	24	Ashraf Ali al- Hassan Osman	Zahra Niaman al-Hassan Osman	2 sons, 3 daughters--Zahra and Ashraf (paternal cousins) live in the hamlet though Ashraf works mainly as a transporter of goods and is rarely present. Their children are all of primary school age.

	25	Hassan Ali al-Hassan	Intisar	1 son, 1 daughter—Hassan works in gold mining and odd jobs outside the hamlet and is rarely present. Intisar takes care of the household and agricultural duties along with her in-laws Zahra, Khadija and Ikram.
	26	Waleed Ali al-Hassan	Ikram	No children—newlyweds. Waleed works in gold-mining and is rarely present in the hamlet. Ikram spends her time with her in-laws Intisar, Zahra and Khadija.
* DG3	27	Osama Niaman al-Hassan	Muzdalifa Abul Gasim	3 sons, 2 daughters—Osama works as a driver though is often present in the hamlet and Muzdalifa takes care of the agricultural and household duties. Their children are all young, infants and of primary school age.
	28	Hashim (a.k.a al-Asad ³¹) al-Hassan Osman	Halima Musa	3 sons—Hashim works as a gold miner and is often absent from the hamlet, Halima lives with her three young sons.
	29	Ahmed al-Hassan Osman	Hafza Niaman Osman	3 sons, 2 daughters—daughters are married and migrated away. 2 sons are in secondary school and one is employed in Abu Hamad (nearby city).

³¹ Hashim al-Hassan is referred to by all as al-Assad and therefore throughout the text where referenced, he is referred to as al-Assad.

Details of Sidahmed sub-descent group (SD):

As shown in Figure 5-4, Sidahmed had six sons and as such his descendants represent the largest sub-descent group of the three Fūqqara sub-descent groups. Not shown in the figure is that Sidahmed was married to two women. His first wife was the mother of Ali and Babiker while the second wife bore his other four sons. This has implications on inheritance as half-brothers and full brothers receive different shares under Islamic law. His first wife was from the island of Shirri and had a lot of inheritance in the *sāqiya* and *jarf* lands there. His six sons together had close to 50 children/grandchildren combined. This large number of potential co-inheritors in a limited share of one-third of the *sāqiya* meant that there were high levels of outmigration, whether permanent or temporary/seasonal. Despite the high level of out migration for livelihood purposes, prior to the dam many of these migrants still had links to the hamlet as they had houses to which they would return to during holidays or special occasions. After the reservoir and the destruction of these houses, none of these migrants have rebuilt their lost homes (except for Hassan Babiker and his wife Sabiha Mohamed HajGaly).

As the genealogical diagram depicts, of the 49 grandchildren of Sidahmed, only ten remained in the hamlet. The common practice of marriage between paternal cousins is another means of addressing the issue of land scarcity as it groups together the inheritance of shares that would otherwise be further fragmented.

Details of Al-Digair sub-descent group (DG)

Al-Hassan was the only son of Bit al-Digair to reside in the hamlet permanently, Niaman and Mohamed having moved to al-Salamat to marry their paternal cousins. Niaman was the next *ʿumda* and as such his presence in his father's hamlet was a political necessity. Consequently, the Digair descendants in Al-Fūqqara are exclusively those of his son al-Hassan.

Al Hassan had two wives and was the father of eight sons and five daughters. The genealogical diagram below (Figure 5-8) does not distinguish al-Hassan's children from his first and second wives. Only one of his daughters (Hiqmallah) remained in the hamlet due to her marriage to another member of the Fūqqara (Mohamed Mustafa Sidahmed, and is included in the case-study social unit SD5 above). His sons Ibrahim, Ahmed and Hashim were permanent residents of the hamlet and Niaman was married in al-Raum hamlet of Kabna. al-Hassan's son Khalifa, a long-time migrant in eastern Sudan, returned to the Fūqqara after al-Hassan's death in 2000.

Al-Hassan's son Niaman who had moved to the hamlet of al-Raum passed away before his father al-Hassan and therefore was disinherited from his share in his father's properties, as per the Islamic laws of inheritance. His wife passed away soon after him, and his children (Zahra, Hiqmallah, Fatma, Osama and Ali) returned to al-Fūqqara to be raised by their paternal kin.

Details of HajGaly sub-descent group (HG):

Compared with the social units of the other descent groups currently present in the hamlet, the HajGaly descent group is the smallest in terms of the number and size of the households present in the hamlet. Though this third of the descent groups technically includes all of Mohamed's sons, it is attributed to only one of his sons HajGaly who acquired the full rights to his father's share as he was the only one of his brothers to have remained in the hamlet (see Figure 5-9) Unlike the Sidahmed third which was divided among five of his six sons, Mohamed's share in land was inherited entirely by one son. Therefore, while the preceding sub-descent groups are locally referred to by the name of the G2 great-grandfather (i.e., Sidahmed and al-Digair, see Figure 5-5), this branch of the Fūqqara descendants has adopted the name of Mohamed's son HajGaly (G3). Curiously, while the al-Digair share in land was similarly allocated to only one of his grandsons (Al Hassan), in that instance the local pedigree acknowledges the G2 grandfather al-Digair, unlike in this case where the G2 grandfather Mohamed is replaced by his G3 son HajGaly in terms of the way in which this sub-descent group is consistently referred to by the hamlet's inhabitants. This might be because al-Hassan is a matrilineal descendant of al-Digair, his mother being the daughter of al-Digair.

Only two of HajGaly's sons, Ali and Mohamed, remained in the hamlet and shared their father's inheritance with them. Though Osman and Issah had migrated elsewhere, they had houses in the hamlet before the dam; these were destroyed by the reservoir. The current inhabitants are the descendants of these two sons. Ali HajGaly, who passed away a few years after the filling of the reservoir, was married to two women and therefore has two separate families. The three case studies of this descent group correspond to the families of these two brothers (Mohamed's family and the two families of Ali).

Appendix F: Historical Example Concretised *sāqiya* relationships

Salih (1999, pp.177-184) gives an example of a registered *sāqiya* plot, which *categorically* under customary and Islamic laws of inheritance, should be inherited by a large number of co-inheritors but in actuality, is *concretely* held and used by a small number of resident male descendants. In other words, while the *sāqiya* is categorically the heritable property of many eligible heirs, the actual concrete users were only a handful of the legally eligible heirs.

The *sāqiya* was in the small hamlet of al-Mitaira situated within the village council of Shararri. At the time of Salih's research, the composition of the hamlet was 15 households.

Al-Mitaira hamlet, named after the waterwheel which was established in the mid-19th century, had a *sāqiya* of roughly ten faddān. This area was limited by the rugged landscape that separates it into a pocket of land along the riverbank. The *aṣil* and *miswāq* rights were registered to the same deceased ancestor of the al-Mitaira hamlet (Siddiq al-Haj °Amasiab) by the colonial land registration survey in 1909. The registration in the name of a deceased ancestor was due to a desire to avoid inheritance and registration problems. As such the registration survey in 1909 kept the plot registered in the name of the grandfather under the supervision of his elder son who became the plot's overseer and the representative of the heirs. The information in the official registry office stipulated that the plot, with a serial number 12B was registered on March 14, 1909, and at the time had a total area of eight faddān. No updates to the changes in the plot were made in official records, and the expansion (by two faddān) was not represented in the registry office).

Salih discovered through interviews with the elders in the hamlet who held the genealogical knowledge and history of the hamlet's inhabitants, that the actual plot users were very different from those stipulated in official records. The causes of land fragmentation mentioned above, in this case, the demographic pressures on scarce land, have resulted in the registered plot being parcelled into five equal parts. In this case, of the 249 eligible heirs, only five patrilineal patrilocal male descendants, who permanently lived in the hamlet where the plot was located, were the users of the plot (Salih 1999, p. 183). This narrowing down in the allocation of rights was achieved through the counterstrategies of the *bi ma'aīsh* system which disinherited all female heirs as well as all out-migrated male heirs.

It is important to note that the claim that Salih makes that according to customary law girls were not given their inheritance in *sāqiya* lands is not entirely correct. Certainly, men tried to disinherit women but if the husband of a daughter was strong enough, he had the right on his (and in this case: her) side and she inherited. As the example of the Fuqqara reveals al-Digair's only daughter (Bit al- Digair) inherited.

Through the *mūbādala* system, three of the remaining nine eligible heirs exchanged their land shares with others and agreed to leave the plot temporarily. Of the remaining six customary legitimate users one was expelled because he has no share in the irrigation pump, resulting in the five with actual concrete rights of possession or '*bi ma'aīsh*' rights.

This example highlights the distinction between the categorical rights of *'warītha'* or inheritance which were held by the 249 heirs and the concretised possession for subsistence use rights of *'bi ma'aīsh'* which are held by the five permanently residing patrilineal patrilocal male descendants. As discussed in Chapters 6 and 7, these distinctions of categorical and concrete rights to the *sāqiya* land have endured the flooding in the hamlet of Kabna Al-Fūqqara and across the upper Manāṣīrland.

Appendix G: Historical Examples of Land Disputes

The case of Faḡirabi

The following presents an example of a land dispute, which, under the situation of legal pluralism and contradictions in customary rules, was settled through formal mechanisms of statutory law.

Salih gives an example of a registered *sāqiya* that was registered during the colonial land settlement commission in 1909, and whose documents were available in the registry office. The plot in question was located in the village of Um Saffaya and registered in the name of Muhamed Faḡirabi who at the time of registration had already passed away; as such, the ‘assignees’ to the property were identified as ‘heirs of Muh. Faḡirabi’. The grandfather was registered as both the *aṣil* and *miswaq* of the plot. According to the registration documents, the overseer, or *sammād*, was named to be Jammi Babiker and was identified as one of the grandsons of the titleholder. Though all the heirs of the Faḡirabi categorically own the *sāqiya* together, the overseer claimed complete ownership of the plot in the 1960s when the first diesel pump replaced the waterwheel and denied the shares of his other relatives. The heirs of the grandfather raised a case against the overseer but since the overseer hid all the documents related to the plot and had the support of the native administration, and since the heirs could not prove their blood connection to the grandfather, the plot was passed to the heirs of the overseer instead of the heirs of the grandfather. Among the heirs of the overseer who now had categorical rights to the plot, those who were connected to the overseer through their mother, were disinherited of their claim and the plot was divided between the grandsons of the overseer (Salih, 1999, pp. 112-115).

This is an example of a concretisation process in which deceit and collusion were successful in the resulting possession of the overseer. It illustrates how concretisation sometimes happens in convoluted and complex ways, not necessarily criminal. It begs the question of whether all observable or ‘concrete’ possession, even those that are not based on any categorical law, can be conceptualised as concretised property relations. According to the analytical framework employed throughout this thesis (see Chapter 2) concretised property rights may substantiate or contradict categorical rights. Therefore, it follows that even cases of out-right fraud can be conceptualised as concretised rights with lasting categorical effects. The example also raises a wider question about the functioning of legal pluralism and the role it plays in property-making and claiming activities. It is important to recall that since concretised rights and relations are emergent in nature, they often draw on the plural legal frameworks which “...provide rich opportunities to construct different property relationships by reference to diverse normative legitimation for claims and counterclaims” (F. von Benda-Beckmann, K. von Benda-Beckmann, and Wiber, 2006, p. 20). Concrete claims are strategically made, asserted and justified in such contexts through careful navigation of the plural jurisdictional frameworks of customary, statutory and Islamic legal norms.

Dispute over reclaimed land in Kabna

The other example is of a disputed plot of reclaimed land in which the concrete practices of one party helped in transforming the categorical rights in their favour. This disputed case also illustrates the different ways through which property rights are negotiated and established under situations of legal pluralism where the ambiguity of the applicable laws can be harnessed to one's advantage.

Salih's interpretation of the following case as a 'clash of two systems of rule' is an apt description of the essence of the dispute (1999, p. 242-251). His description of the case traces the battle over access to an unoccupied plot of land and elaborates how the defendant, in this case, made use of contradictions in customary rules and sought a settlement through civil courts. The claimants on the other hand sought to solve the problem locally through customary mechanisms. The defendant ultimately won the right to the disputed land through his strategic manoeuvring. This is also a good example of what F. von Benda-Beckmann & K von-Benda-Beckmann & Wiber refer to as 'forum-shopping' strategies wherein "...plural legal situations can also provide alternative procedural avenues to pursue where claims based on different rule systems may be played out against each other..." (2006, p. 19). Though the story of the dispute is a lengthy one with many twists and turns, what follows is a presentation of the initial roots of the conflict, its main elements and eventual settlement.

The story of this dispute is set in the village council of Kabna and is between the defendant, Muhamed Ali Salim and the members of the hamlet that shared the *jarf* land. The story goes that Salim, who was kin to the Hamamir (a nomadic) clan of the Manāṣīr and spent his years in the desert oasis of Wadi Jora, settled in a hamlet in Kabna to make use of a plot of *jarf* land inherited from his father. He consequently built his house on the outermost edge of the hamlet and began to cultivate his father's land and work as a sharecropper on other people's land.

In the early 1960s, a trader from the neighbouring hamlet of al-Fūqqara³² by the name of Sidahmed Tayfur agreed with the owners of a neighbouring *sāqiya* land to replace the waterwheel with a pump station and establish an agricultural project. However, since the land was not large enough for the application of a license, they sought the inclusion of neighbouring uplands that had been unoccupied. This unoccupied upland above the *jarf* was divided into two parts, separated by a rocky strip. The first part immediately above the *jarf* was difficult to irrigate since the location of the pump station beyond the deep valley made irrigation infeasible. Although the land in the first part could not be irrigated, according to the

³² While Salih does not mention the name of the neighboring hamlet, Sidahmed Tayfour was the father of my host in al-Fūqqara, Hashim Tayfour and when I showed Hashim this story in Salih's book, he elaborated on the story from his father's perspective and also relayed how Salim's descendants and especially his son Abbas claimed a lot of land in the post-dam period along the Wadi of Kabna. He also displayed great pride in seeing his father's name written in English on a printed book, this (along with the explicit consent of participants) inspired me to retain their names in this study where it is not politically sensitive to do so.

customary law of *ḥaqq al-quṣād*, it was to be allotted to owners of the *jarf* land according to their share in the *jarf*. Salim's share in this part was 1.73 faddāns. Since the land could not be irrigated, Salim reached a new agreement with the trader to establish a new agricultural project on the second part of the unoccupied land beyond the rocky strip.

Three challenges to the annexation of this second part were a) the presence of a playground of the village's elementary school located at the centre of the land, b) the co-owners in the *jarf* land having asked for their share in this part according to the *quṣād* rule, and that c) the approval of the native administration was required. Salim dealt with these challenges by aligning the village shaikh and master of the native administration on his side and, after securing their approval, began the application process for an agricultural license. Salim could get the political support of the native authorities because "...throughout its history, the native administration in the Manāṣīr area had manipulated the allocation of rights over land and people to shift alliances and to consolidate and extend its power" (Salih, 1999, p. 244). A government surveyor arrived soon after and, despite the opposition of the *jarf* co-owners, the land was surveyed, and a project license was issued.

With regard to the obstacle posed by the existing school grounds, Salim began cultivating summer crops around the land of the playground thereby denying the community access to it. The headmaster of the school sought a peaceful solution through negotiation and arbitration and a compromise was reached where the playground would be moved to the outermost edge of the land. Salim then built a new house on the land of the playground and cultivated the entire second part of the unoccupied land except for the area where the new playground would be located.

The claimants opposed the agricultural project, they demanded their share in the 20 faddāns of land that was now under Salim's cultivation in the second part of the unoccupied land in accordance with the *quṣād* rule. Salim however asserted that the *quṣād* rule did not apply in cases where there is a natural rocky outcrop that separates the two parts of land and therefore argued that the customary law of *wuḍ i'ṣyad*, or prescription should be applied in this case. As customary law limits the claims of *ḥaqq al-quṣād* when there is a natural barrier (*hajīz tab'ī*), Salim was correct in invoking the rights of *wuḍ i'ṣyad* and the claims of his opponents were invalid. Throughout the course of mediation, Salim offered to share the agricultural scheme with the claimants, first offering them two-thirds of the plot and then offering them 90% of the plot, but both offers were refused and the failure to settle the dispute with the village pushed them to seek a settlement through the native court.

The native courts ruled in the favour of Salim's claim to the land since his concrete claims are categorically supported by customary laws and norms. The sentence was appealed and sent to the civil court of the province, which similarly ruled in favour of the defendant as the first to lawfully occupy and develop the disputed plot. Since state law does not recognise *ḥaqq al-quṣād* as applying in the opposite direction to the river (see Section 5.2.1.5 above), the complaints of Salim's opponents are dismissed.

When viewed through the property framework outlined in chapter 2 the story of this dispute highlights the dynamics between concrete property rights on the one hand and categorical rules and legal frameworks on the other. The concrete activities of Salim in claiming the land and developing it through building his house, and cultivating crops, palms and trees aided in his concrete claims being recognised as categorical rights. Unlike the previous case where the concrete claims had no categorical grounds to stand on, Salim's claims were legally supported by customary and statutory legal systems. Though the *jarf* co-owners might have had a potential claim to the disputed land under categorical property as recognised by customary law, in the absence of the concrete social practices of claiming the land, the principle of *wuḍ i'ḡad* allows others to make claims on the land.

Appendix H: List of All Key Informant Interviews

- Osman al-Wali and others (Khartoum)
- Hassan Hasaan (°Asma)
- Hassan Hasaan and head of Kihaila East (Khartoum)
- Al Nazeer (Shirri)
- Abdelkheir (Kabna)
- Musa Abdeen (Ḥila)
- Sidahmed al-Bashir (Kinaisa)
- Hamid Sulieman Karar (al Ganawait)
- Hasab Allah Sulieman (Maḥallīyya/ al-Twaina)
- Omar Salam (al-Kāb)
- Taj al-Sir (al-Kāb)
- Abdel Ati Abdelkhair (Khartoum)
- Umda Fanan (al-Kāb)
- Abdel Gadir (Sirbajī)
- Ahmed Abdel Fatah (Khartoum)