

Francis Deng on Dinka Culture and Human Rights

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Abstract: *In the context of “globalization,” Western jurisprudence has largely ignored non-Western viewpoints, interests, and traditions. This article takes a modest step towards de-parochializing our juristic canon by introducing writings about human rights of a “Southern” jurist: Francis Deng (Southern Sudan). Deng argues that traditional values of the Dinka of the Southern Sudan are basically compatible with the values underlying the international human rights regime.*

God asked man, “Which one shall I give you, black man; there is the cow and the thing called ‘What,’ which of the two would you like?”

The man said, “I do not want ‘What.’”

God said: “But ‘What’ is better than the cow!”

God said, “If you like the cow, you had better taste its milk before you choose it finally.”

The man squeezed some milk into his hand, tasted it, and said, “Let us have the milk and never see ‘What.’”²

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- 2 Dinka folk tale related to Deng by Loth Adija, quoted in *Francis M. Deng*, *Africans of Two Worlds. The Dinka in Afro-Arab Sudan*, New Haven 1978, p. 71. See also *id.*, *The Cow and the Thing Called ‘What’: Dinka Cultural Perspectives on Wealth and Poverty*, *Journal of International Affairs* 52 (1998), p. 101. Francis Deng interprets “What” in this creation myth to refer to curiosity and the search for scientific knowledge, and hence the tale becomes a rationalization of Dinka conservatism and backwardness in relation to modern science and technology, see *id.*, note 2, *Africans of Two Worlds*, p. 71, n. 7.

What you have said, you Mading, we are very pleased. Things we have told you, you will give them a purpose; you will write them down and that is a big thing...

If this machine of yours writes and records what a man really says, and really records well, then if what we have said is bad, it will search for our necks; if it is good, then we will say these words have saved our country. Now we have trusted you... we trust in you fully. Whatever you think we have missed, whatever you think we should have said that we missed, let it be said that we are the people who said it.³

A. Introduction

I first met Francis Deng at the University of Khartoum in 1958. He was a young, law student, I was a young lecturer in my first year of teaching. I was four years older than him. Over time I moved from being his teacher, mentor and intimate friend to becoming his admirer and pupil in following his stellar career and attempting to interpret the complex, often tragic, events in Sudan from afar.

In 2005, as part of the broader enterprise of de-parochialising Western traditions of academic law, I started on a project of making the ideas of some non-Western jurists better known in the English-speaking world. My first selection was far from radical: I chose four common-law trained lawyers of the post-Independence generation (by coincidence, three of them were born in 1938); they were all male; and, in different ways, they were committed to the development of human rights as both scholars and activists. I am not an expert on human rights, but I had worked closely in different contexts with each of them, so I had some knowledge about their concerns and thinking.

3 Chief Ayeny Aleu, interview with Francis Mading Deng, reported in *Deng*, note 2, *Africans of Two Worlds*, pp. 34-35.

B. Francis Madeng Deng⁴

Francis Mading Deng was born in 1938 near Abyei in Kordofan in the west of the Sudan. His father, Deng Majok, was paramount chief of the Ngok Dinka, the only Nilotic inhabitants in the Northern Sudan. It is commonly said that ‘Abyei is to the Sudan as the Sudan is to Africa,’ a bridge between the African and Arab worlds. Deng Majok was an outstanding tribal leader, a national figure, especially prominent for his bridging role between the Arab north and the Nilotic south. He was also known as the creator of a huge family through marrying more wives than any other man in Dinka history. Francis, one of his senior sons, became both the leading interpreter of Dinka tradition and a committed proponent of human rights, maintaining that they are basically compatible. How could this be?

Francis was the eldest son of Deng Majok’s fourth wife. Although he did not groom any of his sons to succeed him, Deng Majok believed in education. The education of Francis Deng is a story of a remarkable journey through different cultures. It began in Deng Majok’s compound in Abyei and continued in a boarding school for sons of chiefs run on similar lines to a British preparatory school. Francis Deng then proceeded to Khor Taaqqat, a secondary boarding school in the North, where the great majority of the boys were Muslims. He read law at the University of Khartoum, where he was taught in English mainly by expatriate teachers, including myself. The course was largely based on English law, but included an introduction to Shari’a law. Some attempt was made to discuss the role of customary law in

4 Readers should bear in mind the following points: First, the text was written in 2005 and history has moved on. There have been significant developments in the situation in Sudan, including massacres in Darfur, conflicts in and about Abyei and, after a Referendum, the Independence of South Sudan in July, 2011. Moreover, Francis Deng has continued to do important work as Special Adviser to the Secretary-General of the United Nations on internally displaced persons and, latterly, on the prevention of genocide, as well as being involved in North-South political relations. On his retirement from the UN, in 2011 he was appointed first Permanent Representative of the South Sudan to the UN. Amidst all of these other activities he has found time to publish several books and articles on a wide range of topics. However, his main writings on Dinka tradition and human rights date from the nineteen-seventies and have not been superseded. Indeed, the concept of ‘dignity’ has recently become a major focus of attention in both international law and political philosophy (For example, *Christopher McCrudden* (ed.), *Understanding Human Dignity*, forthcoming).

A note on sources: Francis Deng is a prolific writer who has dealt with many topics. The main sources for this section are: (i) *Francis M. Deng*, *Tradition and Modernization. A Challenge for Law Among the Dinka of the Sudan*, 2nd ed., New Haven 1971; *id.*, *The Dinka of the Sudan. Case Studies in Cultural Anthropology*, New York 1972; *id.*, *The Dinka and Their Songs*, Oxford 1973; *id.*, note 2, *Africans of Two Worlds*; *id.*, *The Man Called Deng Majok. A Biography of Power, Polygyny and Change*, New Haven 1986; *id.*, note 2, *The Cow and the Thing Called ‘What’*, which condenses a series of articles in the Sudan Democratic Gazette in 1998 (referred to by date, e.g., SDG 9/98); *id.*, *The Cause of Justice Behind Civil Wars*, in: Ifi Amadiume / Abdullahi An-Na’im (eds.), *The Politics of Memory. Truth, Healing and Social Justice*, London 2000, chap. 11; *Abdullahi An-Na’im / Francis Deng* (eds.), *Human Rights in Africa. Cross-Cultural Perspectives*, Washington 1990; and (ii) interviews, conversations, and correspondence with myself conducted over the years.

On the Dinka, see also *Godfrey Lienhardt*, *Divinity and Experience. The Religion of the Dinka*, Oxford 1961; and *John Ryle* et. al., *Warriors of the White Nile. The Dinka*, Amsterdam 1982.

the national legal system of the Sudan, but there was not sufficient literature to carry this very far. With encouragement, Deng spent some of his vacations studying customary law by sitting in his father's court, reading the court records, interviewing chiefs and elders, and starting a collection of recordings of several hundred Dinka songs.⁵ This was the start of his very extensive explorations of Dinka traditions, culture, and law over many years.

Francis Deng graduated with a good LL.B. in 1962 and obtained a scholarship to pursue postgraduate studies in London, where he stayed for a year, before proceeding to Yale Law School, from which he obtained a doctorate in 1967. Before the age of thirty, he had been exposed to Dinka, Christian, British colonial, Northern Sudanese, Muslim, and both English and American common law ideas. So it is hardly surprising that one of the central concerns of all his writing has been the problem of identity.

On leaving Yale, Francis Deng worked as an officer in the human rights division of the United Nations Secretariat in New York from 1967 to 1972. During this period he met and married Dorothy Ludwig and became part of an American family. They have four sons, who have grown up mainly in Washington, D.C., but who have kept in touch with their Dinka heritage.

In 1972 Deng joined the Sudanese diplomatic service. He served as ambassador to the United States and Scandinavia, becoming Minister of State for Foreign Affairs between 1976 and 1980. From 1980 to 1983, he was Sudan's ambassador to Canada. Subsequently he has held a number of academic positions, mainly in the United States. He has continued to be involved in public affairs, most notably in efforts to end the civil war in the Sudan and, since 1992, as Representative of the Secretary-General of the United Nations on Internally Displaced Persons, rising to the status of Undersecretary-General. In this capacity he has had enormous influence in bringing the plight of 25 million people in forty countries to public attention, and in persuading governments that this neglected problem is a matter both of sovereign responsibility and legitimate international humanitarian concern.⁶

Even when holding responsible full-time public positions, Francis Deng has been a prolific writer. His first book, *Tradition and Modernization: A Challenge for Law Among the Dinka of the Sudan*,⁷ was based on his doctoral thesis at Yale. Of it, Harold Lasswell, his main supervisor, wrote: 'Dr Deng has brought to the task of examining his own culture an impressive objectivity of outlook that testifies to his success in acquiring the essential characteristic of a

5 Deng, note 4, *The Dinka of the Sudan*, p. 8.

6 Roberta Cohen / Francis Deng, *Masses in Flight. The Global Crisis of Internal Displacement*, Washington 1998. Further examples of his work as an intellectual leader in international relations include Wolfgang H. Reinicke / Francis Deng et. al., *Critical Choices. The United Nations, Networks, and the Future of Global Governance*, Ottawa 2000; and Francis Deng / Larry Minear (eds.), *The Challenges of Famine Relief. Emergency Operations in the Sudan*, Washington 1992.

7 Deng, note 4, *Tradition and Modernization*.

scientific frame of reference.⁸ This frame of reference, based on Lasswell and McDougal's 'law, science, and policy' approach, represented a significant departure for Deng:

There was a time when I would have been reticent to speak of values because my earlier legal training made me suspicious of such terms as falling within the realm of metaphysics and therefore irrelevant to hard legal analysis. But then I was fortunate, I would say, to go to Yale Law School, where Myres McDougal and Harold Lasswell attached considerable importance to values. In their jurisprudence of law, science and policy, values were defined in concrete terms, embracing deference values such as power, rectitude, affection and respect, and welfare values like wealth, well-being, skills and enlightenment. Another major principle introduced by the Yale School of Jurisprudence was the concept of human dignity as an overriding goal of community and social processes. Again, human dignity was one of those concepts that I had been conditioned by my earlier legal training to dismiss as metaphysical. The Yale school gave it an empirical meaning by defining it in terms of the broadest shaping and sharing of values.⁹

For Francis Deng, these concepts resonated with Dinka values as he perceived them and at the same time provide a direct link with universal principles applicable to all societies.

Tradition and Modernization is unusual in another respect. It is one of the few books about law ever to be based quite substantially on songs. Rarer still, the author was qualified by birth to be a poet. This extraordinary feat arose out of necessity: because of the security situation, Deng was unable to return home to do more fieldwork, so he partly made up for this gap in his data by making an extensive collection of songs from fellow Dinkas in the United States and from his earlier recordings and his memory. In time he produced two volumes of translations of Dinka songs and folk tales. His early writings bring out the special role played by

8 Harold Lasswell, Foreword, in: Francis Deng, *Tradition and Modernization*, 2nd ed., New Haven 1971, p. xi.

9 Deng, note 4, *Cause of Justice Behind Civil Wars*, pp. 186-87.

song in Dinka social relations in relation to courtship, bridewealth, cattle, disputes, war, religious ceremonies, and celebrations:¹⁰

Among the Dinka, songs and dance have a functional role in everyday life. They do not deal with constructed situations; they concern known facts, known people, and defined objectives. But, above all they are skills of splendor in which a Dinka finds total gratification and elevation. The vigor and rhythm with which they stamp the ground, the grace with which they run in war ballets, the height to which they jump, the manner of pride and self-approval with which they bear themselves, and the way in which the high-pitched solo receives the loud unified response of the chorus combine to give the Dinka a euphoria that is hard to describe. As the singing stops, the drums beat even louder, the dance reaches its climax, and every individual, gorged with a feeling of self-fulfillment, begins to chant words of self-exaltation.

*I am a gentleman adorned with beads
I dance to the drums and level my feet
The girls of the tribe gather before me
The wealth of the tribe comes to me.¹¹*

Francis Deng has produced over twenty books, including two novels. Many of them concern the Dinka or the problems of North–South conflict in the Sudan. Even when writing about broader issues such as human rights, displaced persons, and dispute resolution, he regularly draws on Dinka examples and reaffirms that at the core of his multi-layered identity remains a commitment to central Dinka values. A central concern of his work is to reconcile tensions between tradition and modernity, between Dinka culture and universal standards, and between national unity and diversity in a conflicted Sudan.

10 Deng writes:

To give some examples of the general significance of songs, the social structure, particularly territorial grouping, is reinforced by age-set group-spirit dramatized in initiation, warfare, and other age-set activities, which without songs would be barren. The concept of immortality through posterity receives a great deal of its support and implementation through songs. Singers not only give genealogical accounts of their families, but also stress and dramatize those aspects which express their relevance to contemporary society. Young members of competitive families have been known to compose songs or have songs composed for them in reply to each other's allegations about incidents affecting the relative position of their families. In this process a young man may do a special investigation into the history of his family and of the tribe, to find additional evidence to sing about and bolster his family.

Id., note 4, *Dinka and Their Songs*, p. 78. In this book Deng anthologizes Ox songs, Cathartic songs, Initiation songs, Age-Set Insult songs, War songs, Women's songs, Hymns, Fairy-Tale songs, Children's Game songs, and School songs.

11 *Deng*, note 4, *The Dinka of the Sudan*, p. 17.

I. The Historical Context

Francis Deng's writings need to be viewed in the context of the history of the Sudan. At Independence in 1956, the Dinka were one of the largest peoples in Africa. In the 1956 census they were estimated to number nearly 2 million, divided into twenty-five independent groups living a semi-nomadic, semi-pastoral life in settlements dispersed over nearly a million square miles within the Sudan. During the Condominium period they were perceived by outsiders to be strongly religious, immensely proud, exclusive, and resistant to change.¹² For many years they fiercely resisted foreign rule, but under the British they also found that the policy of indirect rule was a convenient way of maintaining their heritage and distinct identity. Whether the motives of the British in maintaining the isolation of the Southern Sudan are attributed to a respect for Nilotic culture amounting almost to romance or to a policy of divide and rule, or to a mixture of both, until Independence the Dinka enjoyed the security and exclusiveness resulting from the policy, while resenting being ruled by outsiders, whether British or North-erners.

The Sudan became independent in 1956. During the past half-century, except for a ten-year break, the Dinka have suffered terribly, experiencing repression, massacres, starvation (sometimes deliberately induced), decimation, enslavement, and displacement. The civil war in the Sudan began in 1955. From 1972 to 1983, there was a break following the *Addis Ababa Agreement*, which gave the Southern Sudan regional autonomy.¹³ War resumed in 1983 after the military regime of Gafaar Nimeiry instituted a strategy of Islamicisation. The latest peace agreement, in 2005, still holds precariously at the time of writing.¹⁴ Over the years, Francis Deng has been involved in attempts to broker a peace as a statesman and diplomat, but above all as a writer.

Here I shall concentrate on Deng's treatment of universalism and relativism with respect to human rights by focusing on a few of his very extensive writings, especially his biography of his father, the volume *Human Rights in Africa*, edited jointly with Abdullahi An-Na'im,¹⁵ and a series of articles published in *The Sudan Democratic Gazette*¹⁶ and *The Journal of International Affairs*¹⁷ that set out his general position in summary form.

12 Between 1898 and 1956, Sudan was in theory jointly governed by the United Kingdom and Egypt, but in fact, the British were the sole rulers. The human side of the story is recounted in *Robert O. Collins / Francis M. Deng* (eds.), *The British in the Sudan. The Sweetness and the Sorrow. 1898–1956*, Stanford 1984.

13 On the background of the Addis Ababa Agreement on the Problem of the Southern Sudan, 1972, see *Peter Woodward*, *Sudan 1898–1989. The Unstable State*, Boulder 1990.

14 A Peace Accord was signed in Nairobi on 9 January 2005. For details see online: United States Institute of Peace, *Peace Agreements Sudan, Peace Agreements Digital Collection*, www.usip.org/publications/peace-agreements-sudan (18 April 2013).

15 *An-Na'im / Deng*, note 4.

16 See *Deng*, note 4, SDG.

17 *Deng*, note 2, *The Cow and the Thing Called 'What'*.

Despite this terrible history of death, suffering, and displacement, Francis Deng emphasises the resilience and vitality of Dinka culture which has formed the basis of their identity. He has documented this culture in rich detail through interviews, folk tales, legends, biographies, cases, and historic events. In his early work he had to rely quite heavily on his own experience, a sparse but generally excellent scholarly literature,¹⁸ and his own recordings of Dinka songs. After he returned to the Sudan, he was able to update his knowledge and supplement these sources with extensive recordings of interviews with Dinka chiefs and other informants.

In his scholarly writings about the Dinka, Deng adopted an approach that now might be considered unfashionable in its use of ‘the ethnographic present’ and the rather rigid framework of analysis of Lasswell and McDougal.¹⁹ However, Dinka history and culture are also powerfully evoked through Dinka folk tales, songs, oral history, and novels. He identifies the unity of Dinka culture in a changing and tragic situation through a few core concepts and values that form a distinctive Dinka identity.²⁰ His interpretation is in a sense ‘idealised’ in that he focuses on core values of a tradition that were never fully lived up to and, as he makes very clear, have been threatened not only by modernity but by nearly half a century of suffering.²¹ What follows is a brief outline of his interpretation of these ideas and how they relate to international norms of human rights, democracy, and good governance.

- 18 Several works on the ethnography of the Dinka and neighbouring Nilotic peoples became anthropological classics: *Edward E. Evans-Pritchard*, *Witchcraft, Oracles and Magic Among the Azande*, Oxford 1937; *id.*, *The Nuer*, Oxford 1940; and *id.*, *Nuer Religion*, Oxford 1956; *Paul Philip Howell*, *A Manual of Nuer Law*, London 1954; and *Lienhardt*, note 4. See *Deng*, note 4, *Tradition and Modernization*, pp. xlii-iii.
- 19 Deng drew heavily on *Harold D. Lasswell / Myres S. McDougal*, *Law, Science and Policy*, mimeographed materials, New Haven 1964, which in due course developed into *ead.*, *Jurisprudence for a Free Society. Studies in Law, Science and Policy*, Dordrecht 1992. Deng also cites a number of articles, the best known of which is *ead.*, *Legal Education and Public Policy*, *Yale Law Journal* 52 (1943), p. 203. See further *Deng*, note 4, *Tradition and Modernization*, p. xxviii, n. 12.
- 20 Godfrey Lienhardt emphasizes the point that “cultural homogeneity is by no means accompanied by political unity. The million or so Dinka of the Southern Sudan and their neighbours the Nuer, are culturally very similar indeed; but politically they are divided into many mutually exclusive and often hostile tribes.” *Id.*, *Social Anthropology*, Oxford 1964, p. 155.
- 21 It is important to emphasize that most of Deng’s research and writing on the Dinka took place in the 1970 s, before some of the worst traumas in Dinka history and before academic anthropology took a self-critical, and sometimes postmodern, turn. In the present context, the significance of Deng’s work in that period is that it provides a rich and detailed reconstruction and interpretation of Dinka culture as an “ideal type,” which emphasizes its distinctive aspects, is quite frank, and is not uncritical. It has the strengths and limitations of “insider research.” See, for example, *Patricia A. Adler / Peter Adler*, *Membership Roles in Field Research*, London 1987. The debate over Deng Majok’s marriages (discussed below) illustrates, in extreme form, the divide between Dinka values and international human rights norms that Francis Deng has sought to transcend. His account is remarkably detached and open, yet he manages to maintain the posture of a loyal and respectful son.

II. Dinka Culture

The Dinka were said to be among the most religious of African peoples. They believe in a single God who has similar characteristics to the God of other monotheistic religions, including Christianity and Islam, but they have no concept of heaven or hell. ‘The overriding goal of Dinka society is *koc e nohm*, a concept of procreational immortality which aims at perpetuating the identity of every individual male. Respect for the dignity of any person is central to this principle.’²² Both men and women are immortalised by procreation. It determines their social status, wealth, and place in history. Immortality maintains the identity of the dead and enables them to continue to participate in social processes in this world and to influence them.²³

Two central concepts are *cieng* and *dheng* (or *dheeng*). The concept of *cieng* sets the standard of good social relations. It has no counterpart in English. As a verb it can mean to treat a person well, to live in harmony, to be generous, hospitable, and kind. A person’s character or behaviour can be evaluated in terms of having good or bad *cieng*: ‘*Cieng* places emphasis on such human values as dignity, integrity, honor, and respect for self and others, loyalty and piety, compassion and generosity, and unity and harmony... Good *cieng* is opposed to coercion and violence, for solidarity, harmony, and mutual cooperation are more fittingly achieved voluntarily and by persuasion.’²⁴

Cieng sums up central values of human relations. Dinka society provides various avenues for developing individual and collective pride through attaining values that demand respect. A person attains the status of *dheng* by his or her conduct: ‘Among the many positive meanings of *dheng* are nobility, beauty, handsomeness, elegance, charm, grace, gentleness, hospitality, generosity, good manners, discretion, and kindness.’²⁵ As with virtue, there are many paths to *dheng* – through ancestry, cattle, sexual prowess, graciousness, generosity, bravery, or wealth in the form of cattle.²⁶

Dinka values are believed to be sanctioned by God and the ancestors. Harold Lasswell commented on the powerful processes of early socialization that created an ‘inner policeman’ which can continue to operate after an individual has moved from his original setting and

22 Francis Deng, SDG 9/98 (see explanation in note 4). See also *id.*, note 2, The Cow and the Thing Called ‘What’.

23 *An-Na’im / Deng*, note 4, p. 264. For example: “When a man dies before marrying, even as an infant, he leaves his kinsmen with a religious obligation to marry on his behalf and beget children to his name.” *Ead.*, note 4, p. 265. On levirate, see *Deng*, note 4, Tradition and Modernization, pp. 137-39.

24 *An-Na’im / Deng*, note 4, p. 266.

25 *Ibid.*, p. 267.

26 *Ibid.* Deng illuminatingly explores the complexities and nuances of the concepts of *cieng* and *dheng* in their social context in *id.*, note 4, Tradition and Modernization, pp. 24-30 and *id.*, note 4, The Dinka of the Sudan, pp. 9-24. *Cieng* sets social standards for ideal human relations that promote harmony and unity; *dheng* categorizes individuals according to how they have earned respect through their conduct. It is easy to see why Francis Deng finds that these concepts resonate with more abstract (and usually vaguer) Western concepts such as dignity and respect for persons.

come into contact with other norms, values, and temptations.²⁷ In traditional society, living up to these values was largely left to individual conscience, social approval and disapproval, and persuasion rather than force. Dinka tradition makes no sharp distinction between law, custom, and morals. All are backed by religious and social pressures and especially by individual conscience:

*These moral and spiritual principles are also applied to guide and control the exercise of political and legal authority. Dinka law is not the dictate of the ruler with coercive sanctions. Rather it was an expression of the collective will of the community, inherited from the ancestors, generally respected and observed, sanctioned largely through persuasion, or if need be, spiritual sanctions.*²⁸

*Despite the martial culture of the Dinka as herders and warriors, killing, even in fair fight, is believed to be spiritually contaminating and dangerous according to ritual practices. Killing by stealth or ambush is considered particularly depraved and requires even more elaborate procedures of redress and rites of atonement. Theft was hardly heard of in traditional society and, when it occurred, was met with degrading sanctions that were severely damaging to one's social standing. Virtually every wrong threatens the wrongdoer with misfortune and death.*²⁹

Dinka norms on killing, marriage, the family, harms, insult, and defamation (including defamation of the dead), social hierarchy, and economic relations are all directly related to the overriding importance of immortality through procreation and the values embodied in the concepts of *cieng* and *dheng*. These values integrate the individual and the community. They are illustrated in concrete form by the role of cattle in Dinka society. 'It is for cattle that we are liked, we the Dinka. The government likes us because we keep cattle. All over the world people look to us because of cattle. And when they say 'Sudan,' it is not just because of our color, it is also because of our wealth; and our wealth is cattle.'³⁰

Cattle are wealth, but they signify much more than that. Cattle constitute bridewealth that ensures continuity through procreation; cattle are prepared for special sacrifices to God, the spirits, and ancestors. A great many songs are about oxen or the need for oxen – for marriage, for sacrifice, or just for *dheng*. Young men exalt themselves and their lineage through identification with their personality ox, a castrated bull of little practical value:

When I rise I sing over my ox,

27 Lasswell said that "the basic norms of society are rather fully incorporated into the emerging personality system at an early age.... The inner policeman continues to operate after the individual has moved from his original social setting and is exposed to novel norms and sanctions." *Lasswell*, note 8, p. xi.

28 *Deng*, note 22, SDG 9/98.

29 *Ibid.*, p. 10.

30 Chief Ayenye Aleu, quoted in *Deng*, note 2, *Africans of Two Worlds*, p. 71.

*gossipers disperse
 I am like my forefathers
 I rise to be seen by my ancient fathers
 I rise to be seen walking with pride
 As it was in the distant past
 When our clan was born.*³¹

III. Leadership

The Dinka lacked any centralized institutions for making or enforcing law, and some anthropologists have maintained that they were an example of an ‘acephalous’ or chiefless society and that ‘chiefs’ were a colonial creation. However, this is misleading. The Dinka did have leaders whom anthropologists have variously referred to as ‘master of the fishing spear’ (Lienhardt) or ‘The Leopard Skin Chief’ (Evans-Pritchard and Paul Howell).³² These titles emphasize the religious nature of traditional leadership which contrasted with British secular conceptions of the role of chiefs. According to Deng, the traditional leader was the embodiment of Dinka values, mediating between God, the ancestors, and the living: ‘Viewed in local terms, these qualities are often associated with ‘the tongue’ and ‘the belly.’ By the tongue is meant the ability to speak soothing and conciliatory words that bring harmony and mutual cooperation to human relations. The belly connotes showing hospitality to visitors, but also generosity to the needy.’³³

During the condominium period, chieftainship among the Dinka became more secular and political. Persuasion remained a prime requirement of leadership, but over time authority came to rely more on secular punishments than on religious sanctions. Such punishments as prison and flogging offended Dinka conceptions of dignity and were resented, although over time they came to be accepted to some extent.³⁴ Pressures on traditional chiefs to meet their material obligations sometimes led to accusations of corruption or abuse.³⁵ The move from religious to secular opened the way to criticism of chiefs and even to political opposition.

Francis Deng’s father, Deng Majok, lived through all of these strains between tradition and modernity and was regarded by many as the embodiment of a great Dinka leader. He was widely admired for many qualities, including wisdom, generosity, strong leadership, and progressiveness, and for building good relations with neighbouring Arabs while safeguarding the

31 *Francis Deng*, SDG 6/99. See also the Cow creation myth, note 4.

32 *Deng*, note 2, *Africans of Two Worlds*, p. 118.

33 *Deng*, note 4, *Deng Majok*, p. 278.

34 “The alienation of the people from modern-day secular authority may be illustrated by the fact that the Dinka refer to the government, even that represented by the Chief, as ‘*ju*’ [foreigner].” *Deng*, note 2, *Africans of Two Worlds*, p. 142.

35 *Deng*, note 4, *Deng Majok*, p. 278, suggesting this is a cause of corruption in Africa generally.

security and independence of his own people.³⁶ However, he was often criticized for ‘excessive marriage.’ At first sight this provides a rather striking example of a conflict between Dinka tradition and modern ‘universal’ values. But the story is more complex than that.

In his biography of his father, Francis Deng deals frankly and in detail with Deng Majok’s prodigious uxoriousness. Chapter Twelve is significantly entitled ‘The Economics of Polygyny.’³⁷ By Dinka tradition there is no limit to the number of wives that a man can marry provided that he can afford them. In Deng Majok’s case, estimates of the total number of wives he acquired during his life vary between 200 and 400. This appears to have been a record in Dinka history and it occasioned continuing controversy. On the one hand, he was clearly fulfilling the imperatives of procreation and immortality. According to his son, he generally treated his wives and offspring generously and fairly, but he maintained control and surface order within the family through the strict discipline of an authoritarian patriarch. He ‘granted equal opportunities for procreation,’³⁸ but there was often ‘turmoil beneath the calm.’³⁹ Within Ngok Dinka society the situation was problematic.

The size of his family was a matter of prestige rather than shame. But marriage was costly and the family was worried about the draining of their wealth; others hinted at corruption, though no formal accusations were ever made. Deng Majok’s defenders maintained that he always acted in accordance with Dinka mores, if not European ones. Nearly all the arguments seem to have centred on issues of power, wealth, and procreation, rather than on sexual morality. His son reports:

In defending his marriages, Deng Majok gave different reasons to different people. To some, especially his family, he might talk of marriage as an investment and a source of economic and social security. To others he might mention the need to broaden the circle of relatives and the relationships by affinity as a strategy of extending political influence. But the reason he stressed most often and which cut across all others was procreation. And, in a curious way, all those who discussed the matter with him now report his arguments with considerable sympathy and nearly always end up agreeing with his point of view, if only in retrospect.

“When his marriages began to be excessive”, said Nyanbol Amor [his second wife], we went and said to him: “Deng, what is this? Cattle should be allowed to remain for some time to increase in number. You now seize a cow a woman uses for making butter and you send it off to marriage; why is that? Aren’t we enough? We do not want you to continue with your marriages!”

36 *Ibid.*, pp. 273-74. See also *Francis Deng, Seeds of Redemption. A Political Novel*, New York 1986, pp. 165-66.

37 *Deng*, note 4, Deng Majok, pp. 190-209.

38 *Ibid.*, p. 174.

39 *Ibid.*

*He replied: "Are you people fools? Have you no sense of judgment? I am marrying these wives for your own good. These women will have children. And it is these children who will remain with you."*⁴⁰

It was not only his wives who tried to dissuade him. Sons, elders, fellow chiefs, and ordinary people raised the issue with him. The discussions appear to have been quite frank and open, but Deng Majok never relented. In respect of marriage, Deng Majok was treated as a spendthrift investor in wives, but in other respects he was considered to be a great modernizer. He invested in the education of his sons, but was more reluctant to educate his daughters. He built good relations with his Arab neighbours, he emphasized ideas of due process, and he resorted to modern medicine. During the period of the Condominium, Deng Majok also exactly fitted the British policy of indirect rule:

*Deng Majok's leadership represented a peak in the evolution of tribal authority from the role of spiritual and moral functionary to an autocratic government institution backed by the coercive power of the state. The erosion of the egalitarianism and democracy of traditional society has been counterbalanced by the effectiveness of the new institutions in establishing and consolidating broad-based adherence to the rule of law in the broader framework of the nation-state. Deng Majok and other tribal chiefs in both the North and the South were indispensable in the maintaining of order and security among the masses of the rural population and in the context in which the central government machinery was otherwise remote and costly.*⁴¹

When Deng writes about reconciling Dinka values with 'modernity',⁴² he is concerned more with the relationship to human rights norms than to values of the colonial (or Condominium) state.

IV. Universal Values

In his early writings Francis Deng did not make much reference to human rights, but he has always emphasized human dignity as a basic value. After completing his doctorate at Yale, he worked for five years as a human rights officer in the UN Secretariat and acquired considerable professional expertise in the area, especially in relation to women's rights. Since then he has been a firm, quite orthodox, upholder of the international human rights regime and of basic principles of democracy, both of which he considers to be universal. On human rights he emphasizes the *United Nations Charter*⁴³ and the *Universal Declaration of Human Rights*,⁴⁴ especially such general phrases as "the recognition of the inherent dignity and of

40 Deng, note 4, Deng Majok, p. 203.

41 Deng, note 4, Deng Majok, p. 140.

42 Deng, note 4, Tradition and Modernization, pp. xxv-xlii.

43 Charter of the United Nations, adopted 26 June 1945, entered into force 24 October 1945.

44 Universal Declaration of Human Rights, UNGA Res. 217A (III), 10 December 1948.

the equal and inalienable rights of all members of the human family.’⁴⁵ On democracy he states:

Among the principles of democracy that have gained universal validity are that governments rule in accordance with the will of the people and adhere to the rule of law, separation of powers, and independence of the judiciary, and respect for fundamental rights and civil liberties. These principles should be safeguarded by transparency, freedom of expression (and of the press), access to information and accountability to the public. Given the tendency of Africans to vote according to their ethnic or tribal identities, democracy will have to mean more than electoral votes. In the context of ethnic diversity, devolution of power through decentralisation down to the local level, combined with some methods of ensuring the representation of those who would otherwise be excluded by the weight of electoral votes, would be necessary. In any case, democracy, however defined or practiced, implies accommodation of differences and a special responsibility for the protection of minorities.⁴⁶

At first sight, these familiar ideas of modern liberal democracy seem a long way from Dinka tradition with its emphasis on immortality – especially through the male line – polygyny, a non-monetary economy, divine chieftainship, and cattle. Nor does this fit with his father’s autocratic style. How could a UN human rights officer working on international women’s rights continue to respect and honour his father, a patriarch who had over 200 wives? Are Dinka concepts of *cieng* and *dheng* quite the same as the meaning of ‘dignity’ in the *UN Declaration on Human Rights*? How can one reconcile the immortality of ancestors with so earthbound and secular an ideology as modern human rights? Is Dinka tradition really democratic?

Francis Deng adopts an elaborate strategy to confront these issues. The following is just a brief summary.

First, Deng is not a cultural relativist.⁴⁷ Following Abdullahi An-Na’im, he emphasizes that for institutions and particular norms to be accepted as legitimate and to be effective they must be debated, interpreted, and applied within the concepts and internal logic of local cultures. However, this does not preclude using universal standards as a basis for judging particular features of a culture or tradition. Relativism that rejects all external standards is unacceptable, but relativism in the sense of taking very seriously the beliefs and values of a given culture complements universalism. In respect of the details of institutional design and specific prescriptions, culture is an essential part of legitimating any social change.⁴⁸ In short, a cultural approach to human rights and democracy involves seeing tradition as supplementing abstract

45 Francis Deng, SDG 6/98, p. 9, citing the Universal Declaration of Human Rights, Preamble.

46 Francis Deng, SDG 5/98, p. 11.

47 See especially An-Na’im / Deng, note 4; Francis Deng, SDG 8/98, p. 4.

48 Contrast with Ghai, who plays down the importance of “culture” as compared with material interests.

values and principles. *Cieng* and *dheng* are conceptions that concretize, localize, and enrich abstract notions of human dignity.

Second, human rights and the principles of democracy are universal, but only at a very abstract level. At that level, Dinka ideals that emphasize respect for persons, dignity, and harmony are fundamentally compatible; indeed, Deng goes so far as to say that the Dinka ‘clearly had notions of human rights that formed an integral part of their value system.’⁴⁹ Furthermore, although the principles of democracy are universal, ‘democracy should be home grown to be sustainable.’⁵⁰ Independence constitutions in Africa tended to fail, not because of their ideals, but because they were essentially imposed from above and in a form that was not the result of a genuine local constitutive process. The ideals, he claims, were already part of African tradition: ‘In traditional Africa, rulers governed with the consent of the people who participated broadly in their own self-administration; were free to express their will; and held their leaders to high standards of transparency and accountability. In that sense, indigenous societies were more democratic than most modern-states in Africa.’⁵¹

Third, the Dinka are changing. They have become more open to learning from the outside world and some are less confident about the superiority of their own culture. There is even talk of giving up the Cow for the pursuit of ‘What.’ After over forty years of conflict and suffering they yearn for peace. How far these terrible years and the dislocation of so many have weakened the grip of Dinka culture and its ‘internal policeman’ is uncertain. But for many the core values embodied in *cieng* and *dheng* have sustained their identity. After conducting a series of interviews with chiefs and elders in 1999, Francis Deng concluded that the civil war had been both a destabilizing and a radicalizing factor, ironically increasing motivation for development, but in ways that are compatible with basic elements of their cultural integrity.⁵² For example, in an integrated rural development project, the Dinka strongly resisted any suggestion that cattle could be used as draft animals, but they were prepared to sell them for cash, or use them in ways ‘that are compatible with the dignity of the animals as they see it.’⁵³

Fourth, Deng acknowledges that, judged by the standards of human rights norms, some aspects of Dinka culture are open to criticism. In 1990 he summarized the main points as follows:

49 Deng, note 47, SDG 8/98, p. 9.

50 Deng, note 46, SDG 5/98, p. 12.

51 *Ibid.* Not everyone will agree with this generalized account of African political traditions, but there is a recognizable affinity with Deng’s accounts of Dinka political tradition. His argument is that the institutions and processes might be different, but the values are closely compatible.

52 “Whether it is a manifestation of characteristics hitherto hidden by their isolationism, the result of the impact of the civil war, or simply adaptability to their present circumstances, the Dinka are demonstrating a degree of commitment to development that would surprise the observers of the 1950 s.” Francis Deng, SDG 10/99, p. 13.

53 Deng, note 51, SDG 10/99, p. 11.

There are, however, severe constraints on the Dinka cultural system of values in terms of objective universal human rights standards. One set of negative effects derives from the inequities inherent in the logic of the lineage system and its stratification on the basis of descent, age, and sex. Another set of negative characteristics lies in the conservative nature of the system and its resistance to change or cross-cultural assimilation. And yet another shortcoming of the system lies in the fact that its human rights values weaken as one goes away from the structural center of Dinka community.⁵⁴

V. Women in Dinka Society

Perhaps the biggest test of Deng's argument about the compatibility of Dinka tradition with human rights is the subject of the status and treatment of women, as it is for many of the world's cultures, traditions, and religions. Deng's own accounts of Dinka cosmology and of his father's uxoriousness, although clearly an extreme case, suggest a large gulf between central aspects of Dinka tradition and the norms and standards embodied in such instruments as the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*.⁵⁵ Deng acknowledges this. He accepts that polygamy is inconsistent with equal respect and that Dinka women have a subordinate role in Dinka cosmology and tradition. He himself is committed to UN values on the status of women. He is monogamous, and the Dinka heroes in his two novels are monogamous – indeed, one resists pressures to take additional wives.⁵⁶ He can point out, in mitigation, that the central concept of *thek* applies to women, as well as to men and clan divinities. *Thek* includes, but is broader than, the English concepts of respect and deference. As Lienhardt points out: '*Thek*... is a compound of behaviour which shows unaggressiveness and deference to its object, and of behaviour which shows esteem for it.'⁵⁷

Francis Deng is quite explicit about the position of women. After acknowledging the inequities of the social structure in the passage quoted above, he continues:

The problem lies not only in the injustices of the system but also in the fact that those who are less favoured by it tend to react to the inequities, thereby creating paradoxes in the social system. For instance, although women are the least favored by the ancestral values, society depends on them not only as sources of income through the custom of marriage with cattle wealth but also as mothers who perform the educational role of

54 *An-Na'im / Deng*, note 4, p. 273. See also the following summary: "Although Dinka cultural values, in particular the emphasis on procreational continuity, idealised human relations, and the dignity of the individual in the communal context, engendered [sic] the elements of human rights principles, the system had built-in shortcomings, embodied in structural inequities, resistance to change, and a condescending view of the outside world." *Deng*, note 22, SDG 9/98, p. 11. See also *ibid.*, p. 9, explicitly linking Dinka values to human rights, but with similar reservations.

55 Adopted December 1979, entered into force September 1981, UN Doc. A/34/46, at 193 (1979).

56 *Deng*, note 36, *Seeds of Redemption*.

57 *Lienhardt*, note 4, p. 126.

inculcating ancestral values in their children at an early age. Yet women have no legitimate voice in the open channels of decisionmaking and can participate only through indirect influence on their sons and husbands. But because of the close association between mothers and children and the considerable influence wives have over their husbands, women are regarded as most influential in the affairs of men. Nevertheless, because of the inequities of polygyny, women are known for jealousies, divisiveness, and even disloyalty to clan ideals. Their influence, especially on the children, must therefore be curtailed.

The Dinka reconcile these conflicting realities by recognizing the love and affection for the mother as functions of the heart, while those feelings for the father are functions of the mind....

As a result of these contradictions, the position of women among the Dinka is a complex one in which deprivations and inequities are compensated by devices that ensure a degree of conformity and stability, despite ambivalences.⁵⁸

This is to state a problem rather than to resolve it. The status and treatment of women in Dinka tradition are closely bound up with Dinka cosmology, with its emphasis on procreation and veneration of male ancestors, a pastoral economy, its practices and attitudes to cattle, and many other matters. This raises a host of complex questions about how far Dinkas living in rural communities could retain their strong sense of cultural identity over time if they were to adjust to the standards of the outside world in respect of monogamy, the education of women, participation in decision making, non-discrimination, and other requirements of even minimalist versions of feminism. How far can the specifics of traditional Dinka values and beliefs justify a margin of appreciation that modifies abstract principles of women's equality? And what of the situation of Dinka women who live outside traditional society? Francis Deng does not attempt to address these issues in a sustained way. In the light of the tragic history of the Dinka over the last thirty years, they may not even be the most pressing questions.

C. Conclusion

Francis Deng has been a prolific writer on a wide range of topics, and he has addressed a variety of audiences. For present purposes, his most relevant writings can be treated as falling into three groups: First, there is an extensive collection of books and essays that describe, evoke, and explain Dinka culture, with tradition and modernization as a central theme. Most of these writings are scholarly works addressed to mainly Western audiences and published in the 1970 s. A second, more varied, group deals with political and social relations between the North and South Sudan. In some instances, the explicit aim is to encourage a more sympathetic understanding of Southern culture and aspirations by Northern Muslims. In these, identity is a central theme. For over thirty years, Deng has supported a unified but pluralistic Sudan in which a strong national identity is forged through an open recognition of cultural

58 *An-Na'im / Deng*, note 4, pp. 273-74.

diversity.⁵⁹ Third, since about 1990 and partly influenced by Abdullahi An-Na'im, he has addressed issues concerning the compatibility of human rights with African traditions. In this context he has adopted an explicitly cross-cultural perspective. These writings are less extensive than the other groups and are addressed to rather varied audiences.⁶⁰

In the present context, the first group of writings is probably the most significant. Francis Deng's account of Dinka traditions may now seem somewhat idealized, even outdated, but he has provided a rich body of authentic material that is open to interpretation from other perspectives. Above all, he has given Dinka tradition and values a voice in the outside world. He has also illustrated in a vivid and specific way the more general theme of the complex relationship between long-established traditional values and modern conceptions of human rights.

- 59 Francis Deng has sometimes been criticized for being too conciliatory and too optimistic. He reports how at a dinner party Nelson Mandela was criticized for being too indulgent, but Francis defended him, arguing that everyone has a good side and a bad side, and in relations with others one should build on their good side. He is well known for the diplomatic way in which he has dealt with heads of government and other political leaders when confronting them about their responsibilities for displaced persons. And he has over the years sought rapprochement with the Northern Sudanese leaders. He claims that this represents the Dinka way. *Deng*, note 4, Cause of Justice Behind Civil Wars, pp. 185-86.
- 60 The main ones are *An-Na'im / Deng*, note 4 (academic, mainly addressed to the human rights community in the United States); and *Deng*, note 2, The Cow and the Thing Called 'What'; and *Deng*, note 4, SDG (articles addressed to fellow Southerners).