

The London School of Economics and Political Science

Laws, landscapes and prophecy:

The art of remaking regimes of lethal violence
amongst the western Nuer and Dinka (South
Sudan)

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Abstract

This thesis is a collection of ethnographic studies of ways in which governments and other public authorities amongst the western Dinka and Nuer (South Sudan) have directly or indirectly remade the moral boundaries of lethal violence during times of war and peace. The thesis goes beyond discussing the causes of specific national episodes of armed conflict in South Sudan but instead pays attention to the normative regimes of lethal violence that span across times of war and peace. I echo those who have challenged the assumption of a rupture between times of war and peace, and additionally assert that normative and legal regimes made during times of ‘peace’ can shape modes and patterns of war.

The thesis argues that governments, chiefs and Nuer prophets have all tried to build their own authority through their governance of the moral, legal and spiritual consequences of lethal violence. Different public authorities have contested and coopted each other’s regimes. Governments, chiefs and Nuer prophets have played powerful but contrasting roles in interpreting and remaking the moral and legal limits of lethal violence. The thesis specifically looks at the examples of the remaking of landscapes and laws as ways in which moral boundaries have been reshaped and materially embedded. The doctorate focuses on the tumultuous 2005 – 2015 period, but also draws on histories dating back to the 19th Century.

Acknowledgements

A large part of this thesis is the aggregation of the thoughts, musings and angry statements of chiefs, *titweng*, cattle keepers, commissioners, women, soldiers, prophets (and prophetesses) and other South Sudanese who have given me time over the years. The struggles and dilemmas this thesis represents are really theirs. I am grateful for the time and trust that they placed in me.

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By the last year of my thesis, a small group of scholars on South Sudan had also started meeting for an annual writing retreat. In 2016, Zoe Cormack, Sarah Marriott, Ferenc David Marco and I all stayed at Diana Felix Da Costa's farm in Portugal. My son (then one-year-old) and my sixteen-year-old goddaughter, Kara Rees, also joined us. Zoe Cormack had already been a key ally, friend and inspiration through her fieldwork in Gogrial. I am privileged to be part of a generation of South Sudan scholars who are willing to collaborate and who have taught me so much.

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1. Introduction and Critical Discussion

The only car left in Tonj Town that Sunday afternoon still planning to travel southwest to Rumbek Town was the car of an MP in the Lakes State Parliament. The size and opulent interior of the car testified to the personal monetary benefits of being an MP in the government of the newly independent South Sudan. The 2005 Comprehensive Peace Agreement (CPA) between the Sudan People's Liberation Army (SPLA) and the Government of Sudan (GoS) had ended their two-decade-long war. The CPA established the Government of South Sudan (GoSS); it turned the SPLA into its only army¹; and it made the SPLM (the political wing of the SPLA) into a dominant party in a ruling coalition. The CPA then endowed this new government with immense oil-wealth. Therefore, the government was heavily lubricated by oil money.² The CPA had also provided a roadmap for South Sudan's independence that was finally celebrated in July 2011. I had first moved to the northwestern Dinka (northern South Sudan) in 2009 and then also spent time in the western Nuer from 2012. I had been eager to experience how these shifts in national politics and the new 'peace' after the CPA were being renegotiated in the daily lives of rural South Sudanese. The western Dinka and Nuer were the homelands of powerful elements of the politico-military leadership and, therefore, these areas offered a specific lens on the relationship between the new Juba-government and its citizens.

On that Sunday afternoon, the MP's wife and four of his children were squashed together in the back of the car, but the MP himself was absent. A young driver with a good grasp of English sat in the front. As the MP's income was erratic, reliant on an unpredictable bureaucracy and his personal relations with higher ranks in Juba, on that day the car's driver had no money for fuel. I was given the prized front seat in the car in exchange for my financing of the fuel for the journey. I was eager to get to Rumbek as fast as possible. This was partly because I wanted to proceed to Juba in good time for my Christmas flight to England. Plus, my four previous years of fieldwork in the western Dinka and Nuer had been made safe and effective by working through and staying with networks of friends. Unusually, in Tonj, I did not know anyone very well.

¹ In addition to the SPLA, the CPA also allowed Joint Integrated Units (JIUs) in South Sudan during the Interim Period. These JIUs included soldiers from the SPLA and the Sudan Government forces.

² Alex de Waal, 'When kleptocracy becomes insolvent: Brute causes of the civil war in South Sudan', *African Affairs* 113, 452 (2014), pp. 347 – 369; Clémence Pinaud, 'South Sudan: Civil war, predation and the making of a military aristocracy', *African Affairs* 113, 451 (2014), pp. 192-211.

I had stopped in Tonj to briefly carry out a few interviews for comparative purposes to reassure myself that the socio-legal and political dynamics I had observed elsewhere in the western Dinka were not an anomaly. These examples from Tonj seemed to confirm other research findings that government was using physical violence and the Chiefs' Courts, and that these negotiations in the courts were changing people's perceptions of identity, power and their relationship to government. In Tonj, I had carried out a series of interviews and attended a community meeting that had focused on various forms of violence that were being used by the local government and the Chiefs' Courts. A group of residents was angry that the local government was using its might to limit through the courts the marriage opportunities of the Tonj Town residents who did not own cattle. My interviewees described how the government detained and beat young men for eloping with girls when they did not have adequate cattle to satisfy the inflating bride prices of certain families that were increasingly cattle-rich. In contrast, they claimed that rich cattle keepers were free to take their daughters without cattle being demanded. The courts and local government claimed that my interviewees did not need cattle for marriage because they, traditionally, had not been cattle keeping people. My interviewees' complaints were framed in ethnic terms, as frustration with the Dinka-dominated local government's abuse of its militarised powers to violently reshape socio-legal relations in the favour of their sons. My interviewees described the Dinka as cattle rich and themselves predominantly crop farmers. South Sudanese have long used claims about the socio-legal inequality of marriage opportunities to assert the injustice of militarised state governments. During the wars of the 1980s and 1990s, it was Dinka men who protested against their inability to marry the Muslim Misseriya women of northern Sudan.³

By that Sunday evening in Tonj, I had learned enough to satisfy my intrigue and confirm that it was common in the western Dinka to experience local government as physically violent and active in reshaping patterns of violence. The journey to Rumbek started peacefully; the children in the back were just eager to test my attempts to speak Dinka. The road from Tonj to Rumbek was constructed in its current form during the Anglo-Egyptian Condominium government in the first half of the 20th Century. At the edge of the towns the road is lined with mango trees. The trees were a material testimony of government planning but also of the physical violence of specific

³ For example, see Anders Breidlid, *A Concise History of South Sudan: New and Revised Edition* (Fountain Publishers, Uganda, 2014). p.79.

governments that had forced local labour to make the roads and plant the trees. Between the towns that Tonj-Rumbek road is dominated by its passage through large forests. The most notorious forest is called *Ror Cuol Akol* (literally ‘The Forest of Sun and Darkness’). The name refers to the fact that, if walking, if you enter the forest (*ror*) at sunrise (*akol*) you will not leave it until the sun has set (*cuol*).

Half way to Rumbek, while still in the *Ror Cuol Akol*, our car bumped over something hard and audibly gained a puncture. I insisted that we stop. The driver refused. Despite his previous assurances of safety he now claimed it was too dangerous in the forest to stop. The western Dinka had long histories of raiding of cattle that had resumed on a militarised scale since the CPA and often included lethal violence. Many cattle keepers had access to firearms and some had elite patrons who had the plentiful funds of a government to resource these raids. I knew that armed men, after raiding cattle, often hid in this large forest until they could find safe passage to their home villages or grazing lands. The *de facto* legal consequences of raiding were ambiguous but reprisals were likely. The driver’s fear of the potential of armed men kept him driving. We made it the last couple of miles to a village, safely changed the tyre and continued with ease the rest of the way to Rumbek. Yet, even in that mundane decision on a normal afternoon journey, fear of physical or even lethal violence was a background consideration in this post-CPA South Sudan.

The night I arrived in Rumbek was the 15th December 2013. I texted a friend in Juba to say I had safely arrived in Rumbek and would continue my journey to Juba the next day. I had first met this friend in the western Nuer when I started researching there in 2012. In the capital I often stayed with friends from the rural areas of the western Dinka and Nuer who had since migrated to the capital to access education, employment or to work in the black market Forex trade. In response to my text, my friend called me. He announced,

‘The war has started.’⁴

That evening, soldiers in the Presidential Guard had fought in a small barracks near the University of Juba. My friend immediately, accurately, interpreted this gun

⁴ Phone conversation, South Sudanese NGO worker in Juba via phone from Rumbek, late evening, Sunday 15th December 2013.

battle between a few dozen soldiers as the start of a national civil war. He was not alone in perceiving its national significance. By the following morning, the SPLA in Juba had exploded into widespread fighting that instantaneously remade the emerging urban political and economic centre of Juba into an active battlefield. Juba had hosted much armed conflict in the battles of the 1980s and 1990s, but, since the CPA, had been remade into a booming capital city of international development workers and oil wealth. Suddenly, by the following morning, the army fractured and started battling for weapons stores across Juba. Uniformed soldiers targeted thousands of people in their homes based on their Nuer ethnicity partly in response to fears of a large-scale Nuer rebellion.⁵ Civilians were amongst those apprehended and killed in this violence, based on their perceived ethnicity during door-to-door searches.⁶ Tens of thousands ran to UN bases that provided a new, urban, international, militarised sanctuary.

By Christmas day, just ten days later, armed conflict had spread to the three states of Greater Upper Nile (the northeastern third of South Sudan) and engulfed four of South Sudan's major cities (namely Juba, Bentiu, Bor and Malakal). Tens of thousands were voluntarily mobilised to violence in the couple of weeks before the end of 2013 in what most fighters thought was a legitimate, just response.⁷ Commanders, soldiers and communities across vast swathes of rural and urban South Sudan declared their opposition to the government and took up arms against them. This nascent, armed opposition, in these early weeks, was still a scattered movement of uncoordinated combatants without any central command. However, they still showed themselves willing to use lethal violence against the government and start a national civil war. Their loyalties quickly became ethnicised.

The speed with which armed conflict spread across South Sudan was a striking characteristic of the December 2013 armed conflict. Rapid communications, including through mobile phone networks, allowed eyewitnesses of the violence in Juba to report their interpretations of what they had seen instantly to their home communities hundreds of miles away. People in the capital city were intimately entangled through families, networks of belonging and government to people in the most distant, rural

⁵ African Union Commission of Inquiry on South Sudan, 'Final Report of the African Union Commission of Inquiry on South Sudan', 15th October 2014.

⁶ Human Rights Watch, 'South Sudan's New War: Abuses by Government and Opposition Forces', 7th August 2014.

⁷ Forced recruitment did become a tactic of the Juba-government and SPLA-IO in 2014. Yet, in the early months, recruitment was largely voluntary, especially for the SPLA-IO.

areas of South Sudan. For South Sudanese, the physical, lethal violence in Juba was intimately linked to their daily experiences of ongoing lethal violence throughout South Sudan, including instances such as the marriage disputes in Tonj or the cattle raids before hiding in the *Ror Cuol Akol*. South Sudanese interpreted news of events in Juba in relation to histories of armed conflict and ongoing lethal violence, and within pre-existing, dynamic moral and legal frameworks of legitimate response.

By April 2014, the leading parties of the war had been established as the Juba-based government (also known as the SPLA-In Government (SPLA-IG) and the SPLA-In Opposition (SPLA-IO)).⁸ The configurations of the armed groups have continued to shift and would fracture significantly after the August 2015 elite peace agreement and the July 2016 surge in armed conflict.

Throughout the first years of this war, combatants on either side used extreme levels of lethal force and carried out various extra lethal killings.⁹ It was not just the speed and scale of lethal violence that was shocking, but also the patterns of violence that were employed. Homes were burnt, children were killed, and thousands of people were chased into the swamps followed by the pounding, lethal blasts of the gun. Government soldiers not only killed children but also mutilated their bodies as the means of slaying these infants.¹⁰

Another striking feature of the post December 2013 armed conflict was that for many South Sudanese parts of the violence were legitimate. Politicians who incited the violence and young men who carried out the violence believed that the patterns of violence they inflicted were legitimate and consistent with established normative frameworks. This South Sudanese interpretation of the armed conflict was at a total dissonance with a unified international condemnation of all the violence.¹¹

⁸ The SPLA-IO formalised its name and hierarchy after a meeting in April 2014 in Pagak on the Ethiopia-South Sudan border. Even at this time many of the commanders in the armed opposition were not sure about the 'SPLA-IO' title. This was especially the case amongst those who had fought with the South Sudan Defence Force (SSDF) against the SPLA in the 1990s. Riek Machar dominated the process of name selection.

⁹ By 'extra-lethal' killings I mean physical violence against a body that goes beyond what is necessary to cause death. It is talking about acts such as crucifixion and bodily mutilation that result in death.

¹⁰ AU CoI, 'Final Report'.

¹¹ From December 2013, the USA, the UK, Norway (i.e. the Troika), the EU, China and almost all of the regional powers condemned the armed conflict in South Sudan. Uganda's explicit involvement in favour of one of the warring parties was a notable exception. This unified, anti-war response of the international community was best seen in the formation of IGAD-PLUS to host the elite peace negotiations in 2015.

The Central Themes of the Thesis

As South Sudanese have carried out and experienced these patterns of violence since December 2013, they have actively grappled with questions of the normative limits of this violence. They have questioned the spiritual and moral consequences of these patterns. This thesis is a series of studies into the ways in which governments and other public authorities in South Sudan, including Dinka chiefs and Nuer prophets, remake the normative regimes that govern patterns of violence during times of war and peace.

The escalation of conflict in December 2013 was just another episode in a protracted string of wars and peacetime experiences of violence for South Sudanese. For South Sudanese, there has often been no clear distinction between times of war and times of peace.¹² There has been ‘violence in peacetime and order in wartime’.¹³ Plus, both times of war and peace shape patterns of violence. Over the last hundred years, South Sudanese have experienced a plethora of patterns of violence that have been inflicted by governments, rebel armies, other authorities and communities. From the mid 19th Century, governments violently captured resources and later attempted to claim sovereignty at the point of the gun. In the first half of the 20th Century, the Anglo-Egyptian Condominium government in Sudan also introduced Chiefs’ Courts which re-ordered patterns of violence.¹⁴ This government also initiated a common government claim that they had legitimacy to kill with impunity.¹⁵ The 1960s then saw Southern violence against the Sudan government as Southern fears escalated about their lack of representation in the newly independent Sudan. After a tentative peace in the 1970s, in the 1980s the Anya-nya II and then the SPLA re-mobilised a new Southern rebellion. This rebellion led to a two-decade long war against Khartoum. The Khartoum government exploited splits within the Southern rebellion to create proxy militias such as the South Sudan Defence Force (SSDF). Millions of South Sudanese were mobilised to armed violence and hundreds of thousands were killed.

IGAD-PLUS was designed to show the South Sudanese warring parties a unified international anti-war stance.

¹² For discussion of the continuum between times of war and peace see: Richards, *No War No Peace*.

¹³ Keen discusses this likelihood in general: David Keen, *Complex Emergencies* (Cambridge, 2008), p.12.

¹⁴ In relation to the introduction of the Chiefs’ Courts, see: Douglas Johnson, ‘Judicial Regulation and Administrative Control: Customary Law and the Nuer, 1898–1954,’ *The Journal of African History* 27, 1 (1986), pp.59-78.

¹⁵ Sharon Hutchinson, ‘Death, Memory and the Politics of Legitimation: Nuer Experiences of the Continuing Second Sudanese Civil War’, in R. Werbner (ed.), *Memory and the Postcolony: African Anthropology and the Critique of Power* (London, 1998).

The 2005 CPA between the SPLA and GoS brought an apparent cessation of hostilities. The 2006 Juba declaration also brought an end to explicit hostilities between the SPLA and the largest anti-SPLA force in the South (namely the SSDF). However, armed conflict and violence was still widespread in South Sudan.¹⁶ Armed cattle raiders, government soldiers during disarmament campaigns, anti-government militia and the government's use of the legal system continued to see patterns of violence reshaped and normative boundaries challenged. The common place of lethal violence in South Sudan had been reshaped, but not interrupted by the 2005 CPA and the 2006 Juba Declaration.¹⁷ The post-CPA era was neither a time of war nor peace.

In 2013, the political and military systems of the army (the SPLA) and the ruling political party (the SPLM) started to visibly fall apart.¹⁸ The 15th December 2013 has been reported as a rupture, as if it separated the relative stability of the post-CPA era from the 'crisis' in South Sudan afterwards.¹⁹ The new civil war obviously did bring a new scale of deadly violence and physical destruction to certain parts of South Sudan.²⁰ There was also a new level of risk and insecurity to the government. Yet, patterns of violence were not created *ex nihilo* but instead mimicked, reinterpreted and re-created pre-existing patterns.

¹⁶ The account of Jonglei State by Thomas provides a clear example of this. Edward Thomas, *South Sudan: A Slow Liberation* (London, 2015); Human Rights Watch, 'South Sudan's New War'; International Crisis Group, 1 February 2015, 'South Sudan: Jonglei – "We Have Always Been at War"', last accessed 1st January 2016, www.crisisgroup.org/en/regions/africa/horn-of-africa/south-sudan/221-south-sudan-jonglei-we-have-always-been-at-war.aspx.

¹⁷ Allen and Schomerus present one key account of violence in South Sudan after the CPA. Mareike Schomerus and Tim Allen, *Southern Sudan at odds with itself: dynamics of conflict and predicaments of peace* (London, 2010).

¹⁸ De Waal, 'When kleptocracy'; Douglas Johnson 'Briefing: The Crisis in South Sudan', *African Affairs* 113:451 (2014), pp. 300–309.

¹⁹ For example, the Guardian carried the dramatic headline "South Sudan: the state that fell apart in a week" (The Guardian, 23rd December 2013, <http://www.theguardian.com/world/2013/dec/23/south-sudan-state-that-fell-apart-in-a-week>, accessed on 29 May 2016). The Economist described it as a "bloody rupture" (The Economist, "South Sudan: Destroying Itself From Within", 4th January 2014, <http://www.economist.com/news/middle-east-and-africa/21592637-despite-desperate-peacemaking-efforts-outlook-south-sudan>, access on 29 May 2016).

²⁰ Many of the South Sudanese I have interviewed have experienced the full force of blunt, brutal violence since December 2013. They have lost loved ones, been hungry and moved hundreds of miles to safer places. Their children have learnt about the sound of shelling and how to live inside the caged camps of the UN protection of civilian sites. Some friends have even had their first flight in a plane to Kakuma, and their wives have survived difficult births in these international refugee camps because of the superior health care services there as compared to their home villages in South Sudan. Many will count these as pivotal years in their own histories.

When studying patterns of violence, Gutiérrez-Sanín and Woods advise us to consider repertoires, techniques and targets of violence.²¹ South Sudanese have been forced to contend with the moral, legal and spiritual consequences of specific repertoires and techniques of violence. For decades, South Sudanese have debated whether it is more legitimate to kill with a spear, a club or a gun. They have confronted questions such as whether death by mutilation and crucifixion demand stronger justice than a more simple death. They also find themselves fighting shifting targets and categories of identity, with violence levied against everyone from their own family members to foreign fighters. They continue to debate what identities are legitimate targets of violence. In addition, there are ongoing questions about when and who has an obligation to adhere to such normative frameworks. Can governments kill with impunity and not be subject to the regimes that they impose on others?²² Are times of war accompanied by different moral codes than times of peace?²³

During the South-South wars after the 1991 split in the SPLA, patterns of violence changed.²⁴ Hutchinson and Jok documented a significant shift in the war ethics of the western Dinka and Nuer during this time.²⁵ The wars of government fought with the gun had eroded the previous limits of legitimate violence.²⁶ This thesis develops these observations further. It notes some of the continued changes in the normative boundaries of patterns of violence in the two decades since Hutchinson and Jok's work. It also seeks to study in more depth the processes by which these normative frameworks have been remade and embodied both in times of war and peace.

Crucially, the thesis is interested in exploring the fluid but deep moral and cultural frameworks that underwrite violent acts and patterns of violence. Violence and killing, like other human action, is culturally mediated.²⁷ Plus, there is continuity as

²¹ Francisco Gutiérrez-Sanín and Elisabeth Jean Woods, 'What Should We Mean by "Patterns of Violence"? Repertoire, Targeting, Frequency, and Technique', *Perspectives on Politics* 15, 1 (2017), pp.20-41. They also argue we should consider the frequency of a pattern of violence if the intention is comparison.

²² J.M. Jok and S. Hutchinson, 'Sudan's Prolonged Second Civil War and the Militarization of Nuer and Dinka Ethnic Identities', *African Studies Review* 42, 2 (1999).

²³ Jok and Hutchinson, 'Sudan's Prolonged Second Civil War'.

²⁴ Jok and Hutchinson, 'Sudan's Prolonged Second Civil War'.

²⁵ Jok and Hutchinson, 'Sudan's Prolonged Second Civil War'.

²⁶ Jok and Hutchinson, 'Sudan's Prolonged Second Civil War'.

²⁷ Scherper-Hughes, Nancy and Bourgois, Philippe, *Violence in War and Peace: An Anthology* (Malden, 2004), pp.14-15.

well as contingency in the cultural frameworks that mediate patterns of violence. Therefore, small-scale, everyday actions, understandings and patterns of violence can illuminate the meanings and frameworks that endorse large-scale, dramatic acts of violence.²⁸

Therefore, patterns of violence during times of war are not disconnected from the normative regimes that govern patterns of violence in society during times of peace.²⁹ The idea of distinct ‘warzone’ cultures is deeply problematic.³⁰ The claim that there is a distinction between the legitimacy of patterns of violence in times of peace and war is itself a social and political construct. Lubkemann has illustrated for us that war is ‘a transformative social condition and not simple a political struggle’.³¹ Violent actions reconfigure existing norms and structures in original ways.³² In turn, transformations from war are contiguous and remake or entrench pre-existing normative regimes of violence that were made in times of peace. To this extent, violence does not ‘erupt’ but emerges in a particular political, moral and social context.³³

The approach of this thesis is to study the key actors in the processes that reshape the normative frameworks of legitimate violence. We have long known that armed conflict cannot just be explained as mindless mass action but that it is governed by regimes and normative orders. ‘New barbarism’ and its attributing of wars to a lack of authority and order has been shown to be an inadequate explanation of ‘new wars’.³⁴ Anthropologists have shown us that violent relations can themselves be ordered, constructive and creative.³⁵ In addition, especially in Africa, governments are often

²⁸ Scherper-Hughes and Bourgois, *Violence in War and Peace*.

²⁹ Richards, *No Peace No War*, pp.11-12.

³⁰ See Lubkemann’s discussion of Norstrom. Stephen C. Lubkemann, *Culture in chaos: an anthropology of the social condition in war* (Chicago and London, 2008).

³¹ Lubkemann, *Culture in Chaos*, p.1.

³² Florence Bernault and Jan-Georg Deutsch, ‘Introduction, Control and Excess: Histories of Violence in Africa’, *Africa* 85, 3 (2015), pp.385-394, p.387.

³³ Franziska Rueedi, ‘The Politics of Difference and the Forging of a Political “Community”: Discourse and Practices of the Charterist Civil Movement in the Vaal Triangle, South Africa, 1980-84,’ *Journal of Southern African Studies* 41, 6 (2015), pp.1181-1198.

³⁴ Mark Duffield, *Global Governance and the New Wars: The Merging of Development and Security* (London, 2001); Keen, *Complex Emergencies*; Paul Richards, *No War No Peace: Anthropology Of Contemporary Armed Conflicts*, (Ohio, 2004), p.9.

³⁵ Eisei Kurimoto and Simon Simonse (Eds.), *Conflict, Age and Power in North East Africa* (Woodbridge, 1998), p.10; Eisei Kumimoto, ‘Resonance of Age Systems in Southeastern Sudan’. In Kurimoto and Simonse (Eds.) *Conflict, Age and Power*; David Riches, ‘The Phenomenon of violence’, In Riches. D. (Ed.) *The Anthropology of Violence* (Oxford, 1986); David Turton, ‘“We Must Teach Them To Be Peaceful”: Mursi Views on Being Human and Being Mursi’. In Terje Tvedt (Ed.), *Conflicts in the Horn of Africa: Human and Ecological Consequences of Warfare* (Uppsala, 1993).

mistakenly assumed to be absent, despite their active presence.³⁶ Governments have long been involved in remaking social processes in Africa, including those processes that shape the normative regimes of patterns of violence.³⁷ Governments have contested and coopted spiritual, moral, political and legal consequences of repertoires of violence.

At the same time, South Sudanese and local public authorities have neither passively accepted the new normative regimes nor the violence of governments.³⁸ The thesis provides further examples of how public authorities have both contested and coopted these normative regimes of government. Previous scholarship on South Sudan has provided us with examples of how public authorities such as chiefs and Nuer prophets have negotiated their authority.³⁹ In South Sudan there are a plurality of competing public authorities that all command 'a minimum voluntary compliance'.⁴⁰ These institutions often are 'twilight' in that they exercise 'state qualities of governance' but are not government institutions.⁴¹ This thesis seeks to better understand how public authorities have actually reshaped the normative boundaries of patterns of violence.

Therefore, this thesis offers us an alternative lens through which to investigate public authority. Reforming regimes that govern patterns of violence not only reshapes repertoires and targets of violence but can also redefine relationships between public authorities, and between citizens and these authorities. Therefore, debates over normative regimes of violence are closely linked to political authority itself. Debates about land regimes have recently been highlighted as also being, at their heart, about

³⁶ Catherine Boone, 'Land regimes and the structure of politics: patterns of land-related conflict,' *Africa* 83, 1 (2013), pp.188-203; Cherry Leonardi, *Dealing with Government in South Sudan: History of chiefship, community and state*. (Woodbridge, 2013); C. Lund, 'Twilight Institutions: Public Authority and Local Politics in Africa', *Development & Change Special Issues* 37, 4 (2006), pp.685-705.

³⁷ P. J. Stewart and A. J. Strathern, *Violence: Theory and Ethnography* (London, 2002). Also see Chapter Seven of this thesis.

³⁸ Examples can already be found in the literature: Johnson's discussion of the Nuer prophets - Douglas Johnson, *Nuer Prophets: A history of prophecy from the Upper Nile in the Nineteenth and Twentieth Centuries* (Oxford University Press, Oxford, 1997); Cormack's discussion of Mabiordit - Zoe Cormack, *The Making and Remaking of Gogrial: Landscape, history and memory in South Sudan*, (University of Durham, unpublished PhD dissertation, 2014); Leonardi, *Dealing with Government*; Martina M. Santschi, *Encountering and 'Capturing' Hakuma: Negotiating Statehood and Authority in Northern Bahr el-Ghazal, South Sudan*, Thesis, University of Bern.

³⁹ Hutchinson, *Nuer Dilemmas*; Johnson, *Nuer Prophets*; Leonardi, *Dealing with Government*; Santschi, *Encountering and 'Capturing' Hakuma*.

⁴⁰ Lund, 'Twilight institutions'.

⁴¹ Lund, 'Twilight Institutions'.

power, authority and citizenship.⁴² This thesis instead focuses on regimes of lethal violence as another way to interrogate authority particularly in contexts of protracted conflict. By understanding how these regimes are being remade, the thesis gains a glimpse into the powers and authorities that govern life and death, war and peace in South Sudan. For example, in the 1990s, Johnson highlighted how Nuer prophets had built their authority by making moral communities. This demonstrated that moral boundaries could be remade as a way to build legitimacy in South Sudan.⁴³

A long and ongoing struggle for authority in South Sudan has been between government and divine sources of power. While these sources of power are not necessarily mutually exclusive, governments' fear of the power of divinities has often forced them into competition.⁴⁴ Governance of regimes of patterns of violence is a key arena in which such struggles for power and authority are enacted. This will be explored explicitly in Chapters Three – Five of this thesis.

The Western Nuer and Dinka

This thesis explores these themes through ethnographic studies of normative regimes amongst the northwestern Dinka and western Nuer. I first moved to live, work and research in rural villages amongst the western Dinka in late 2009, and later spent time amongst the western Nuer from 2012. I continued to spend time in these places until early 2015. By teaching in the rural communities of the western Dinka and Nuer, I was able to be part of rural daily life during a time of massive shifts in the national political arrangements of power. Initially I was intrigued to see how authority, power and politics in people's daily lives in these rural communities related to the theoretical shifts of power happening at the national level during a period after the CPA and at the point of South Sudan's independence.

The western Nuer and Dinka were the field sites of Jok and Hutchinson's work on the changing ethics of war in the 1990s.⁴⁵ The western Nuer and Dinka are also the

⁴² Catherine Boone, *Property and Political Order in Africa: Land Rights and the Structure of Politics* (Cambridge University Press, Cambridge, 2014); Boone, 'Land Regimes'; N. Badiy, 'The Strategic Instrumentalization of Land Tenure in 'State-Building': The Case of Juba, South Sudan,' *Africa* 83, 1 (2013), pp.57–77.

⁴³ Johnson, *Nuer Prophets*.

⁴⁴ Johnson, *Nuer Prophets*.

⁴⁵ Jok and Hutchinson, 'Sudan's Prolonged Second Civil War'.

homelands of two leading, national political figures – namely President Salva Kiir and (then) Vice President Riek Machar. Salva Kiir and Riek Machar presented themselves as representatives of opposing Southern groups from the South-South conflicts of the 1990s who came together in the united post-CPA Southern government. After December 2013, Salva Kiir and Riek Machar would be the leading personalities in the armed conflict. The western Nuer was also home to the SSDF and other anti-SPLA Southern groups. I was initially interested to investigate how the new government of South Sudan was being remade in regions that had close political ties to the centre. Even in the apparent times of ‘peace’ before December 2013, it was clear that one of the major ways that elite politicians and military figures were relating to their home communities was through discussions of lethal violence and their attempts to remake the regimes that govern patterns of violence. The remaking of moral boundaries of lethal violence by governments and elites was not just momentary, during times of war, but also over time through longer-term normative regimes.

My focus on the western Dinka and Nuer also provided me with contrasting, long-term experiences of government power. Western Nuer and Dinka since the late 19th Century have contested and coopted government powers in different ways, with contrasting experiences of secularisation and relationships with government power. Therefore, spending time in these places also offered insights into the politics of reproducing metaphysical and spiritual connections and contrasts.

Landscapes and Laws

Amongst the western Nuer and Dinka, public authorities have reshaped normative regimes through a plurality of direct and indirect, intentional and accidental, methods. This thesis specifically explores how normative regimes of violence in the western Nuer and Dinka have indirectly been changed through the remaking of laws and landscapes.

‘Landscape’ is a ‘hybrid imagined and material phenomenon’.⁴⁶ The way people engage with landscapes has implications for the construction and performance of identity.⁴⁷ As different ideas of identity, including ethnic identity, are important in

⁴⁶ Watson, ‘A “hardening of lines”’, p.201.

⁴⁷ Watson, ‘A “hardening of lines”’, p.201.

shaping targets of violence,⁴⁸ the remaking of landscape can have an indirect effect on patterns of violence. In Chapters Two and Three of this thesis I explore how governments, Dinka chiefs and a Nuer prophetess have reshaped the landscape and remade the legitimate targets of violence.

Knauft has warned us against offering over-simplified materialist explanations of war.⁴⁹ We cannot predict warfare by only looking at material features such as land or population pressure. However, the focus on landscape allows this thesis to take account of the material world in explanations of armed conflict without assuming the material world is static or beyond imagination.

Law is a process but also sometimes materially embodied.⁵⁰ Governments and other public authorities have been involved in wrestling over the legal limits of patterns of violence for over a century amongst the western Nuer and Dinka. Legal frameworks may not exactly dictate normative boundaries but the law has shaped the repertoires and targets of violence that are considered legitimate.⁵¹ This thesis explores contemporary examples of how Dinka chiefs and Nuer prophets have tried to reshape the legal boundaries that change patterns of violence in times of war and peace. Chapters Five to Eight of this thesis discuss this in more depth.

Lethal Violence

In this thesis I focus on fatal or lethal violence. This focus is a response to the fact that, in recent decades, South Sudanese have had to come to terms with lethal violence as a regular part of life in times of war and peace.⁵² Young men in South Sudan expect to be exposed personally to lethal violence – to the trauma of killing and the risk of dying.

⁴⁸ Gutiérrez-Sanín and Woods, 'What Should We Mean.'

⁴⁹ Bruce. M. Knauft, 'Melanesian warfare: a theoretical history', *Oceania* 60 (1990), pp.250-311.

⁵⁰ On law as process see, for example, Sally Moore, *Social Facts and Fabrications: 'Customary' Law on Kilimanjaro 1880-1980*, (Cambridge, 1986). In relation to law being materially embedded, see Tom Johnson, 'Medieval Law and Materiality: Shipwrecks, Finders, and Property on the Suffolk Coast, ca. 1380-1410', *American Historical Review* (2015), pp.406-432.

⁵¹ James Ron, 'Savage Restraint: Israel, Palestine and the Dialects of Legal Repression', *Social Problems* 47, 4 (2000), pp.445-472.

⁵² Within the first month of the violence, an estimated 10,000 people had been killed; now international observers have largely stopped counting. Copeland (International Crisis Group) was responsible for the first estimate of 10,000 deaths. This was a conservative calculation based on aggregating deaths reported in the media and during interviews. ICG later in 2014 suggested that at least 50,000 had now been killed but criticized the UN for not counting (Martell 2014). Casie argued, in this article, that the lack of record of the dead was dehumanising the South Sudanese. Although numbers killed would have been difficult to record accurately, in other complex contexts like Syria, attempts have been made (Hadid 2015).

For governments, the prime danger of armed conflicts is often not lethal violence but the stability of their own regimes. Yet, for South Sudanese, at the heart of their fears and uncertainties have been the deaths of themselves and those they know, and the consequences their killing will have for these people.⁵³ Finally, my focus on lethal violence is a reflection of governments in South Sudan linking lethal violence to their own power and sovereignty; the power to kill with impunity has been at the heart of governments' claims to authority.⁵⁴ This means that regimes of lethal violence can give us insights into the realities of power and public authority in South Sudan.

Gutiérrez-Sanín and Woods caution against focusing on lethal violence if this is used as an inference about the overall behavior of an armed organization.⁵⁵ The thesis does include mention of a broad repertoire of patterns of violence. It is also important to note that the thesis's focus on lethal violence is also not a proxy for comparison of behaviour but instead allows this specific part of the repertoire of violence to be explored in more depth.

Violence in South Sudan

i. Current Explanations of the Armed Conflict in South Sudan

Since December 2013, scholars have provided explanations of the 'brute' and 'root' causes of the recent armed conflicts in South Sudan. They have largely focused on collective forms of politically instrumental violence – namely the 'uprising' of the armed opposition and the government's response to it.⁵⁶

Johnson has highlighted the inadequacy of explanations of the violence of the recent armed conflict based on ethnicity.⁵⁷ Instead, it has been the penetrating impact of the central politics that has caused conflict. Johnson links the 2014 conflict to

⁵³ This chimes with a shift towards human security in international policy that marks an international commitment away from the preservation of the state as the preeminent concern of security and towards the doctrine of 'sovereignty as responsibility' and a security focus on human life (Sadikiel Kimaro, Donald Rothchild, Terrence Lyons, William Zartman and Francis Deng, *Sovereignty as Responsibility: Conflict Management in Africa*, (Washington, 1996).

⁵⁴ Sharon Hutchinson, 'Death, Memory and the Politics of Legitimation'.

⁵⁵ Gutiérrez-Sanín and Woods, 'What Should We Mean.'

⁵⁶ Bernault and Deutsch's discussion of historians and anthropologists' approach to violence in Africa is useful. Bernault and Deutsch, 'Introduction, Control and Excess'.

⁵⁷ Johnson 'Briefing'.

unresolved tensions following the split in the SPLA in the 1990s, and the incomplete reintegration of the anti-SPLA forces into the SPLA after 2005.⁵⁸ In the 1980s and 1990s, anti-SPLA Southern forces had fought against the SPLA across South Sudan. In 2002, Riek Machar returned to the SPLA ending the largest political split in the movement. The 2006 Juba Declaration had brought into the SPLA large numbers of the anti-SPLA forces. In theory, after 2006, there was military and political unity amongst Southern elites, soldiers and communities. However, rivalries and mistrust remained visible between politicians, commanders and soldiers. Johnson points out that the December 2013 split in the soldiers of the SPLA was more clearly a split between former SSDF soldiers and former SPLA soldiers, than a split between Nuer and Dinka soldiers.⁵⁹

De Waal has attributed the 'brute' causes of the post-December 2013 war in South Sudan to its 'political market place'. De Waal describes the post-CPA Southern government as a 'kleptocracy – a militarised, corrupt, neo-patrimonial system of governance.'⁶⁰ According to De Waal, the peace in South Sudan was brought by President Salva Kiir using oil money to secure elite alliances. Kiir then bankrupted the system when he shut down the oil in January 2012 over a row with Khartoum. According to De Waal, without money, the President could not manage the competition in the political market place and competing elites rebelled against him causing the December 2013 crisis. The war was in the interests of the elite.

Keen has long highlighted the need to also understand why ordinary people embrace elites' manipulation of violent conflict. Why do combatants participate in armed combat that benefits elites?⁶¹ This is especially as combatants can face great personal risk and slaying also carries spiritual and moral dangers. In De Waal's account of the South Sudan war, elites used ethnicity to mobilise people to violence and this ethnicity was based around ethnic-military lines of patronage.⁶² However, elite patronage networks in South Sudan are much narrower than broad collectives that have been mobilised to fight together. Therefore, there is still much to understand about the link between the elite, their communities and those who actual implement violence.

⁵⁸ Johnson 'Briefing', p.302.

⁵⁹ Johnson 'Briefing'.

⁶⁰ De Waal, 'When Kleptocracy'.

⁶¹ Keen, *Complex Emergencies*, p.73.

⁶² De Waal, 'When Kleptocracy'.

Policy makers and researchers since December 2013 have also had a new interest in mental health and conflict-produced trauma in South Sudan.⁶³ There is undoubtedly much to be understood about the consequences of extensive lethal killing on individuals' behavior. However, we need to be careful not to miss the collectively experienced shifting cultural, political or economic frameworks that change patterns of violence.

Thomas's political economy analysis links the wars of South Sudan to spatial inequalities that have ensnared South Sudanese since their first exposure to the consequences of global capital in the mid 19th Century.⁶⁴ Thomas argues that since this early encounter with the international system, South Sudan has been a periphery of Sudan and has experienced uneven development over the last century. The wars were framed by Garang's SPLA as a way to counter the unevenness in development. However, this liberation is yet to be realised, fueling further conflict. This chimes with a broader literature that has highlighted perceptions of the injustices of horizontal inequalities as root causes of violent conflicts in Africa.⁶⁵ In discussion of the Sudan–SPLA war, the government is attributed with the construction of these inequalities, but the inequalities are still experienced horizontally between 'culturally defined' groups, along religious and ethnic lines.⁶⁶ Talking about wars in Africa more generally, Stewart highlights how inequality in access to political power and resources can lead to frustration that mobilises people to violence. The privileged might also be mobilised to violence to safeguard their economic and political power.⁶⁷ Political institutions interact with these inequalities, conditioning forms of political representation.⁶⁸ Thomas describes how successive states in South Sudan have used ethnicity to organise relationships and this has made ethnicity part of the political order in South Sudan.⁶⁹

⁶³ South Sudan Law Society, *Searching For A New Beginning: Perceptions of Truth, Justice and Reconciliation and Healing in South Sudan* (Juba, 2015).

⁶⁴ Thomas, *South Sudan*.

⁶⁵ Frances Stewart has been the dominant advocate of this argument. See, for example: Yoichi Mine, Frances Stewart, Sakiko Fukuda-Parr and Thandika Mkandawire, *Preventing Violent Conflict in Africa: Inequalities, Perceptions and Institutions* (London, 2013).

⁶⁶ Thomas, *South Sudan*.

⁶⁷ Frances Stewart, 'Crisis Prevention: Tackling Horizontal Inequalities', *Oxford Development Studies* 23:3 (2000), pp. 245-62

⁶⁸ Mine, Stewart, Fukuda-Parr and Mkandawire, *Preventing Violent Conflict in Africa*.

⁶⁹ Thomas, *South Sudan*.

Leaders might promise that violence will provide material riches or redress economic grievances. Survival, security and fear may also drive people to participate in armed conflicts.⁷⁰ Alternatively, people may have no choice but to fight if they are forcibly recruited.

Yet, there is much more to understand. Keen has long urged us to look at the systems that shape and emerge during conflict.⁷¹ Jok and Hutchinson's research on the Dinka and Nuer in 1990s,⁷² has shown us that it is important to try to grapple with the violence in South Sudan not only as politics but also in a way that takes into account South Sudanese understanding of violence in relation to deep cultural frames, moral imaginings and religious beliefs. Kurimoto's work on age and conflict in Southeastern Sudan also shows us the importance of deeper frameworks for understanding patterns of violence in South Sudan.⁷³ Many South Sudanese believe that the lethal violence they inflict is legitimate and correlates with long-term moral orders, not simply short-term elite instructions to violence. Scholarship in Africa has highlighted the value when studying violence of taking into account moral imaginations, religious beliefs and other underlying frameworks.⁷⁴

ii. *Taking into Account Deep Culture Frames*

In the mid 20th Century, anthropologists, with reference to studies of the Nuer and Dinka, claimed that culturally institutionalised violence had regulatory functions that provided order in the absence of the state.⁷⁵ Feuds then become evidence of moral order not chaos.⁷⁶ Historians have convincingly critiqued these ideas that linked social structures and violence in Southern Sudan.⁷⁷ Johnson highlighted that there had been decades of government interference in patterns of violence before the studies of Evans-

⁷⁰ David Keen, 'A tale of two wars: great expectations, hard times', *Conflict, Security and Development* 9:4 (2009), pp.515-534. Leaders and fighters perceive benefits and functions from fighting. Yet, in reality it is often the case, as it was in Sierra Leone and the US war in Iraq, that "within the upper levels of each war system, benefits were more actualized than advertised, whilst, within the lower levels, benefits were more advertised than actualized". Keen, 'A tale of two wars', p.532.

⁷¹ Keen, *Complex Emergencies*, p.15.

⁷² Jok and Hutchinson, 'Sudan's Prolonged Second Civil War'.

⁷³ Eisei Kurimoto, 'Resonance of age systems in Southeastern Sudan', in Kurimoto and Simonse, *Conflict, Age and Power in North East Africa*, pp.29-50.

⁷⁴ Bernault and Deutsch, 'Introduction, Control and Excess'; J. Comaroff and J. Comaroff, *Of Revelation and Revolution: Volume I*, (Chicago, 1991); A. Mbembe, *On the Postcolony* (Berkeley, 2001).

⁷⁵ Christopher Boehm, *Blood Revenge: the enactment and management of conflict in Montenegro and other tribal societies* (Pennsylvania, 1984); Max Gluckman, 'The Peace in the Feud', *Past and Present* 8:1 (1955), pp.1-14.

⁷⁶ Boehm, *Blood Revenge*, p.xii.

⁷⁷ Douglas Johnson 'The Fighting Nuer: primary sources and origins of a stereotype', *Africa* 51:1 (1981), pp. 508-527.

Pritchard and Lienhardt on the Nuer and Dinka.⁷⁸ This is critically discussed in Chapter Seven of this thesis. Plus, wars often make communities and do not just govern relations between previously formed, static groups.⁷⁹

Yet, still, wars of all kinds can have ritual and sacrificial meanings,⁸⁰ and there are various frameworks that institutionalise confrontational scenarios and patterns of violence. Kurimoto and Simonse's work has seen age systems in North East Africa as providing a key framework for generating identity from enmity and belligerence.⁸¹ In his research in Southeastern South Sudan, Kurimoto has shown that the *monyomiji* system provided a shared normative framework that assured interactions of both warfare and peace.⁸² Also crucially, as Kurimoto and Simonse's work on age highlighted, structures are not static.

In recent work on the Congo, Hunt has shown that forms of violence have endured over time in memory, shaping cultural frames. She argues that, therefore, it is important to locate repetition and difference in violence.⁸³ The long histories of military norms and values create a repertoire that can be used to legitimise political violence.⁸⁴ Hunt has argued that we must 'tether' the past to the present in that we need not focus on 'continuity or causality' but instead consider certain modalities of violence that are reproduced over time.⁸⁵ Past histories of modalities of violence have also left behind 'debris' that included material things and reproductive technologies that can still exert power. Images of past atrocities evoke questions of the imaginaries and choreographies of violence at play.⁸⁶ Research elsewhere has shown that rebellions have used modes of violence that repeated and perpetuated the modes of violence used by the colonial state.⁸⁷ Forms of violence were first choreographed by the colonial state

⁷⁸ Douglas Johnson 'The Fighting Nuer: primary sources and origins of a stereotype', *Africa* 51:1 (1981), pp. 508-527.

⁷⁹ Kurimoto and Simonse (Eds.) *Conflict, Age and Power*.

⁸⁰ Eisei Kurimoto and Simon Simonse, 'Introduction', in Kurimoto and Simonse, *Conflict, Age and Power in North East Africa*, p11.

⁸¹ Kurimoto and Simonse, 'Introduction', pp.10-11.

⁸² Kurimoto, 'Resonance of Age Systems', pp.29-50.

⁸³ Nancy Hunt, 'An Acoustic Register, Tenacious Images, and Congolese Scenes of Rape and Repetition', *Cultural Anthropology* 23:2 (2008), pp.220-253.

⁸⁴ "Repertoires" has come into more common use since Tilly, McAdam and Tarrow's discussion of 'repertoires of contention' in theories of social movements. Doug McAdam, Sidney Tarrow and Charles Tilly, *Dynamics of Contention* (Cambridge University Press, Cambridge, 2001).

⁸⁵ Hunt, 'An Acoustic Register', p. 224 and p.243.

⁸⁶ N. Eggers, 'Mukombozi and the monganga: The violence of healing in the 1944 Kitawalist uprising', *Africa*, 85:3 (2015), pp.417-436.

⁸⁷ Eggers, 'Mukombozi and the monganga', p.433.

only to be ‘tethered to the present’ in the modes of violence used in contemporary conflicts.⁸⁸

In relation to South Sudan, Rolandsen and Anderson have already shown us that, in South Sudan, war has been constructed to be embedded in the discourse, practices and conditions of these communities.⁸⁹ Jok describes how South Sudanese in December 2013 ‘used their memories as their moral compass’.⁹⁰ Jok particularly highlights the massacres ordered by Riek Machar on the Dinka of Jonglei in the 1990s as shaping Dinka memories into the contemporary period. In Chapters Two and Three of this thesis I discuss history and its material embedding in the landscape that has, in turn, shaped political identity and the legitimate targets of lethal violence.

Other research has also highlighted how other regimes and normative frameworks also governed the normative limits of lethal violence. For example, Ron discusses how legal rules set limits to patterns of violence during the 1988 uprising in the West Bank and the Gaza Strip.⁹¹ At the same time, within these limits, soldiers invented means of repression and so the legal rules did not restrain all violence.⁹² Yet, the security forces did stay in the legal limits. For Ron, key to the influence of legal regimes and these patterns of violence was the underlying desire to present an appearance of legality.⁹³

This thesis is interested in exploring the deep moral frameworks that govern patterns of violence in South Sudan and how these are changing. I look at the public authorities (including governments) that have played a role in remaking them. We need to understand how these public authorities reshape the norms, meanings, perceptions and spiritual and moral consequences of certain patterns of violence.

In Chapters Three to Five, the thesis explores the specific role played by spiritual authorities as they seek to provide normative boundaries to the lethal violence

⁸⁸ Eggers, ‘Mukombozi and the monganga’, p.433. ‘Tethered to the present’ is a reference to the work of Hunt in Eggers.

⁸⁹ David M. Anderson and Øystein H. Rolandsen, ‘Violence as politics in eastern Africa, 1940-1990: legacy, agency and contingency’, *Journal of Eastern African Studies* 8:4 (2014), pp.539-557; Jackson and Dexter, ‘The Social Construction of Organised Violence’.

⁹⁰ Jok Madut Jok, *Breaking Sudan: The search for peace* (London, 2017), p.199.

⁹¹ Ron, ‘Savage Restraint’.

⁹² Ron, ‘Savage Restraint’.

⁹³ Ron, ‘Savage Restraint’, p.449.

that the western Nuer experience. I record how Nuer prophets have reshaped Nuer customary laws and have remade the landscape in order to limit the lethal violence of government and assert their own ideas of legitimate armed conflict. In relation to the western Dinka, the thesis discusses how Chiefs' Courts have used the customary laws relating to lethal violence and marriage to reshape people's understanding of life and death, war and peace, and the government's power to govern these regimes.

iii. *Public Authorities and Divine power*

Leonardi builds on work by Boone to warn us against the false perpetuation of dichotomies between local society and the state.⁹⁴ In reality, public authorities are not easily categorised but instead look more like complex ecosystems.⁹⁵ Their power waxes and wanes.⁹⁶ Meagher also warns us that non-government public authorities are not necessarily legitimate and can also be unaccountable and coercive.⁹⁷ Therefore, this thesis seeks to examine empirically public authorities' relations towards citizens and powerful national and global actors.⁹⁸

Leonardi has offered us a useful distinction in South Sudan between the 'government' sphere of authority and that of the 'home'. The 'home' sphere was based on decision making of family heads and chiefs.⁹⁹ These spheres are not discrete and many public authorities gain their power by sitting in both. Leonardi documents how chiefs, since the mid 19th Century coming of government, have sat between the spheres of 'home' and 'government', brokering of people-government relations.¹⁰⁰

An alternative categorisation of public authorities in South Sudan used by this thesis is based on whether they are backed by the power of government or the power of the divinity.¹⁰¹ Western Nuer and Dinka often explicitly compared government power to the might of the divine. Johnson has convincingly argued that opposition between

⁹⁴ Leonardi, *Dealing with Government*, p.4.

⁹⁵ Meagher et al, 'Unraveling public authority', p.4.

⁹⁶ Lund, 'Twilight Institutions'.

⁹⁷ Kate Meagher, Tom De Herdt and Kristof Titeca, 'Unraveling public authority: paths of hybrid governance in Africa, *Research Brief* 10, IS Academy, March 2014, p.5.

⁹⁸ Anna Macdonald and Tim Allen. 'Social accountability in war zones – confronting local realities of law and justice', *International Journal on Minority and Group Rights* 22:3 (2015), pp/279-308.

⁹⁹ Cherry Leonardi, "'Liberation" or Capture: Youth in between "hakuma" and "home" during civil war and its aftermath in Southern Sudan', *African Affairs* 106, 242 (2007), pp.391-412.

¹⁰⁰ Leonardi, *Dealing with Government*, p. 7.

¹⁰¹ There are others who are backed by neither and may instead, for example, rely on the power provided by NGOs, the media or local popular support.

government and divinities is not necessary.¹⁰² However, as early as the Anglo-Egyptian Condominium government, governments have feared local religious leaders.¹⁰³ Government-divine competition is discussed in more depth in Chapters Three – Five of this thesis.

An Outline of the Thesis:

Remaking Regimes Through Law and Landscape

This thesis is made up of a further ten chapters: four articles written for peer-reviewed journals, five linking chapters and the conclusion. The ten chapters are organised thematically, around the themes of landscape and law. Law and landscape are two examples of ways in which governments and other public authorities have indirectly remade regimes, idioms and patterns of lethal violence. After Chapters One and Two, the thesis also initially focuses on the western Nuer. Chapters Six – Nine then focus on the western Dinka.

The chapters of the thesis include four articles written for peer-reviewed journals. These chapters (namely Chapters Two, Four, Seven and Nine) can be read autonomously but are linked to the rest of the thesis through these common themes and by the inter-linking chapters (namely Chapters Three, Five, Six and Eight).

Regimes of lethal violence are not the explicit themes of every chapter. However, collectively, they provide examples of how normative regimes of lethal violence change.

PART I of the thesis focuses on landscapes and prophets. Chapter Two of this thesis focuses on examples of Dinka and Nuer chiefs, governments and international actors and how they have remade the landscape between the western Nuer and Dinka. This builds on work by Cormack in Gogrial.¹⁰⁴ Chapter Three of this thesis then introduces the idiom of the Nuer prophets and focuses on a specific prophethood of *Maani* and her reshaping of the landscape. These chapters build on work by scholars

¹⁰² Johnson, *Nuer Prophets*.

¹⁰³ Johnson, *Nuer Prophets*.

¹⁰⁴ Cormack, *The Making and Remaking of Gogrial*.

such as Watson and Ingold who have highlighted that landscapes are formed through socio-political processes, and come to embody the stories of previous generations that in turn shape politics and political identity.¹⁰⁵ Social and political pressures dialogue with the materiality of the landscape and this materiality creates an enduring autonomy that limits politicians and local public authorities' abilities to remake the landscape.¹⁰⁶ Landscapes are important to regimes of lethal violence as they contribute to people's collective identities and naturalise claims to power.¹⁰⁷

Chapter Four of this thesis then explicitly compares the peace-making strategies of two western Nuer prophets (including the prophetess of *Maani*). This chapter highlights how these prophets draw on common idioms with very different consequences. Therefore, the deep, cultural frameworks that underwrite the patterns of violence in South Sudan are not static but shift and vary based on interpretations.

PART II of the thesis focuses on laws. Chapters Five to Seven explore Nuer and Dinka customary laws and their reshaping of normative regimes and patterns of lethal violence in times of both war and peace. Chapter Five returns to a focus on the prophetess of *Maani* and describes her attempts to claim authority over the Nuer customary law. It also records her attempts to limit government's ability to kill with impunity. Chapters Six and Seven provide an introduction to the history of customary laws amongst the western Nuer and then Dinka. Chapter Eight focuses on the Dinka chiefs' courts remaking of laws of revenge and compensation.

The approach taken to law in this thesis takes account of scholarship that has shown that law is a historical, dynamic process.¹⁰⁸ Even when the law does not change,

¹⁰⁵ Tim Ingold, 'The Temporality of the Landscape', *World Archaeology* 25:2 (1993), pp.152–174; Elizabeth. E. Watson, 'A "hardening of lines": landscape, religion and identity in northern Kenya', *Journal of Eastern African Studies* 4:2 (2010), pp.201-220.

¹⁰⁶ Tim Ingold, 'Toward an Ecology of Materials', *Annual Review of Anthropology* 41 (1992), pp. 427-442.

¹⁰⁷ For example: S. Schama, *Landscape and Memory*, (London, 1995). Watson, 'A "hardening of lines"'; J. McGregor, *Crossing The Zambezi: The Politics of Landscape on a Central African Frontier*, (Woodbridge, 2009), p.2.

¹⁰⁸ Moore, *Social Facts and Fabrications*. Moore's work on the Chagga and Chanock's work in Malawi and Zambia furthered this argument. With this growing complexity in understanding, the term "legal pluralism" was first coined (Benda-Beckmann 1970) building on Pospisil (1958)'s description of the "hierarchy of legal levels" amongst the *Kakauku Papuans*. Law as dynamic reflects a general shift in anthropology where "for decades now the cliché in anthropology has been that process has replaced structure as a preoccupation" (Moore, *Social Facts*, p.320), with negotiation and change as commonplace (Moore, *Social Facts*, p.39).

it is also a process of ‘repetition and reproduction’ that needs explanation.¹⁰⁹ Legal pluralism has highlighted the import of power relations in this process of law.¹¹⁰ Law can be an instrument to achieve domination and ‘social control’.¹¹¹ In the 19th and early 20th Centuries, the British used law to gain control over their empire.¹¹² ‘The law was the cutting edge of colonialism, an instrument of the power of an alien state and part of the process of coercion.’¹¹³ Customary laws were also used as a method of legitimation of power as they allowed colonial powers to present themselves as custodians of custom.¹¹⁴

These discussions in the thesis take as given that ‘law’ is not limited to being the command of the sovereign.¹¹⁵ Instead ‘law’ includes forms of social ordering found in unofficial networks and institutes that still drew on the symbols of law.¹¹⁶ African legal realities have often exposed the limits of Western legal systems and a narrow understanding of ‘law’. However, even Merry highlights that, if following a broad definition of law, it becomes hard to distinguish between talking of law and just describing social life.¹¹⁷ As we will discuss in Chapter Five of this thesis, customary legal authorities in South Sudan that have relied on divine and not government authority have, non-the-less, not just acted on momentary discretion but relied on rules and their own recognition. Law may well still also always be linked to notions of government and centralised political control,¹¹⁸ if the law-government link refers to law as being an ‘attempt to govern’.¹¹⁹ Amongst the western Dinka and Nuer, those administering the customary law have consistently used it as a means to govern local dynamics. Plus, Leonardi has shown, ‘in Southern Sudan, divergent legal systems and concepts have

¹⁰⁹ Sally E. Merry, ‘Legal Pluralism’, *Law and Society Review* 22:5 (1988), pp. 869-896.

¹¹⁰ Martin Chanock, *Neo-traditionalism and the customary law in Malawi* (1976).

¹¹¹ Chanock, *Neo-traditionalism*; Laura Nader, *The Life of Law: Anthropological Perspectives* (California, 2005).

¹¹² Simon Roberts, ‘Against Legal Pluralism: Some Reflections on the Contemporary Enlargement of the Legal Domain’, *Legal Pluralism* (1998), pp.95–106; Chanock, *Neo-traditionalism*; Mahmood Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*, (Princeton, 1996).

¹¹³ Chanock, *Neo-traditionalism*.

¹¹⁴ Chanock, *Law, Custom and Social Order*, p. 238; Mamdani, *Citizen and Subject*, p. 110.

¹¹⁵ Benda-Beckmann et al, ‘Dynamics of plural legal orders’; John Griffiths, ‘What is Legal Pluralism?’, *Legal Pluralism* (1986), pp. 1–47; Sally Merry, ‘Legal Pluralism’; Guenter Teubner, ‘The Two Faces of Janus: Rethinking Legal Pluralism’, *Cardozo* (1992), pp. 1443–62.

¹¹⁶ Laura Nader and Harry Todd (eds), *The Disputing Process: Law in Ten Societies* (New York, 1978). Contemporary legal positivists have even moved away from insisting that ‘law’ is the command of a sovereign. Instead, is the ‘law’ is the result of positive human authority. John Gardner, *Law as a Leap of Faith: Essays on Law in General*, (Oxford, 2012), pp.289-291.

¹¹⁷ Merry, ‘Legal Pluralism’.

¹¹⁸ Roberts, ‘Against Legal Pluralism’.

¹¹⁹ Simon Roberts, ‘After Government? On Representing Law without the State’, *Modern Law Review* 68 (2004), pp. 1–24, p.12.

merged to a particularly strong degree, making it impossible to distinguish entirely which laws originated in indigenous judicial culture and social norms and which have emerged through interaction with government law and wider cultures.’¹²⁰ So, customary law has become inseparable from government.¹²¹ However, as explored in Chapter Five of this thesis, this does not mean that customary law is the command of the government of the day.

Scholarship has shown that legal categories and discourses are often interwoven with social relations and praxes.¹²² In very recent years, scholars have also started to question the relationship between law and the material world, and have shown us that law can inhabit physical stuff.¹²³ Laws have ‘projected a certain kind of materiality, and these projections manifested in material things.’¹²⁴ In Chapter Six of this thesis, the materiality of law amongst the western Dinka is discussed. I only discuss the materiality of law amongst the western Dinka, not because similar questions cannot be asked of the western Nuer, but instead to raise discussion through one example. Discussion of the materiality of Dinka law in this thesis is not comprehensive but pushes open a door for further study.

By recognising the materiality of law and landscape, I make use of a wider trend in the humanities that has paid attention again to materiality and ontology.¹²⁵ It questions the dichotomy between subjects (human, social and representational) and objects (thing, material, real) and highlights that the hierarchical ordering is historically contingent. It highlights that human existence, including human’s lethal violence, is wrapped up in ‘dense agglomerations of *stuff*, shaping where we can go, what we can do, and how we think.’¹²⁶

¹²⁰ Cherry Leonardi, Leben Moro, Martina Santschi and Deborah Isser, *Local Justice in Southern Sudan*, (Washington, 2010), p.19

¹²¹ Roberts argues this in general terms in Africa. Roberts, ‘After Government?’, pp.14-15.

¹²² John Comaroff and Simon Roberts, *Rules and Processes: The Cultural Logic of Dispute in an African Context* (Chicago, 1986)

¹²³ Nicholas Blomley, ‘Making Private Property: Enclosure, Common Right and the Work of Hedges’, *Rural History* 18:1 (2007), pp.1–21. See also Nicholas Blomley, *Law, Space, and the Geographies of Power* (New York, 1994).

¹²⁴ Johnson, ‘Medieval Law and Materiality’.

¹²⁵ Caroline W. Bynum, ‘Perspectives, Connections & Objects: What’s Happening in History Now?’, *Daedalus* 138:1 (2009), pp.71-86.

¹²⁶ Johnson, ‘Medieval Law and Materiality’, p.409.

A focus on law and landscape provides an opportunity to understand the longevity of some regimes of lethal violence despite its dynamic nature. Meanings in law and landscape find tractions in their entanglement with the materialities of the milieu. When these meanings shape patterns of violence, the patterns of violence are also caught up in the materiality.

PART III of the thesis discusses examples of local public authorities capturing the youth of government. Chapter Eight specifically looks at the Dinka Chiefs' Courts use of marriage as a way to control of young Dinka men even when they are armed or join the SPLA. This acts as a link to the final Chapter Nine that describes the capture of *titweng* (the armed cattle keepers) from the western Dinka into the SPLA.

Detailed Outline of Thesis

The thesis is comprised of eight chapters, in addition to this Introduction and Critical Discussion and the Conclusion. The chapters include four articles written for publication in peer-reviewed journals. These articles are either published or accepted for publication. The additional chapters link together the themes of the articles. These chapters combine deep ethnographic description with theoretical insights, and follow a style more associated with chapters of a monograph.

Chapter One – Introduction and Critical Discussion

Chapter Two – Contesting the militarisation of the places where they met; the landscapes of the western Nuer and Dinka (South Sudan)

Published in the ‘Journal of East African Studies’, February 2017.

Chapter Two of this thesis provides an introduction to the western Nuer and Dinka, as well as to ideas of landscape, by offering an alternative historical (materially embedded) account of western Nuer and Dinka relations. Decades of militarised, violent conflict and elite wealth acquisition have reshaped the landscape and its applications for political identities and the legitimate targets of lethal violence. The article shows how militarised warfare in recent decades has created a common rupture in shared landscapes between communities of the western Dinka and Nuer (South Sudan) that has entrenched a division between the political identities of the western Nuer and Dinka. While the wars of the 1980s and 1990s were not simply based on Nuer-Dinka opposition, times of peace since the 2005 CPA, have remade the landscape between the western Nuer and Dinka into a militarised no-man’s land that has etched into the material experience naturalised visions of divisions between Nuer and Dinka. This new experience of the landscape has itself reshaped people’s understanding and articulation of politics and has made a naturalised, political ethnic division.

Chapter Three – The Road, the Government and the Prophetess: Competing for Authority Through the Landscape of the Western Nuer.

Chapter Three continues the theme of landscape and introduces the Nuer prophetic idiom by exploring two political revolutions in the western Nuer since the 2005 CPA. The first was a new government-supported, Chinese-funded and -built murrum road that cut through the *toic* and villages sketching a bold north-south line. The Haak Nuer were reconfiguring and reimagining their relationship to modernity in negotiation with the

materiality of the road. Yet, more importantly, the road was provoking new imaginings and enactments of the power of government. At the same time, Nyachol had been seized by the divinity of *Maani* and her prophetic credentials were being tested. Nyachol was intentionally trying to remake the landscape around her *luak* to provide an island of isolation from both modernity and the government. Nyachol was attempting to make a space of static tradition with herself as the guardian of custom in order to confront the uncertainty of the lethal violence and economic inequality that government and modernity were delivering. Nyachol's remaking of the landscape contrasted with earlier prophets of *Maani* who were still remembered as entangled with global influences, travel and innovative ideas. While Nyachol and global capitalist investment appeared to be remaking the western Nuer landscape in contradictory fashions, many Nuer were able to reconcile these ideas in their daily decisions and the nuances of these powers' interpretations.

Chapter Four – Violence, legitimacy, and prophecy: Nuer struggles with uncertainty in South Sudan

Co-authored with Sharon Hutchinson. Published in 'American Ethnologist', 2015.

Chapter Four explores further the prophetic idiom amongst the western Nuer during the tumultuous 2005–14 period. The chapter explores contrasting and complementary ways in which the two most powerful living western Nuer prophets have sought to limit lethal violence and the powers of government. As well as Nyachol, the article discusses Gatdeang Dit, a male prophet of the divinity *Deng*. He has rejected all forms of violent aggression and fosters relations of peace and intermarriage with Dinka neighbours. This contrasts with Nyachol who has inspired thousands of armed Nuer youth to retaliate against Dinka cattle raiders and other external threats while insisting on purification for Nuer–Nuer homicides. Despite their differences, both prophets invoke God's superior powers to push back against the simplified, secularised, and objectified forms of violence glorified by rival government elites.

Chapter Five - A Nuer Prophetess and The Art of Making Government Legally Accountable

Chapter Five continues the focus on Nyachol. This chapter develops the brief claim in the previous article that a key part of Nyachol's repertoire of powers is her ability to recognise people's contamination with *nueer*. She has used this power to resolve Nuer-

Nuer feuds post-homicide and fill a vacuum in government provision. At the same time, she has used this authority over the law to challenge the government's claims to be able to kill with impunity. Chapter Five also explores a history of the customary laws amongst the western Nuer. The chapter argues that Nyachol has not just claimed moral authority but has also claimed legal authority, reflecting a government-entrenched fetishism with the law.

Chapter Six - Dinka Chiefs, and Legal Authority and Materiality of the Law

Chapter Six provides a contrasting historical analysis of authorities and powers entwined with the customary law amongst the western Dinka. The chapter argues that, through the Chiefs' Courts, the government in the western Dinka achieved a more complete capture of the customary law and withered divine sanction behind the law. Over time, the government secularised the law. It ends by considering the continued materiality of the law.

Chapter Seven – ‘The Dead Are Just To Drink From’: Recycling ideas of revenge amongst the western Dinka.

Accepted for publication in ‘Africa’.

This article builds on the previous chapter's assertion that government regimes have prioritised secularised, normative and legal boundaries to lethal violence. This article explores how violent revenge amongst the western Dinka is best understood, not as revealing the absence of institutions of government in rural South Sudan, but as a consequence of the projection of power from governments over the details of local, normative regimes. In this age of post-state violence with automatic weapons, oil-wealthy elites and ambiguous rights, the erratic nature of government authority that backs up these regimes of compensation and violence has weakened their authority. As a result, in the last decade, the declining political space for peace and the disruption of the cattle economy has undermined the value of compensation and its ability to appease the spiritual and moral demands for revenge.

Chapter Eight – Law, materiality and the *titweng*: the struggle for marriage and the legal gatekeepers of the safety of the *baai*

Chapter Eight turns the attention of the thesis to young men who have become part of the armed forces of government, including through their recruitment into the SPLA. I argue that chiefs' capture of control of the regimes of marriage have helped the Chiefs' Courts and customary laws maintain control over armed combatants even when they are part of government. Elite commanders and politicians have used marriage to forge political alliances and patronage networks.¹²⁷ Yet, *titweng* (cattle-guards), soldiers, commanders and other combatants demand socially and legally respected marriages, making more intricate the relationship between the laws of marriage and national politics. The Chiefs' Courts then retain some leverage over those who wield the brute power of the gun. I argue that the Chiefs' Courts, amongst others, have entrenched marriage as a gateway to legitimate access to security. In this way, marriage is intimately linked to the politics of responsibility, security and protection.

Chapter Nine – ‘They Are Now Community Police’: Negotiating the Boundaries and Nature of the Government in South Sudan through the Identity of Militarised Cattle-keepers.

Published in the ‘International Journal of Minority and Group Rights’, 2015.

The final article of this thesis explores in greater depth some of the various relationships between western Dinka armed cattle keepers and the governing Sudan Peoples' Liberation Movement/Army over the last thirty years. The article highlights the blurred government/non-government boundary, as well as the ongoing contests to capture control of these *titweng*.

¹²⁷ Pinaud, ‘South Sudan’.

Note on Methodological Struggles

My intention was always to go beyond numerical and descriptive data of lethal violence. Instead I sought to provide a *portrait* of the dilemmas and discussions about moral and legal boundaries that reverberated around the increasingly common experiences of lethal violence in South Sudan and that were embedded in epistemological and ontological understandings about life, death, violence, dignity and the global order that were expressed in grand debates as well as mundane daily decisions and routines. My research aspired to understand the phenomena of lethal violence and the moral and spiritual responses to it by Western Dinka and Nuer and as they were expressed, negotiated and remade in the daily, lived realities. As this thesis was concerned with understanding ideas of lethal violence and armed conflict in South Sudan in relation to patterns of violence already embedded in society, lethal violence was assumed to not be located in its own bounded context but understood in the broader context of moral, legal, political and social struggles.¹²⁸ I decided that this would best be explored by the ‘thick’ descriptions that ethnographies provide.¹²⁹ I adopted the common anthropological assumption that the truth about human experience is not known from afar.

From the outset, I recognised that the knowledge I hoped to acquire was itself the outcome of relationships and the situations that I personally experienced and lived through. The knowledge I sought was intersubjective.¹³⁰ It was based on my own subjective knowledge and its interaction with the subjective knowledge of those I studied. My research was a personal adventure because it was a ‘protracted and intense experience.’¹³¹ My shifting understanding during this adventure was a key part of my findings and mirrored my own shifts in belonging and viewpoint. It was like a *portrait* in that the subject, the artist and the observer all played a part in the meaning it has, and its truth is not detached from its aesthetic qualities. Just as a portrait, the quality of its truth was not diminished by its subjective nature. At the same time, the observer and artist change their own interpretation of the painting over time, as they move around the portrait, move away from the portrait and seek to remember a portrait that they had once seen up close.

¹²⁸ Richards, *No Peace No War*. p.11.

¹²⁹ Broch-Due, *Violence and Belonging*. p.15.

¹³⁰ Jackson, M., *Life within Limits: Well-being in a World of Want*, (Duke University Press, 2011), p.xiii.

¹³¹ Boehm, *Blood Revenge*, p.13.

My own history and experiences were the point of departure and part of the perspective from which I understood the Western Nuer and Dinka. I grew up in Bath (England) where lethal violence was unknown to me and far removed from my daily-lived experiences. I did not know anyone who had been killed, nor did I know anyone that had killed. Lethal violence was distant – spatially, as something that happened elsewhere in the world, and socially, as something that could only occur amongst other social groups. I did not imagine that I would ever lose friends or family to lethal violence, nor did I imagine ever committing it. This was my own point of departure.

For people in South Sudan, many have grown up close to lethal violence, and lethal violence is a part of the complicated mix of memories and fears that intermingle and are understood through daily, lived realities. During my time in South Sudan my understanding of lethal violence changed in negotiation with those I met. Sometimes these changes were gradual enough for me to only see them in hindsight. At other times, there were moments of cognitive dissonance when my previous viewpoint on the world was clearly no longer tenable and a sudden shift necessary.

If I had any advantage at all over the Western Dinka and Nuer in understanding their struggles over lethal violence it was not really an epistemic advantage. Instead, my advantage was just in having a different starting point that might allow me to communicate to others with that same starting point. Unlike many of the Western Dinka and Nuer, I could still remember being distant from lethal violence and this might give me an advantage in communicating their struggles.

My first extended visit to the western Dinka was in the summer of 2009 to a small village amongst the Apuk Dinka. I intended to teach at a local school recently founded by someone from the Diaspora and largely being staffed by local young men returning from a decade in the Kakuma Refugee Camp (Kenya). The school's founder had organised for me to stay in a basic NGO compound in Luonyaker – the nearest market village to the school. The NGO compound was an eclectic collection of buildings that had grown since the NGO first established a base there during the humanitarian efforts of the 1990s. A Kenyan employee had to teach me how to shower with a bucket. Later the NGO gained funding to employ a water engineer to expand the number of local boreholes. He also installed one of the most powerful showers in South

Sudan. However, the NGO staff never achieved ridding the showers of spiders and snakes.

If you turn right out of the gate of this NGO compound and follow a sandy path a ten minute walk to the nearest, small market. For the years I lived in Luonyaker, the market has an organic layout of small shops, some made from grass and thatch, and others made from iron sheet roofs. Beyond the market was the new *murram* road that ran from Lietnhom to Wau. From the point where the market met the road, the school was at least an hour's walk away. It was a challenge to navigate through the village paths that led from tree to tree, around the fences of people's farms in the growing season, and through people's homes in the dry season. Passers-by would advise me to look out for certain trees or changes in foliage as landmarks on my path. Yet, having grown up in an urban environment, trees did not appear distinct enough to be clear landmarks. They all merged into one.

No one had told me the distance to the school. So, on the first morning, I cheerfully turned down the numerous offers of lifts on their bikes from young men in school uniform. It was only twenty minutes into the walk that I finally realised that the distance was too far and that I was not even confident where to walk. A Ugandan builder happened to pass at that moment and he gave me a lift on the back of his bike. My first weeks in the Western Dinka were full of ignorance about the very basics of daily life.

Later in 2009, I gave up my job in the UK to teach in South Sudan. Teaching seemed a decent way to make sense of my extended stay in rural South Sudan and sponsorship to teach also made it financially viable. In 2009, teaching also felt a good way to buy-in to the CPA vision of hopefully building South Sudan. Teaching in rural South Sudan came with a plethora of frustrations, but it was an incredible introduction to daily life and market place conversations. It also gave me time and a platform to build relationships. People learnt to accommodate me as I walked, cooked, ate and drank tea with them.

It took me the first year in the Western Dinka to come to terms with the basic knowledge of daily life. In both the western Dinka and Nuer, friends often compared me to their children; I had a childlike knowledge at best. Yet, as discussed below,

crucial to my research was an attempt to understand lethal violence in the context of daily, lived realities. So I had to learn some basics of daily lives and their struggles. It took me nearly a year before I could confidently navigate through the villages based on landmarks that were only trees or bushes.

While I was teaching amongst the Apuk Dinka, I started to attend the local courts in the evenings. I had studied law in England and there it was normal to attend court hearings to understand the law in practice and as applied by the courts.¹³² In South Sudan, as in England, there was also not a codified law that applied across South Sudan. The local Chiefs' Courts were easily visible beneath a series of trees adjacent to the ancestral home of the former Paramount Chief. The higher *Akut Dhiëc* (group of five) Court sat just across the road from the court of the Executive Chief. Having asked the permission of the gathered chiefs and elders, I started to attend the courts every evening, mimicking the court observations I had previously made in England. After the courts, the day was always ended in the market talking over tea, sometimes about the cases in the court that day, other times about the local political climate and conflicts in the grazing lands. Being part of these conversations over many years and listening in the courts allowed me to start to hear how people talked about violence in their local, daily lives and landscapes. The courts provided a particular valued dialogue that I did not control.

I continued to be based amongst the Western Dinka and especially the lands of the Apuk Dinka until 2012. By this time I had started to travel further afield in South Sudan, such as a trip to Northern Bahr al Ghazal during the referendum. Yet, it was only really from early 2012 that I started to find opportunities to spend more time in the Western Nuer and elsewhere in the Western Dinka. In 2012, I initially visited Panyijar in the Western Nuer and later, in 2013, Ler and Mayendit. Again I became involved in a few local schools, and also started spending time in the courts and listening to people.

In the end, I researched amongst Nuer and Dinka speaking communities to the west of the Nile until 2015. I lived and researched in the villages and cattle camps of the Apuk Dinka, the Agouk Dinka, the Twic Dinka, the Kuac Dinka, the Ciec Dinka, the Agar Dinka, the Nyuong Nuer, the Dok Nuer and the Haak Nuer. I travelled,

¹³² Conley and O'Barr provide a pivotal text on these method of legal research. Conley, J.M and O'Barr, W. M., *Rules Versus Relationships*, (The University of Chicago Press, 1990).

interviewed, observed and participated. I sometimes visited a village for a few weeks and, in the case of the Apuk Dinka, stayed for years. I also conducted archival research at the Sudan Archive in Durham and the South Sudan National Archive in Juba.

Some of the most useful findings of my research were simply because I happened to be there when things were happening and normative boundaries were being negotiated. By spending the best part of five years in the Western Nuer and Dinka, I increased my likelihood of happening to be there when normative boundaries were discussed and when things of interest happened. In this way, my research is closer to ‘conventional village fieldwork’ of sociocultural anthropology, in contrast to the majority of sociocultural anthropology research today.¹³³ Conventional village fieldwork has become more difficult due to challenges to secure host government permission to research and home government funding to support long periods of study.¹³⁴ My ability to use a more conventional approach relied on friendships in South Sudan, an income from teaching before the formal doctoral studies and, eventually, funds from consultancy work. During my years in South Sudan, the Government of South Sudan was also laudably open to research. Many government employees also welcomed me personally, hosting me when I was travelling and advising me on shifting patterns of armed conflict to make sure I stayed safe.

Negotiating Emplacement

Anthropologists often discuss their research methods in terms of participant observation, or even ‘participant reflection’.¹³⁵ Not only do anthropologists participate in the questions, joys and sorrows of the lives of the people we study, but we also take a few steps back to reflect upon what we have learnt and experienced.¹³⁶ However, throughout my work, my focus was not to ‘step back’ alone but to include in this stepping back the very people I had come to learn about. I was most interested not only in participating and observing, but also in reflecting with people on how they understood their daily lives and the violence they lived through. Much of this reflection

¹³³ James G. Carrier, ‘Introduction’. In James. G. Carrier and Deborah. B. Gewwertz (eds.), *The Handbook of Sociocultural Anthropology*, (Bloomsbury, 2013), p. 8.

¹³⁴ Carrier, ‘Introduction’, p. 8.

¹³⁵ Fiinstrom, Sverker, *Living With Bad Surroundings: War, History and Everyday Moments in Northern Uganda*, (Duke University Press, 2008), p.19; Porter, Holly, *After Rape: Violence, Justice, and Social Harmony in Uganda*, (Cambridge University Press, 2017), pp.25-26.

¹³⁶ Fiinstrom, *Living With Bad Surroundings*, p.19; Porter, *After Rape*, pp.25-26.

has been done amidst the lives of the people I studied and in conversation with them. I tried to find ways in daily life to include collective reflection.

As the sun sets in both the Western Dinka and Nuer, the glow of small fires in the homesteads appear as red dots across the village. In times of hunger, fires are lit later so that they do not draw additional guests to drain the limited food supply. By the time the sun sets, everyone is home except for the occasional elderly man who's drunk too much wine, or the occasional trader in the market who is still tidying away his goods. The meal is then served when all are at home and the men of the household sit around a common plate or bowl to eat the evening meal. I was always invited to sit amongst the men. In many ways I was clearly perceived socially as male as I had the freedom of movement normally only associated with men. Men in the Western Nuer and Dinka also often had a higher level of English language. These evening meals were always full of discussions of local politics and news. For me they became a daily moment of collective participant reflection when I would often share my ideas from the day and my friends would contest or add to them.

To participate, I also decided that I needed to belong. It was too much to imagine that my presence could go unnoticed and that I could become nothing more than 'a fly on the wall'.¹³⁷ Yet, if I could somehow manage to belong then maybe I could better see the struggles of life and violence in the way that it was seen by the people I lived amongst. If I could belong I could more genuinely be part of the negotiations of how human experience, including that of lethal violence, could be understood.

My assumption that belonging would provide an epistemically superior vantage point reflected epistemic assumptions amongst the Western Nuer and Dinka. During my research, I often interviewed chiefs. A common complaint was that the young men returning from East African refugee camps no longer fully understood because they had forgotten the morals and laws of the community. Many young men had moved away in the wars of the 1980s and 1990s, and then lived away from their home communities until the post CPA years. Many of the young men I knew were cautiously renegotiating their belonging in the community through a careful compliance with the Dinka and

¹³⁷ Goffman, Alice, *On The Run: Fugitive Life in an American City*, (New York, 2014), p.237.

Nuer customary laws and other norms of their family homes. Belonging and 'home' for the chiefs and these young men were clearly connected to knowledge of the home community and its moral boundaries. My research method reflected this claim that only through belonging to the community could I really gain an adequate level of knowledge.

I started to understand my aspirations as a struggle to 'emplace' myself amongst the communities I studied so that I could participate and understand others' dilemmas, puzzles and perspectives. I had come across the concept of 'emplacement' in literature on forced displacement. It was used to describe how people make 'home' when they return from migration.¹³⁸ Many of my key interlocutors in both the Western Dinka and Nuer had been those young men who had sought refuge in East Africa and then returned after the CPA. They were using various strategies to make 'home' and to belong again now that they were back in the villages where they had spent their early childhood. I knew my ability to belong was more remote than theirs, but I knew I needed to somehow make 'home' and a 'place' in the Western Dinka and then in the Western Nuer in order to try to understand and to be able to participate in a way that understood how others participated.

To emplace myself and, therefore, to research properly, I assumed I had to remove myself from other perceptions about who I was. Like Goffman, I believed my identity was 'an encumbrance, and one I had to invest significant time and effort to overcome'.¹³⁹ If I could persuade people that I belonged and if I could negotiate my emplacement, then maybe the differences in my identity would fade.

At first sight, it was obvious that I did not 'belong' in the Western Dinka and Nuer. Firstly, I was white. Therefore, many western Dinka often commented that I was from the '*pan kawaja*' (the land of the white people). The people of my skin tone were in those statements imagined as a homogenous category that were from another, unknown land. At the time of my research, people in the western Dinka and Nuer also associated people of my skin tone with the aid and development NGOs. Contemporary researchers in South Sudan operate in a context where foreign aid agencies are omnipresent and where foreigners are expected to bring tangible benefits and material

¹³⁸ See Grabska for an illustration amongst the western Nuer. Katarzyna Grabska, *Gender, Home and Identity: Nuer Repatriation to Southern Sudan*, (New York, 2014).

¹³⁹ Goffman, *On The Run*, p.233.

goods to the community. Western NGO workers had long worked in these communities and so I was often understood locally as another NGO worker. In Luonyaker itself, World Vision and VSF Germany still had compounds and activities. They had first based themselves in Luonyaker during Operation Lifeline Sudan in the 1990s. Luonyaker had been a safe base during a period of intermittent conflict in other areas of Gogrial. NGO workers in Luonyaker were consistently South Sudanese and East African. My whiteness made me different even from these foreigners and often prompted people to assume I was a donor who was funding these NGO activities and, therefore, even more economically powerful than the other NGO workers.

I tried various strategies to try to challenge people about my whiteness in an attempt to emplace myself. In the Western Dinka, I learnt to greet people with a traditional greeting more associated with rural old men than even educated, urban South Sudanese. This would almost always prompt a laugh and a return greeting, before people then asked my name. One of the first days I was in the Western Dinka, I had been travelling to the home village of a key interlocutor. When this question was asked, his uncle promptly answered and gave me a name that stuck. My given name was – ‘Ajok Giir Thiik’. Ajok was also the daughter of Giir Thiik – a key Paramount Chief during the Anglo-Egyptian Condominium era who had been key in the political development of the community I lived amongst. Therefore, this name asserted my identity and belonging amongst the community with which I worked. As people got to know me over the years, people would always refer to me as Ajok. Later, when living in the Nuer areas, I learnt to also quickly acquire a Nuer name.

Using local names was nothing new for foreigners amongst the Western Dinka and Nuer. Back in the Anglo-Egyptian Condominium, many government officials, especially District Commissioners, had had local bull names and it was through this name that they were remembered. At the time of my research, the UNMISS Civil Affairs for Warrap State was also the son of a former British District Commissioner and he had taken a Dinka name to reflect this long-term relationship with the Western Dinka. However, even though this strategy was nothing new, it helped me associate myself with people who characters in local histories and through this I could imagine that I was somehow emplaced and had a way to belong.

To distinguish myself from NGO workers, I ate in the market and at homes, not just in hotels or NGOs compounds. I stayed in the village and traveled on local, commercial transport in cars where wheels were tied on with string and where it was rare to complete a journey without breaking down. I spent lots of time at friends' homes, just hanging out, playing with their children and sharing their food. I would often walk. People always commented that other foreigners never walked anywhere; I just had more time and no car.

In new places, people continued to make a joke of my difference. Little children were often very afraid of me and others would taunt them for their fear, pushing them towards me. I often joked that my white skin must make me look very ill. I hated it but chose to laugh to try to diffuse the tension about my difference.

The CPA had dictated the necessity of national elections before a referendum on Southern succession should take place. The elections were to take place in March 2010. In anticipation, many international NGOs evacuated their staff out of South Sudan fearing that this national political contest could re-antagonise relations between the SPLA and GoS. World Vision and VSF Germany staff left the village. This seemed an incredible opportunity to distinguish myself from the NGO workers and to emplace myself in the community by remaining. I remained through the election month.

During the 2010 elections, the subsequent bank closures and an unfortunate experience of theft, I became materially dependent on a family to support me for a month. This unfortunate situation proved a pivotal point in remaking my relationships. For that moment, I was not financially more powerful but materially dependent on my Dinka friends. It was a moment of obviously vulnerability that again helped me to belong.

A later incident left me feeling affirmed in my decision to remain during the election. About a month after the election, there was Dinka-Dinka fighting in the small grazing lands just north of the village where I stayed. The governor sent a delegation of MPs from the state headquarters to resolve the insecurity. At the time, the journey from the state capital to the village took over four hours and this important delegation arrived after dark. The County Commissioner had not been told of their arrival and, late at night, was suddenly confronted with feeding and finding accommodation for these

guests. They arrived into the World Vision compound and woke everyone there. There were only three foreigners on the compound at the time and over a dozen beds available. However, the NGO workers refused to host the visiting guests. The guests went elsewhere but the County Commissioner immediately shouted his anger at the foreign workers. He ordered them to leave the County by midday the next day. I was there at the time. As the commissioner order the instruction, he turned to a local, old man at his side.

“What about her?” The Commissioner asked the old man, glimpsing in my direction.

“She’s ok,” he said.

The Commissioner did not ask me to leave. He returned the next day and chased at gunpoint the others out of the compound and to the borders of his county. I felt a slight victory – I was somehow different.

However, emplacement was always really a fictional aspiration. As well as being white, I was also British. I came from a land far away. This in itself distanced me from the lives of those I tried to emplace myself amongst. Financial resources meant that travel to the capital of South Sudan, let alone abroad, was prohibited for almost everyone I met. My travel to the Western Dinka in itself displayed my economic power. My ability to travel away and leave the Western Dinka were also going to make me different.

Plus, even my closest friends could never really shake the assumption that I had a relationship to my own British government that was spending millions of pounds on development and aid in South Sudan. Nearly a century before, Evans-Pritchard and Leinhardt had also researched in Southern Sudan at a time when South Sudanese were coming to terms with another manifestation of foreign individuals. In the early 20th Century, the Anglo-Egyptian government brought to the South many British government officials working for the Sudan government. Anthropology has become more aware of the impossibility of seeing African societies as detached from foreign influence. As a foreign researcher, it was impossible to escape the reality that I embodied part of this interaction. In the end, over the years, I did start briefing USA

and UK governments. Therefore, the South Sudanese perceptions of my relationship to my home government were more predictive than false.

Further more, at the time of my research, I was an unmarried white girl. Therefore, I was never going to be able to fully participate in the community. I did not have the basic domestic and agrarian skills other girls of my age had, nor did I have the language skills. Socially I also often acted as a man, drinking tea and eating food in public places such as the market. I wanted to be present in these social spaces to observe the every day conversations of the markets. Yet, unmarried girls did not normally sit in these markets. The common place of visits to these villages from aid and development workers prevented my behavior being alien, yet my behavior more closely resembled the conduct of women in government or the UN than women in the village. In towns such as Wau (near the Western Dinka) or Ler (in the Western Nuer), South Sudanese women could occasionally be found eating in restaurants in the market. Yet, this was still not commonplace.

During my doctoral research, in December 2013, large-scale conflict escalated. As conflict geographically spread, South Sudanese friends and key informants fled. I continued to research during this period whenever possible, both in person and via networks constructed from new communication technologies. Yet, the scale of this new phase of violence shocked me and I felt personally torn between conflicting imaginings of who my friends were and what monstrous conflict now seemed to polarise them and mobilise them. My friends and translators were amongst those whose houses were burnt, whose neighbours were shot, whose children almost starved for lack of food, whose bodies gave in after living in swamps for weeks. My friends were also amongst those who drove army trucks filled with lethal soldiers in Juba in December 2013, whose uncles profited from the violence, and who used the war as a political opportunity for personal career aspirations even while in exile. Having previously known these individuals as friends who showed empathy and care, there seemed a surreal dissonance and disappointment with what they were now willing to do.

Much anthropology is still built on the popular and academic thirst for accounts of the 'others'. Over my five years of field research the way I imagined the people I lived with as 'other' shifted over time and was contested by my experiences of relationship. One clear way that the people I lived with were 'other' was that they lived

amidst armed conflict. As Macdonald described, a predominant ‘other’ for those living in the post-history peace of the west today, is those who live in conflict.¹⁴⁰

December 2013 highlighted this ‘otherness’, as well as my own dissonance and disappointment with myself. As discussed above, I had sought to ‘emplace’ myself in these communities and rub out any clear line that made me ‘other’. Yet, when violence erupted in December 2013, I quickly used my British citizenship and NGO connections to seek safety. I used NGO contacts in Rumbek to get a seat on a chartered evacuation flight to Nairobi. Within a couple of days of the 15th December 2013, I was in a lavish Kenyan hotel. The hotel even had a turndown service and, having shut my curtains, a maid placed hand made chocolates on my pillow each evening. I had left the threat of conflict very fast and found myself in a place of lavish safety. Therefore, even after years of living in South Sudan, my ability to quickly leave meant I was obviously ‘other’.

After December 2013, I struggled not to see my friends and informants as victims or heroes.¹⁴¹ As I heard snippets of how the conflict was unfolding, my thoughts of specific friends would flip backwards and forwards between perceptions of them as good and bad. Trouillot has argued that the ‘moral optimism’ of anthropology is one of its most appealing features.¹⁴² Muehlebach praises anthropologists’ ethical imagination and reasserts the need for researchers to creatively inhabit the ethical quandaries that they face.¹⁴³ She argues that this ‘moral optimism’ should also encourage us not to set boundaries for the discipline, but instead encourage us to engage in policy work. Yet, in December 2013, my friends seemed to occupy an increasingly morally ambiguous place. For the first time I personally felt the moral confusion that was swept in along side the lethal violence of war.

At the same time, after December 2013, I increasingly questioned my own moral integrity. While ethnographers might be called on to imagine a better world, ethnographers struggle with the potentially morally reprehensible means of their research. The relationships of an ethnographer carry the inherent tension of being

¹⁴⁰ Sharon Macdonald, ‘British Anthropology’. In Paul Atkinson (Ed), *Handbook of Ethnography*, (Sage Publications, 2001), p.62.

¹⁴¹ Rita Abrahamsen, *Conflict and Security in Africa* (Woodbridge, 2012).

¹⁴² Michel-Rolph Trouillot, *Global Transformations: Anthropology and the Modern World*, (New York, 2003).

¹⁴³ Andrea Muehlebach, ‘On Precariousness and the Ethical Imagination: The Year 2012 in Sociocultural Anthropology’, *American Anthropologist*, 155, 2, pp. 297 – 311,

instrumental and exploitative.¹⁴⁴ From 2010 until 2013 I had lived with various Nuer and Dinka families, sharing the intimacies of their daily, home lives. I celebrated with them and mourned with them. Yet, the documenting of my research makes use of the stories they told me and understanding they shared. They always knew I was researching, but their consent does not diminish the utility of our relationship to me. When I suddenly exited the field in December 2013, I only felt more convinced of the utilitarian nature of my relationships. My relationships with South Sudanese gave me incredibly valuable insights into the dynamics of violence in South Sudan. I could even monetise this understanding through brief periods of work for the confused western donors. Yet, at the same time, this *ad hoc* work came hand in hand with policy influence, the possibility of impact and South Sudanese demands to reshape how things were happening.

When I returned to South Sudan in mid 2014, I aspired to understand the new (or not so new) trajectories of life.¹⁴⁵ My South Sudanese friends had not been surprised by my sudden departure in December 2013, and so it troubled them little. Much of my more recent research since December 2013 has been through catching-up with old friends and hearing their accounts of how things had and had not changed.

Associating Myself with Others

My fieldwork depended upon translators to provide both on-the-spot interpretation into spoken English and to produce written translations. These translators often also became key informants, answering endless questions especially about the seemingly obvious and also guiding me about who would be most useful to interview and spend time with. I have no doubt that these translators' understanding of my research, their own understandings of their own political climate and their own emotions mediated and coloured this research. To a large extent this doctorate is my understanding of their understanding of the answers to the questions I asked. Yet, their individual influence was tempered by more public discussions of their interpretations. I was privileged to be part of endless deliberations with the translators and their friends, often over tea in the

¹⁴⁴ Paul Rock, 'Symbolic Interactionism and Ethnography'. In Atkinson (Ed), *Handbook of Ethnography*. P.36.

¹⁴⁵ Deborah Gewertz and Frederick Errington, Review of James Clifford, *Routes: Travel and Translation in the Late Twentieth Century*, *The Journal of the Royal Anthropology Institute* 4:2 (1998), pp.367 – 368.

market or dinner at home. These were crucial in letting me build a better intuitive sense of how violent conflict was imagined by village and cattle camp residents in daily life.

People also related to me through my association with these translators. Amongst the people I worked with most closely were educated refugees, the sons of chiefs, the sons of government generals, local teachers. Many of my friends inhabited more than one of these categories. When people spoke to me, they also spoke to these members of their own communities.

I often knew that my conversations would be reported back to the local government authorities, but I decided it was safer to keep everything in public. Privacy in the communities I lived was often thought as indicative of suspicious and inappropriate behaviour. Understanding was to be openly shared and debated. Therefore, I never tried to hide away and only had conversations in the privacy of homes when it was part of the natural rhythm of the day to do so (such as over dinner at night).

Archival Records

I was also incredibly fortunate that the South Sudan National Archives were becoming readable during my fieldwork. I used this archive, the Durham Sudan Archive and the Sudan Open Archive to look at records of court cases, instances of violent conflict, and personal and official correspondence.

Note on the Dangers of 'Violence'

As Lubkemann highlights, even in 'warscapes' life is 'shaped not solely, incessantly, or even predominantly with reference to violence.'¹⁴⁶ In South Sudan life in war, as in peace, is also centred on pursuing a complex, multidimensional agenda of social struggles. Plus, war in South Sudan is often discussed in the context of other life events.¹⁴⁷ The focus on lethal violence also perpetuates the association of South

¹⁴⁶ Lubkemann, *Culture in chaos*, p.13.

¹⁴⁷ Cormack, *The Making and Remaking of Gogrial*, p.27; Cherry Leonardi, *Dealing with Government*, p.144; Brendan. R. Tuttle, *Life is prickly. Narrating history, belonging, and common place in Bor, South Sudan*, (Temple University, unpublished PhD dissertation, 2013), p. 3.

Sudanese with lethal violence and conflict.¹⁴⁸ However, ignoring violent conflict is not apolitical and has legitimized support violent governments in South Sudan.¹⁴⁹

Lethal violence is also often overlooked when it is assumed to be an anomaly from peacetime politics.¹⁵⁰ International literature, policy and law have attempted to draw a distinct line between ‘war’ and ‘peace’, classifying peacetime violence as non-political (i.e. crime or maintaining peace and order) and understanding war as political violence. Yet, in South Sudan, people have not experienced violence as discretely political or purely non-political.¹⁵¹ Violence as politics has been the norm in East Africa and has been a way to build the state.¹⁵² Keen has long discussed that if we assume that war is about winning it can obscure the real, hidden conflicts.¹⁵³ Scott also recognised that state authority is often propped up by violent enforcement or coercion.¹⁵⁴ Peters and Richards have shown that ‘armed conflict is at times no more than an intensification of structural violence present in peaceful society’¹⁵⁵ including in the structural violence built by the state. Therefore, conflict is not necessarily a breakdown in the socioeconomic system, but is often intrinsic part of it.¹⁵⁶ This includes violence by the state as expressions of ‘security’ and ‘law’, as well as violence sponsored by individuals in government.¹⁵⁷

¹⁴⁸ Mark Leopold, *Inside West Nile: violence, history and representation on an African frontier* (Woodbridge, 2005).

¹⁴⁹ W. Lacher, *South Sudan: International State-Building and its Limits*, (Berlin, 2012); Naomi Pendle, ‘Interrupting the balance: reconsidering the complexities of conflict in South Sudan’, *Disasters* 38:2 (2014), pp.227-248; Despite being aware that GOSS was often non-inclusive and that some of its members escalated conflict, USAID still pursued a policy of strengthening the state. USAID, “South Sudan Transition Strategy 2011-13”, June 2011, https://www.usaid.gov/sites/default/files/documents/1860/south_sudan_transition_strategy_full.pdf (29 May 2016).

¹⁵⁰ Anderson and Rolandsen, ‘Violence as politics in eastern Africa’, p.544.

¹⁵¹ David, E. Cunningham and Douglas Lemke, “Combining Civil and Interstate Wars,” *International Organization* 67:3 (2013), pp. 609–627.

¹⁵² Anderson and Rolandsen, ‘Violence as politics in eastern Africa’, p. 545.

¹⁵³ David Keen, ‘War and peace: What’s the difference?’, *International Peacekeeping* 7:4 (2000), pp.1-22.

¹⁵⁴ James Scott, *Seeing Like The State: How Certain Schemes to Improve the Human Condition Have Failed* (Yale, 1998).

¹⁵⁵ Krijn Peters and Paul Richards, ‘Understanding recent African wars’, *Africa* 77:3 (2007), pp.442-454, p.451.

¹⁵⁶ Richards, *No Peace No War*.

¹⁵⁷ Jackson and Dexter, ‘The Social Construction of Organised Violence’.

PART I: LANDSCAPES AND PROPHETS

2. Contesting the militarisation of the places where they met; the landscapes of the western Nuer and Dinka (South Sudan)

Chapter Two of this thesis provides an introduction to the western Nuer and Dinka, as well as to ideas of landscapes. The chapter offers an alternative, materially embedded account of western Nuer and Dinka relations in recent history. Decades of militarised, violent conflict and elite wealth acquisition have reshaped the landscape and its applications for political identities and the legitimate targets of lethal violence.

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Abstract

Decades of militarised, violent conflict and elite wealth acquisition have created a common rupture in shared landscapes between communities of the western Dinka and Nuer (South Sudan). Through the remaking of these landscapes, governments and their wars have indirectly reshaped political identities and relationships. Networks of complex relationships have used this space for migration, marriage, trade and burial. Since the government wars of the 1980s, people from both Dinka and Nuer communities have participated in a myriad of crosscutting political alliances with a lack of ethnic homogeneity. Yet, the recreation of this landscape as a militarised no-man's land has stopped Nuer and Dinka meeting and is etching into the landscape naturalised visions of ethnic divisions. The article also examines how inhabitants have made use of the materiality of the landscape and imagination to try to contest and coopt these visions. In so doing they have challenged central governments' powers to rule the landscape and have tried to recapture power to determine community relationships. However, elite politics in times of war and peace threaten people's ability to express this more demographic authority over the landscape, relationships and political identities.

Ganyliel is a market village near Lake Tayer in the flood plain on the west bank of the Bahr al-Jabal River (South Sudan). Recent years in Ganyliel have highlighted how governments have remade the landscape and, through the landscape, indirectly altered political identities and relationships. There have been both ‘political and material ramifications of changing use, experience and engagement with space.’¹⁵⁸

In early 2014, international cartographers mapping the new civil war in South Sudan drew Ganyliel at the edge of the frontline between the Juba government and the new, armed opposition. The new civil war had erupted on the 15th December 2013 and had spread across South Sudan by the end of the year. The western media were quick to portray this conflict in ethnic terms,¹⁵⁹ between Dinka and Nuer, although Dinka and Nuer leaders were on both sides of the conflict. International observers mapped the crisis to simplify the rapidly shifting dynamics, assuming the warring sides had clearly bounded territorial control. Inhabitants of Ganyliel had lost relatives in Juba in December 2013. They blamed government forces and were sympathetic to the armed opposition. By mid 2014, the newly formalised armed opposition (the Sudan People’s Liberation Army in Opposition – the SPLA-IO) appointed a commissioner to Ganyliel. To the south and east, the Juba-government controlled the Dinka lands of what were then Lakes and Warrap States.

Despite the ongoing war, when I returned to Ganyliel in mid 2014, the Nyuong Nuer inhabitants’ dominant, daily debates about the changing landscape were not about a new, wartime frontline but about unprecedented flooding. Water had already overflowed hand-built dams, and people had moved to increasingly congested pockets of dry land. There was not space enough for cultivation or grazing. This unprecedented material change in landscape also brought fear of disease and deadly snakes that competed for a dry patch. The Nyuong Nuer annually rely on some flooding and have long managed the uncertainty of erratic flood patterns by moving people and herds to the drier lands of the Dinka. In this movement, inhabitants demonstrated their power over the landscape’s material uncertainties, and also entangled relationships and identity to the landscape.

¹⁵⁸ Watson, ‘A “hardening of lines”’, p.202.

¹⁵⁹ Johnson, *Briefing*, p.300.

However, recent years of militarisation changed the landscape. Government wars have made old migration patterns too dangerous.¹⁶⁰ Local authorities have also co-opted the brute force of government into local competitions extending lethal violence. This has changed the physical landscape by making flooding more likely; elders attribute the flooding to grass-filled rivers near the Dinkalands that have filled with grass due to a lack of grazing. Dinka and Nuer no longer felt safe to take their cattle there to graze as they feared cattle raiding and lethal violence from raids and wars entangled with politics. The flooding itself was linked to the politics the cartographers were trying to map. As Luig and von Oppen described of ‘landscape’ in Africa, this landscape is in a ‘continuous process of being “made” and contested through physical, social and political practice,’ with physical appearance itself also molded by migration, settlement and use.¹⁶¹ Nyoung elders presented the flooding as a material expression of their political disempowerment over the landscape. They also presented it as a material expression of what increasingly appeared to be an unending physical distance from the Dinka.

Power and politics do not just impact the way people engage with places, but ‘for people not accustomed to compartmentalising environment, culture, and politics, the experience of landscape likewise influences how ‘the political’ comes to be defined and articulated.’¹⁶² Landscape is important to collective identity and its character, formations, stories and histories reveal to people who they are and naturalise claims to power.¹⁶³ In the 1980s Johnson wrote a historical perspective on the impact the environment has on settlement, movement and identity amongst Nuer and Dinka communities to the east of the Nile.¹⁶⁴ Johnson describes how the annual and historic variability of flood patterns enforces repeated movement that influences identity and relationships. In this article, I instead focus on the west of the Nile where there are different but overlapping histories of migration.

¹⁶⁰ Hutchinson records how Riek Machar tried to distinguish ‘government war’. Sharon Hutchinson, ‘Nuer Ethnicity Militarized’, 16/3 *Anthropology Today*, 2000, pp.6-13, p.6.

¹⁶¹ Luig and von Oppen ‘Landscape in Africa,’ p.7.

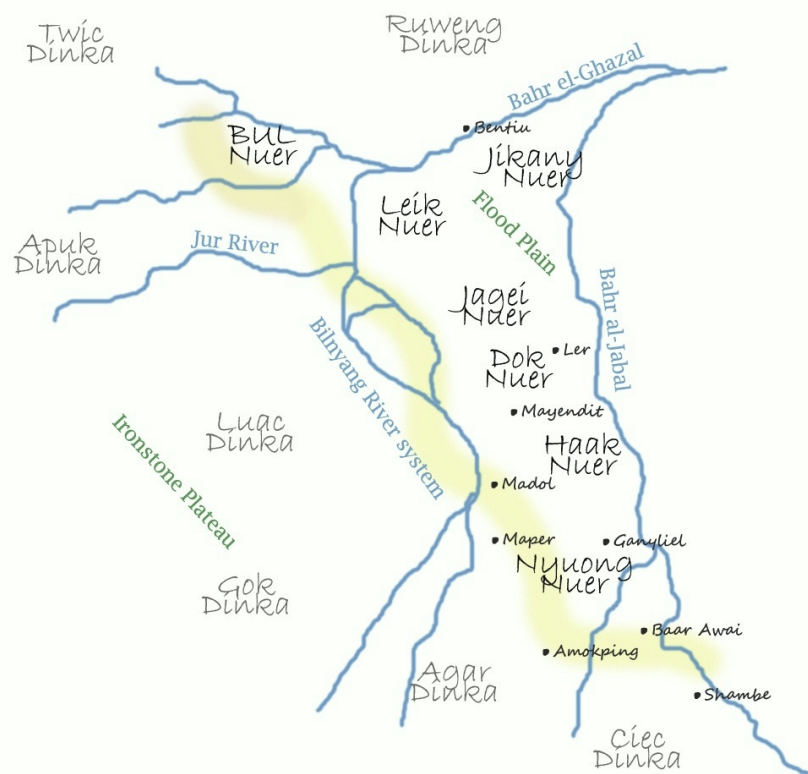
¹⁶² A. J. Willow, ‘Conceiving Kakipitatapitmok: The Political Landscape of Anishinaabe Anti clear cutting Activism’, *American Anthropologist* 113, 2 (2011), pp.262–276, p.263.

¹⁶³ For example: S. Daniels, *Fields of vision: Landscape imagery and national identity in England and the United States* (Cambridge, 1993); Schama, *Landscape and Memory*. Also see McGregor, *Crossing The Zambezi*, p.2.

¹⁶⁴ Johnson, ‘Enforcing separate identities’.

In 2014, while some people in Ganyliel highlighted the hardship of the flooding, others perceived the landscape as so militarised that they were grateful for the physical barrier of the floods. In February 2014, government forces had mounted a joint offensive with Luac and Agar Dinka cattle keeping youth through Madol. The hybrid, pro-government forces burnt Nyong Nuer villages and killed at least twenty-nine people, including three chiefs. However, the water and distance to Ganyliel prevented them reaching this space. In 2015, when government again attacked, they were only able to attack the port in Tayer from boats on the Bahr al-Jabal. They could not reach Ganyliel through the high floodwaters. One chief lamented how the sanctuary of the Dinkalands from the flooding had now become source of danger from which flooding offered sanctuary.¹⁶⁵

Sketch Map of the Western Nuer and Dinka



¹⁶⁵ Interview with Nuer Chief, Ganyliel, 11th August 2014 (in Nuer).

Ganyliel is just one tangled slither in a long string of landscapes between communities of the western Dinka and Nuer. This article explores these changing landscapes and their political ramifications. The landscape is materially dominated by the transition from the ironstone plateau in the west to the clay flood plain adjacent to the Bahr al-Jabal, and contains a multiplicity of rivers and *toc* (or *toic* in Nuer) (grass lands used for grazing). Along this space of transition, there are a series of varied but overlapping ways in which the government and local public authorities have changed the use of space and remade the landscapes. The remaking of these Dinka-Nuer landscapes has reshaped the way politics and political identity are defined and articulated. Connections between landscape, space and identities can be instrumental in inter-group relations.¹⁶⁶ As Watson found in her research in northern Kenya, ethnic conflict has become in the last decade directly related to the changing nature of different groups' engagement with space.¹⁶⁷

Amongst the western Dinka and Nuer, since their arrival in the mid 19th Century, governments have played a significant role in altering groups' engagement with this space. This article follows Leonardi in seeing government (*hakuma*) in South Sudan as encompassing armies and military cultures broadly, as well as literate, bureaucratic cultures of schools and government offices.¹⁶⁸ Governments have remade the landscape in different ways at different times. They have introduced administrative boundaries, including those between Unity State, and Warrap and Lakes State, and previously between Greater Bahr el Ghazal and Greater Upper Nile. Governments have also initiated border courts and prohibited violent raids across the landscape. At other times, they have commanded wars and supplied weapons.

The governments' remakings of the landscape have indirectly, but sometimes intentionally, remade political identities. Ethnic identity has been a strong force around which governments have sought to divided or unified.¹⁶⁹ Johnson has long highlighted that it is too simple to imagine the Nuer and Dinka as single corporate 'tribes' capable of mass mobilisation.¹⁷⁰ This has never been the case.¹⁷¹ In previous literature on the wars of the 1990s, Johnson criticises anthropological commentary for assuming the

¹⁶⁶ Watson, 'A "hardening of lines"'.
¹⁶⁷ Watson, 'A "hardening of lines"', p.202.
¹⁶⁸ Leonardi, "'Liberation' or Capture".
¹⁶⁹ Jok and Hutchinson, 'Sudan's Prolonged Second Civil War'.
¹⁷⁰ Johnson, *Briefing*, p.300.
¹⁷¹ Johnson, *The Root Causes*.

structural opposition of Nuer and Dinka that is entrenched in the secondary anthropological literature on the peoples of southern Sudan.¹⁷² As Johnson points out, many have recognised as given the ‘tribal explanations of the SPLA split [in 1991] and the familiar dogma of Nuer-Dinka opposition that has been repeated and elaborated on in endless re-workings of Evans-Pritchard’s classic ethnography.’¹⁷³ Early theorists in the 19th Century had even used descriptions of this structural violence to justified slavery.¹⁷⁴ Johnson comments that more nuance literature places the events of the 1990s in the context of a global trend towards militarised ethnicity, yet this still ignores the interlocking civil wars amongst the Nuer themselves. Nuer and Dinka in the wars then and now are not political or military homogeneous. Hutchinson and Pendle also highlight how actors now, such as Nuer prophets, can have strikingly different spiritual visions of the Nuer/Dinka category distinction.¹⁷⁵ De Waal attributes the apparent ethnic form of the conflict to military-ethnic patronage where ‘commanders assembled military units on tribal lines with the aim of maximising personal loyalty.’¹⁷⁶ However, elite patronage networks have usually been built around much smaller groupings than larger ethnic communities. By considering the connections between government, landscape and political identity, this article offers another lens through which to understand the complex political identities between communities of the western Nuer and Dinka.

In this article I am interested in how, for the inhabitants of this landscape, these varied sections of landscape between the western Nuer and Dinka have experienced a common transformation into an impassable no-man’s land, ending the movement and marriage that created intermingled Nuer and Dinka communities and undermined possibilities for ethnic-based political identity.¹⁷⁷ I explore the extent to which these contestations over the landscape have been material in the negotiations of objective visions of division (in Bourdieu’s sense) between the Nuer and Dinka. This resonates with literature on landscape where elites enfolded in landscapes conspiracies of false consciousness.¹⁷⁸

¹⁷² Johnson, *The Root Causes*.

¹⁷³ Johnson, *The Root Causes*, p.116.

¹⁷⁴ Thomas, *A Slow Liberation*, p.74.

¹⁷⁵ See Chapter Four of this thesis.

¹⁷⁶ De Waal, ‘When kleptocracy’, p.361.

¹⁷⁷ Johnson, ‘Enforcing separate identities’.

¹⁷⁸ N. Moore and Y. Whelan, *Heritage, Memory and the Politics of Identity: New Perspectives on the Cultural Landscape* (Oxford, 2007), p.x.

Local public authorities and the landscapes' inhabitants have also co-opted and contested the government's remaking. 'Everybody knows, possesses and partakes in "landscape",' giving landscape a democratic value.¹⁷⁹ Cormack has shown how South Sudanese have remade their landscapes as a way to increase their own security.¹⁸⁰ Here I also argue that inhabitants have displayed in their daily rhythms of pastoralist migration and trade their power to form landscape. In so doing people have enacted their sovereignty and contested the powers of governments and colonial histories to dictate identities and landscape. They have recreated many forms of 'being Nuer' and 'being Dinka'.

This article is based on interviews and ethnographic fieldwork from 2010 to 2015 in various western Dinka and Nuer communities including the Apuk Dinka, the Nyuong Nuer and the Haak Nuer. I follow Ingold in privileging the 'understandings that people derive from their lived, everyday involvement in the world.'¹⁸¹ This ethnographic research included travel and visits to the *toc* (sadly, in parts, with an armed escort). I also conducted archival research in the South Sudan National Archive and Durham's Sudan Archive.

The article first discusses a common story to outline how ideas of landscape and identity are entangled. Secondly, the article takes a brief comparative look at two examples from the Anglo-Egyptian Condominium Government in the early 20th Century. The examples illustrate government's reshaping of the use of space between the western Nuer and Dinka, the implications for ethnicity and political identity and the inhabitants contesting of these changes. These examples highlight how the autonomy of the material environment has been used to limit power. Thirdly, I describe the militarisation of the landscape since the 1980s and then since the 2005 Comprehensive Peace Agreement (CPA). Fourthly, I look at two recent examples of government attempts to reshape the landscape through the building of two payam offices. I discuss these new material landscapes and the remaking of these landscapes since December 2013.

¹⁷⁹ O'Keeffe, 'Landscape and Memory'.

¹⁸⁰ Cormack, *The Making and Remaking of Gogrial*.

¹⁸¹ Ingold, *The Temporality of the Landscape*, p.152.

The story of Nyarup and Nyatoc

In February 2013, an elderly man from the Haak Nuer told me this story.

In the past, the Dinka and Nuer used to meet. When they did, they would tell a story: ‘once there were two sisters called Nyarup (the girl of the forest) and Nyatoc (the girl of the swamp). Nyarup went to live in the sandy lands of the forest, where trees were abundant. She was the mother of all the Dinka. Nyatoc went to the east to live in the swamp. Nyatoc was the mother of all of the Nuer’. When we met, we would tell each other that story and we would laugh. Yet, now, we no longer meet to tell the story. It is too dangerous now to walk across to the Dinkalands.

During my research, many elders from the Luac and Agar Dinka and Haak and Nyuong Nuer recounted this story to me. The retelling of this story highlights a memory of a long-term understanding of identity being related to landscapes. In this story, material features of the landscapes of the sandy forests and the flood plains are linked to peoples and their history, territorialising memory and giving the landscape a social authority.¹⁸² The Nuerlands is presented as synonymous with the flood region. Here ‘the lack of slope, the heavy impermeable soils, and the comparatively heavy rainfall, combined with insufficient drainage channels, means that the whole region is subject to heavy waterlogging and flooding during the rains.’¹⁸³ Much of the land lies below the height of the Nile’s water and rivers in the region ‘spread out like a delta, forming vast swamps of papyrus and other vegetation.’¹⁸⁴ The landscape has few trees.¹⁸⁵ To the southwest the environment transitions to a scattered forest on the ironstone plateau over which higher-sided rivers drain to the Nile. The story relates this land of forested, sandier soil (*rup*) to the Dinka.

In the nineteenth century, there were large Nuer migrations to the east, across the Nile, and away from the homelands of the western Nuer. In histories of the Nuer migrations to the east in the nineteenth century, Nuer argue that one reason for not

¹⁸² P. Bourdieu, ‘Social Space and Symbolic Power’, *Sociological Theory* 71, 1 (1989), pp.14-25, p.23.

¹⁸³ SDIT, *Natural Resources*, p.3.

¹⁸⁴ JIT, *The Equatorial Nile Project*, pp.8-9.

¹⁸⁵ C. A. Willis (Ed.) *The Upper Nile Handbook* (Oxford, 1995), p.130.

moving west was the strong western Dinka settlements.¹⁸⁶ These decades of eastern expansion and intermingling of eastern Nuer and Dinka may have made the ethnic divisions to the west appear more discrete. Yet, for this story's tellers, Nyarup and Nyatoc evoke images of interdependency as much as division. They are also not invoking ideas of material determinism but instead link the material to history and politics. The story explicitly imagines a common ancestry and highlights a political history of interdependency in their management of the annual uncertainty of water levels. When water is too high, Nuer found refuge in Dinkalands and when there was insufficient water, the Dinka rely on access to Nuer pastures. As Johnson discusses further east,¹⁸⁷ in the west people also built lineages through marriages across Nuer-Dinka lines to provide safety during migrations. In the west, some inter-ethnic friendships were so close that they would consult each other at times of their daughter's marriage and give friends cattle from the bride price. While cattle obligations after marriage eventually end, these exchanges of cattle between friends create obligations and cattle exchange over generations across ethnic lines. Trade in times of need also helped survival. By the second half of the twentieth century with a growing monetised trade, Nuer moved cattle to auction in urban centres such as Wau and Juba through Dinkalands.

Toc is a dominant part of the environment in the landscape of transition. To the north, the Bahr el Ghazal river system and *toc* is fed by the rivers Jur and Lol and runs east to the White Nile. Further south, the Bilnyang river system and the surrounding *tocs* flow roughly from south to north and is created both by spill-water from the Bahr al-Jabal and by water draining in from the south-west. In the south, there are lakes, such as Lake Nyubor and the lake at the Nile port of Shambe. For inhabitants of this landscape, it functions to provide dry season grazing and where cattle grazed side-by-side.¹⁸⁸ Shared cattle camps included Wath Tong, Putijar and Tiwemwut (known as the 'junction'). In these times of meeting, relationships were built. Relations were sometimes negotiated through physical and symbolic violence. For example, in the 1960s, in the Jur *toc*, a Dinka is said to have urinated on a fish being roasted by a Nuer. On another occasion, a Dinka cut the tail from a living cow of a Nuer. Both were to

¹⁸⁶ Johnson, 'Enforcing separate identities', p.5308.

¹⁸⁷ Johnson, 'Enforcing separate identities'.

¹⁸⁸ Owen, 'Fisherman's Truce', p.27; JIT, *The Equatorial Nile Project*, p.237.

assert Dinka authority over this landscape. Yet, violence was mitigated by their mutual need of access to the others' lands.

The landscape was not just functional but was entrenched in meaning and important in transmitting historical memory.¹⁸⁹ Communities buried people in the cattle camps of the *toc*. As Ingold describes, for those who live daily in a landscape, the landscape is a story of previous generations who have played their part in the landscape's formation.¹⁹⁰ These important riverine pastures are also closely linked to myths and understandings of divinity.¹⁹¹

In these landscapes, it was families, clans and smaller sections (often based around a cattle camp) that negotiated relationships. Ethnic groups were not homogenous nor did they assume themselves to be monolithic in these political negotiations. As mentioned above, Johnson has long highlighted that it is too simple to imagine the Nuer and Dinka as single corporate 'tribes' capable of mass mobilisation.¹⁹² The story of Nyarup and Nyatoc evokes a construction of a naturalised vision of division between Nuer and Dinka based on the *toc* and the *rup*. Yet, even this is not necessarily the case as the Dinka are not homogeneously associated with *rup*. The land of the Apuk Dinka near the river Jur extends over both *rup* and *toc*. Therefore, the story is essentially about interdependence as much as division in a certain section of the landscape. In the *toc* near the Bahr el Ghazal, there are relatively larger areas of high lands so there are even permanent homesteads where Nuer and Dinka lived side-by-side.¹⁹³ At the same time, this story does highlight that it has long been meaningful to tie identity and political relationships to the landscape.

Early examples government's remaking of the landscape

Foreign governments first came up the rivers into this landscape in the second half of the nineteenth century. Garrisons were built on the riverbanks and the White Nile became 'the communications artery between South Sudan and the cities and markets of

¹⁸⁹ Bender, *Landscape*; Ingold, 'The Temporality of the Landscape'; Schama, *Landscape and Memory*.

¹⁹⁰ Ingold, 'The Temporality of the Landscape'.

¹⁹¹ Godfrey Lienhardt, *Divinity and Experience: The Religion of the Dinka* (Oxford, 1989), p.195.

¹⁹² Lienhardt, *Divinity and Experience*.

¹⁹³ SDIT, *Natural Resources*.

Sudan and the Mediterranean.¹⁹⁴ Government entry into southern Sudan relied on navigation of the *sudd* blocks in the Nile, and then moving upstream along rivers such as the Jur. Therefore, the rivers became a known landscape for the government, with much of the landscape beyond unknown and dangerous. For Dinka and Nuer inhabitants of this landscape, the government's appearance from the rivers entrenched knowledge that things of power came from the rivers. The Dinkalands hosted a significant Egyptian army presence at the river port of Meshra Er-Rek from 1898 and the surrounding area quickly became known to the government. Dinka settlements were known and progressively fell under government administration in the first decades of the twentieth century.¹⁹⁵

While landscape is socially constructed, its social construction is in dialogue with the materiality of the landscape and this materiality's enduring autonomy that limits the possibilities of remaking the landscape.¹⁹⁶ So, 'the meanings, values and political implications of a landscape does not just derive from the changing social, political and cultural webs of meaning and action in which it is situated at any moment, but these meanings find tractions in their entanglement with the materialities of the milieu.'¹⁹⁷ When governments arrived they turned places far from the centre into 'peripheral places and burdened their societies with new contradictions.'¹⁹⁸ Scott has shown how some peoples deliberately relocated themselves to impenetrable 'peripheries' to avoid the violent centre of the state.¹⁹⁹ Descola also discusses how the European forest and wilds were refuges from the laws of the city.²⁰⁰ Yet, at the same time, as Cormack has highlighted, the state is often produced locally.²⁰¹ Plus, Cormack warns of the danger that centre-periphery analysis denies local agency and ignores people's own (re)making of their landscapes as non-peripheral. For Dinka and Nuer inhabitants in the landscape, the material autonomy of the landscape limited government and this gave local public authorities greater potential to preserve a landscape that benefited them through both coopting and contesting government.

¹⁹⁴ Thomas, *A Slow Liberation*, p.37.

¹⁹⁵ For an account of the arrival of government administration in Gogrial, see Cormack, *The Making and Remaking of Gogrial*.

¹⁹⁶ Ingold, 'Towards'.

¹⁹⁷ Fontein, *Remaking Mutirikwi*.

¹⁹⁸ Thomas, *A Slow Liberation*, p.38.

¹⁹⁹ James Scott. *The Art of Not Being Governed: An Anarchist History of Upland Southeast Asia* (Yale, 2009).

²⁰⁰ P. Descola, *Beyond Nature and Culture* (Chicago, 2005), pp.48–49.

²⁰¹ Cormack, *The Making and Remaking of Gogrial*, p.29; Cormack, *Borders are Galaxies*.

In contrast to the Dinkalands, to British officials in the Sudan government, the Nuerlands were an impenetrable ‘maze of inland water courses’²⁰² surrounded by the barrier of a papyrus swamp. As one British official described, ‘Their [the western Nuer’s] country, which consists of little more than a swamp in wet weather and a waterless plain in the dry season, was highly unsuited to occupation and also to punitive measures on a large scale.’²⁰³ It was ‘an administrative no-man’s land.’²⁰⁴ Even by 1912, Condominium maps were not marking any settlements in the western Nuer despite having a detailed knowledge of major settlements in the western Dinka.²⁰⁵ For some, the western Nuer was just an unfortunate obstacle on their way to the Bahr el-Ghazal, the Congo and Uganda.²⁰⁶ Even the governance of the western Nuer until the 1940s was from a steamer on the Nile and via irregular patrols into the Nuerlands. The government only started serious attempts at road building in the western Nuer in the 1940s. The only all season roads in the flood plains were not built until the late twentieth century and were built to serve oil fields, not populations.²⁰⁷ When all weather roads were eventually built into the lands of the western Nuer, the feat was so remarkable that an elderly chief declared to me, ‘finally I believe in the government more than divinity because it was the government that managed to build this road.’ In the twentieth century, the lack of government access meant that it was perceived by government as a place to avoid government and a hiding place for ‘rogues’²⁰⁸ and criminals.²⁰⁹ Therefore, in the 1920s, for the British, the *rup – toc* transition was a boundary between governed and the ungoverned. This government image of the western Nuer was only perpetuated when Captain Ferguson (the District Commissioner) was killed in 1927 on a visit to the Nyuong Nuer, making the Nuer and these lands even more dangerous.

²⁰² JIT, *The Equatorial Nile Project*, p.37.

²⁰³ Collins Papers, “Troubles in Nuer Country”.

²⁰⁴ Willis, *Upper Nile Province Handbook*, p.3.

²⁰⁵ Ordinance Survey, ‘The Anglo-Egyptian Sudan’.

²⁰⁶ Willis, *Upper Nile Province Handbook*, p.1

²⁰⁷ Thomas, *A Slow Liberation*, p.38.

²⁰⁸ Governor Upper Nile Province, Letter to Assistant District Commissioner of Western Nuer, 1 May 1929, SSNA.UNP.5.A.3.31.57

²⁰⁹ Collins Papers, “Troubles in Nuer Country”.

Example 1: Attempted resettlement of the Bul Nuer

In the 1920s, during the violent British settlement of the Nuer, British officials in the Sudan government attempted to forcibly displace the Bul Nuer away from the Dinka to create a no-man's land. At the time, settlements were continuous and there were shared rights to the water.²¹⁰ Bul Nuer were living with Dinka in the *toc*.²¹¹ The proposed resettlement of the Bul Nuer was to the other side of the Bahr El Arab [Bahr el Ghazal]²¹² and along its southern edge²¹³, pushing the Bul Nuer 'well away from contact with Dinka except possibly from the North side.'²¹⁴ Officials also hoped that this would bring the Bul Nuer into the reach of government²¹⁵ as they were situated behind a swamp²¹⁶ preventing government access for most of the year.²¹⁷ As the then Governor described, the 'Bul have placed villages in most inaccessible areas and definitely told Government they intend to stay there to avoid Government orders.'²¹⁸ Therefore, the government aspired to reimagine this space as an uninhabited wasteland where no one could live.²¹⁹ Officials also used the justification that the resettlement would return the Bul Nuer to their preferred land prior to slave raids forced them south.²²⁰

In 1925, Captain Fergusson gave clear orders for resettlement²²¹ but Fergusson's death resulted in Wheatley (retiring Governor of Bahr El Ghazal Province) being given the task.²²² In 1929, the British burnt the Bul Nuer villages.²²³ There was also a significant military ground force. While only four Nuer were actually killed, the sound of the machine guns and the British planes quickly made the Nuer temporarily flee from this threat of violence.²²⁴

²¹⁰ Governor of Upper Nile Province, SSNA.UNP.5.A.3.31.35.

²¹¹ Richards (District Commissioner Eastern District), Telegram to Governor, January 1930. SSNA.UNP.5.A.3.31.97.

²¹² Governor of UNP, SSNA.UNP.5.A.3.31.35.

²¹³ SSNA.UNP.5.A.3.31.94.

²¹⁴ SSNA.UNP.5.A.3.31.94.

²¹⁵ Kamil, H. (Governor of UNP) SSNA.UNP.5.A.3.31.20; Kidd (District Commissioner of Western Nuer District), SSNA.UNP.5.A.3.31.33.

²¹⁶ Governor Upper Nile Province, Letter to Assistant District Commissioner of Western Nuer.

²¹⁷ Governor Upper Nile Province, Letter to Assistant District Commissioner of Western Nuer.

²¹⁸ Governor of Upper Nile Province, SSNA.UNP.5.A.3.31.14.

²¹⁹ Governor Upper Nile Province, Letter to Assistant District Commissioner of Western Nuer.

²²⁰ Civil Secretary, 25 June 1929, SSNA.UNP.5.A.3.31.71; SSNA.UNP.5.A.3.31.94.

²²¹ Governor of Upper Nile Province, Letter to Assistant District Commissioner of Western Nuer.

²²² Governor of Upper Nile Province, Letter to Assistant District Commissioner of Western Nuer.

²²³ Kidd (District Commissioner of Western Nuer District), SSNA.UNP.5.A.3.31.1

²²⁴ SSNA.UNP.5.A.3.31.95.

However, the Bul Nuer contested British imaginings in their response. Instead of moving away from the Dinka, Nuer instead ran across the *toc* east to the Dinkalands for safety, even approaching the District Commissioner in Gogrial to ask for help.²²⁵ The District Commissioner promised to reinforce the division by taking ‘steps to clear them [the Nuer] out.’²²⁶ He threatened Dinka chiefs with severe penalties for harbouring Nuer.²²⁷ Yet, inter-marriage made fictional any clear division and the government’s attempt to create a no-man’s land failed.

This proposed no-man’s land came at the time when Willis was Governor of Upper Nile. He had also tried to create tribal divisions and no-man’s lands to the east of the Nile, such as between the Gawaar and Lou Nuer, and Dinka.²²⁸ Yet, this policy proved thoroughly unworkable too, and was abandoned after 1933 following Willis’s retirement in 1931.²²⁹ Local agency had easily contested these momentary British attempts to reconstruct the landscape as a vision of division between Dinka and Nuer.

Example 2: Execution in the meeting place of Madol

From the 1930s, British civil administrators promoted security through the rule of law. The landscape between the Nuer and Dinka was recognised as a place of meeting and was now reimagined as a site for legal justice. Johnson has recorded how important border courts were at positively reshaping Nuer – Dinka relations during the Condominium.²³⁰ In Maper in 2012, a chief remembered a British official forcing burial of those killed in the *toc* to end the visible memorial of the remains of the dead and reduce incitement for revenge. In the 1940s, roads were also constructed between lands of the Nuer and Dinka, such as the Makuac-Adok road, bringing a material government presence into the *toc*.

The British also set up a customary court at Madol. The first Luac Dinka found guilty in Madol had raided and killed a Haak Nuer man. His sentence was to be hung from a tree in Madol. His home community objected. Their objection was not about

²²⁵ Richards, Telegram to Kidd (District Commissioner WND), 3 June 1929, SSNA.UNP.5.A.3.31.66; SSNA.UNP.5.A.3.31.97.

²²⁶ Richards Telegram to Kidd.

²²⁷ SSNA.UNP.5.A.3.31.97.

²²⁸ Johnson, *Colonial Policy and Prophets*, p.14.

²²⁹ Johnson, *Colonial Policy and Prophets*, p.16.

²³⁰ Johnson, *Judicial Regulation*.

the punishment itself but about it being conducted at Madol and not in the British administrative centre of Wau. If conducted in Wau, the execution would be conducted in a landscape associated with the government and out of sight of the Nuer. They feared the execution reshaping Agar Dinka-Haak Nuer relations.²³¹

Local history remembers a *bäny bith* (master of the fishing spear) using his spiritual powers to reshape the material landscape and assert his authority to contest this government landscape regime. At the time, there was one suitable tree in Madol to carry out hanging. The night before the man was due to be hung, the local *bäny bith* cursed this tree. By the morning the tree had died and withered, and hanging there became impossible. The execution later took place in Wau. People described how the stump of the tree could still be seen at Madol. This stump's material presence made the landscape a history of the government's limits and a reminder that, from the earliest days of government in South Sudan, its power over the landscape could be contested.

Both these British era examples serve to illustrate people's potential power over the landscape, including by using the landscape's materiality, even at times of militarised government and brutal violence.

Militarisation since the 1980s - *Toc Aci Pat*

Toc aci pat [the *toc* is full] was a common Apuk Dinka phrase to describe the abundance of fish in the *toc* adjacent to the Nuer. Yet, the 1980s and 1990s shifted the local imagining of this landscape to a militarised space.²³² Now *toc aci pat* is used to describe the gains from military action and warfare in the *toc*. The material richness of the *toc*'s grazing lands draws the cattle into this space and this makes the cattle easier to violently raid.

From the 1980s, Southern armies, including the SPLA, Kerubino Kuanyin Bol's forces and South Sudan Defense Force (SSDF) violently negotiated their authority across this landscape. In 1983, the SPLA rebelled against the GoS, with the initial mutiny to the east of the Nile. In the early years of the SPLA, Salva Kiir (a western Dinka whose cattle sometimes grazed in the Apuk *toc*) was instrumental in mobilisation

²³¹ Interview with Dinka elder, Makuac (Warrap State), 11 March 2013 (in Dinka).

²³² Cormack, *The Making and Remaking of Gogrial*.

of many western Dinka.²³³ In response, GoS mobilised northern proxy militias to raid into the western Dinka and the *toc* was of growing use to hide from raids as GoS had little direct access to the *toc*.²³⁴ Riek Machar joined the SPLA in 1984 and spearheaded the mobilisation of the western Nuer. Machar had been born in Ler and was son of a local chief. With a general movement of SPLA recruits east to Ethiopia, Dinka moved peaceful through Nuerlands.²³⁵

At the same time, the leadership of the Anya-nya II came from the Bul Nuer. They violently opposed the SPLA's leadership of the southern rebellion.²³⁶ In 1984, GoS armed the Anya-nya II against the SPLA.²³⁷ The Bul Nuer-Apuk Dinka meeting place became a frontline in these government wars.

In 1991, the SPLA split and rival commanders tried to mobilise support along ethnic lines.²³⁸ The SPLA armed and reshaped the Dinka defense force of the *titweng* and *gelweng* as a proxy force.²³⁹ At the same time, 'white soldiers' emerged under the leadership of Machar.²⁴⁰ Military commanders valued the cattle keepers' intimate knowledge of *toc*. These armed youth fought along side formally recruited soldiers while retaining close relationships with their home communities. Commanders encouraged raids to be larger and without moral restraint.²⁴¹ In new patterns of violence, combatants targeted women and children, and burnt villages.

As discussed above, neither Dinka nor Nuer were politically homogenous, despite commanders' attempts at ethnic mobilisation. Yet, in the 1990s commanders did try to brutally construct lands as monoethnic through the killing of Nuer in the Dinkalands, and Dinka in the Nuerlands. These violent constructions of ethnicity were resisted at the most local levels in hidden, brave acts of mercy and power. Families concealed and absorbed into their families those who were threatened. As much as the

²³³ Matthew LeRiche and Matthew Arnold *South Sudan: From Revolution to Independence* (London, 2012), p.72.

²³⁴ HRW, *Sudan, Oil, and Human Rights*; Cormack, *The Making and Remaking of Gogrial*.

²³⁵ Speech by Chief Gum Madiing, Wunlit, 1999.

²³⁶ Johnson, *Root Causes*, p.69.

²³⁷ Johnson, *Root Causes*, p.69.

²³⁸ Jok and Hutchinson, 'Sudan's prolonged'.

²³⁹ See Chapter Nine of this thesis.

²⁴⁰ In 2012, western Nuer were translating the term as "white soldiers".

²⁴¹ See, for example, multiple speeches at Wunlit; Hutchinson, *Nuer Ethnicity Militarized*. Johnson highlights that children had previously been the targeted in certain types of conflict but the scale of killings increased.

anthropological literature highlights Dinka assimilating into Nuer communities,²⁴² at this time Dinka families also absorbed Nuer men and women in acts of mercy under these extreme conditions.

Yet, there was a common militarisation of the landscape where Dinka and Nuer had once met. Cormack describes how the relationship between socialised and remote places was turned on its head in Gogrial during these civil wars, with places that previously provided refuge, such as *toc*, becoming places of danger. Prior to the 1980s, people used to run to the *toc* for protection or ran through the *toc* to seek inter-ethnic safety as did the Bul Nuer in the 1920s. 'The exact opposite is now true; the inter-ethnic conflicts in *toc* are displacing people and preventing access.'²⁴³ They were reimagined as places of hyenas, the wildlife even expressing the landscape's menace.

Families had previously lived in *toc* so children could benefit from the fullness of the *toc* (*toc aci pat*)'s fish, milk and crops. The new targeting of children and women made the *toc* no longer safe for domestic settlement. In the 1999, at the Wunlit people-to-people peace meeting, participants listed 417 displaced settlements between the Dinka and Nuer lands. These lands had never previously been so fully deserted.²⁴⁴ Now only armed men would go to the various *toes* with just a few milking cows to feed them to act as a defensive frontline. This movement of people away materially changed the landscape from villages into *roor*. Cormack's research amongst the Apuk Dinka defines *roor* as 'wild land'.²⁴⁵

In 2012, a young Dinka man described to me his home village in *toc* before he fled in 1995. He described how, 'From that year, there has been no building on the border with the Nuer. They burnt our buildings and we burnt their buildings. And we all ran away and have left that place as a vacuum. I saw those places a couple of years ago. It is all *roor*. No one will live there now because of the fighting and fear of the Nuer. It has returned to *roor*.'²⁴⁶

²⁴² Hutchinson, 'Nuer Ethnicity Militarized'.

²⁴³ Cormack, *The Making and Remaking of Gogrial*, p.258.

²⁴⁴ Speech by Kulong Marial, Wunlit; Speech of Marial Malual Arop, Wunlit.

²⁴⁵ Cormack, *The Making and Remaking of Gogrial*.

²⁴⁶ Interview, young man, Yiik Ador (Warrap State), 7 January 2012 (in English).

The new militarised landscape created a violent barrier between Nuer and Dinka communities, preventing meeting, exchange and marriage. As an Apuk Dinka Chief described:

In the past, we were mixed up [the Dinka and the Nuer]. Before the Ananya-2. It started when they moved to Ethiopia and we are separated up to now. There are no links. Now they are gone.²⁴⁷

A Haak Nuer man described:

I am free to be in the Dinkalands. I speak Dinka and my in laws are there. I know people in the villages and they know me. Yet, I have no means to get there. If I walk to the Dinkalands, I will be killed along the way. I'm an old man with no gun. So, I cannot go to the Dinka and, unlike me, my sons will not marry from the Dinka.²⁴⁸

In the 1980s, using examples from the east of the Nile, Johnson described how 'in an historical perspective the 'ethnic' identity or definition of the peoples of the floodplain is as fluid as the conditions in which they live.'²⁴⁹ Yet, the militarised landscape ended movement even in times of great need, such as flooding. Fluidity was paused and a vision of division between the Dinka and Nuer became increasingly explicit.

However, even during the height of wartime violence, some local actors dared to imagine the landscape differently. Bul Nuer sought refugee amongst the Apuk and Twic Dinka during the late 1990s when the new oil pipeline prompted new violent control of oilfields in the Nuerlands. 'They [the Bul Nuer] did not even build *tukals*. They lived with us right in our houses.'²⁵⁰ Haak and Dok Nuer also sought refuge amongst the Luac Dinka during the Nuer civil wars. The Wunlit peace agreement had roots in this context.

²⁴⁷ Interview, Executive Chief, Luonyaker (Warrap State), 18 February 2012 (in Dinka).

²⁴⁸ Interview, Haak Nuer man, Mayendit (Unity State), 23 April 2013.

²⁴⁹ Johnson, 'Enforcing Separate Identities', p.5278.

²⁵⁰ Interview, Woman from Mayen Jur, Lietnhom (Warrap State), 15 March 2012 (in Dinka).

Peacetime entrenching of militarisation

By 2006, there was an apparent peace in South Sudan: in 1999, the Wunlit meeting had brought agreement between the western Dinka and Nuer; in 2002, Machar returned to Garang's SPLA; in 2005, GoS and the SPLA signed the CPA; and in 2006 the SSDF agreed to join the Kiir-led SPLA.

Nevertheless in daily lives of inhabitants, wars continued and the landscape remained militarised. In some sections, there was explicit government warfare such as the Bul Nuer dominated South Sudan Liberation Army (SSLA)'s rebellion in 2011. One of the first acts of Peter Gadet's leadership of the SSLA was a large cattle-raid into the Apuk Dinka *toc*. As one Dinka chief described in 2012, 'It is now still as bad as the Anya-nya II times. There is no peace between us. They loot and kill us. We loot and kill them.'²⁵¹

The militarisation of the landscape is also entrenched as the material present of the current landscape retells the recent past as a time of violent death and non-burial. In certain patches, human remains are still visible from deaths in conflict when burial was too dangerous. People remember where these remains can be found and these remains are an ongoing, present expression of violence and militarisation.

The landscape has also been reimagined through the visible mutilation of human bodies, using landscape to announce disregard for former moral limits to violence. For example, in 2011, a body was crucified in the *toc* between the Nyoung Nuer and Ciec Dinka. Nuer and Dinka I interviewed both considered this a particularly horrendous violation of the individual, the community and the landscape.

However, young, armed men still take risks to visit and make sacrifices on the gravesites of ancestors buried here. They go heavily armed. In preserving these material reminders of more peaceful pasts they are potentially providing an alternative imagining of the landscape. Yet, in the post CPA era of land law, men have invoked their ancestors for spiritual protection during exclusive claims to land rights. As one young man explained:

²⁵¹ Interview, Executive Chief, Liethom (Warrap State), 12 November 2012 (in Dinka).

Our grandparents lived in the *toc*. That is where they are buried. That was really our land. We need power to reclaim our land again so our cattle are well fed and so our children are well fed. So, a few of us go back with our guns. We went last year to sacrifice a cow to my grandfather.²⁵²

While young men seek the power of the divine, in practice they also rely on elite-provided weapons. South Sudanese politicians have used peace to amass personal wealth. De Waal has highlighted the kleptocratic nature of South Sudanese governance that has made use of oil money since the CPA²⁵³, but political competition over personal wealth has not been limited to monetised gains.

Many elites invest this new money in these *toc* landscapes. Riek Machar, for example, invested in a farm at Madol. As mentioned above, decades before Madol had been a common meeting place of the Luac and Agar Dinka, and the Haak, Dok and Nyuong Nuer. Here, peace negotiations and court cases were held, marriages were arranged and cattle grazed together. People would freely move through Madol to and from the lands of the Dinka and Nuer. As above, the Condominium government failed to make this a site for executions. However, in the 1990s, SPLA wars did turn Madol into a militarised frontline. During the 1990s Nuer civil war,²⁵⁴ Madol became a military barracks for opposition leader Riek Machar. After the 2005 CPA between GoS and the SPLA, that hoped to end violence in South Sudan, Riek Machar recreated Madol into a large, private farm. Dinka cattle keepers and chiefs had violently opposed this assertion of exclusive control of this landscape. When I visited in 2013, the large farm machinery still sat unused and sinking into the heavy mud. The Dinka cattle keepers and chiefs had refused to attend a peace meeting at Madol when the invitation assumed Nuer ownership of Madol. The post-CPA aggression continued in this landscape until Salva Kiir personally persuaded the Dinka chiefs to stop fighting with the gift of half a dozen cars. In December 2013, this landscape quickly returned to militarised conflict. Elite attempts to remake the landscape of Madol for political ends and private profit had reshaped the prevailing local histories and political identities, carving into the landscape new ethnic visions of divisions.

²⁵² Interview, Yiirk Ador (Warrap State), 13 December 2011.

²⁵³ De Waal, 'When Kleptocracy'.

²⁵⁴ Johnson, *The Nuer Civil Wars*.

Other elites bought cattle to graze in the *toc*, and they armed nephews to guard their herds. Nephews felt obliged to raid across Nuer-Dinka lines to replenish herds if cattle are lost to sickness or violence, and to use violence to secure rich pastures. Since the CPA, elites in Juba have commanded the dynamics of some cattle camps through *Thuraya* satellite phones.

For example, the *Baar Awai* (large salt) near Shambe is a highly valued area for grazing. Prior to the 1990s, many communities peacefully, jointly accessed the *Baar Awai* and local laws enforced the illegitimacy of raiding here. Since the 1990s, the *Baar Awai* has been violent and inaccessible. Then, in the 2010 dry season, Nuer and Dinka were surprised by the sudden appearance of bright lights. A large, privately owned herd of cattle was camped at the heart of these salt licks and surrounded by generator-powered floodlights. Armed men, some in SPLA uniforms, guarded the herd. The youth I spoke to felt powerless to contest this access or access the salt themselves.

However, in early 2014, small groups of Nuer and Dinka young men peacefully, privately grazed in the *Baar Awai*. While elite attentions were on the national crisis, the local herders had a renewed freedom to reclaim access to this landscape. Elite's knowledge of the value of the landscape to pastoralists entrenches its militarisation.

Two payam offices

After the CPA, in line with their state building agenda, international donor governments paid for the construction of government buildings including at the payam level. Donors presented these as apolitical, technocratic physical symbols of the coming of the government. The buildings were a material performance in the present of an imagined future of 'good governance'. Donors even hoped these buildings would themselves conjure security by making visible the government's power, even if the government was absent in other ways.

These scattered, new local government buildings are made from brick with iron-sheet roofs. Their builders paint them, evoking images of global modernity in a landscape where paint is hard to come by. Donors have paid as much as US \$250,000 for construction and inhabitants can rarely mimic this monetary income. Other dotted brick structures in this landscape are remnants from previous government constructions

or the new, private constructions of Juba's elite. Still, local authorities display their networks by acquiring left over paint to decorate their own mud walled homes. Their networks highlight their own centrality in the landscape.

The payam is part of a hierarchical, administrative structure of government units that fit together to form the state. For the central government, the payam offices attempted to capture the landscape for the state and created it as just a local, marginal part of the whole. Nonetheless, pastoralists often create their own centres in government 'peripheries'.²⁵⁵ Latour argues that we should not assume the whole, but open up all the controversies of relations of the parts to the whole.²⁵⁶ Here we look at the controversies over these constructed parts.

Mayenjur payam office

Mayenjur is a settlement on the confluence of the rivers Mabior, Ngenga and Jara of the Jur. Apuk Dinka elders remember Mayenjur as a place of meeting the Bul Nuer, and as a Nuer route to grazing in the Dinkalands and cattle markets in Wau. People in Mayenjur and the surrounding area spoke Dinka and Nuer and freely moved across the landscape. Local history dates serious Bul Nuer – Apuk Dinka conflicts to the 1960s. Since the government wars of 1980s, people were periodically displaced, but people only fled more permanently in 2004. Cattle keepers, *titweng*²⁵⁷ and rebelling forces (including the SSLA) have raided thousands of cattle in this *toc* and killed hundreds. By 2012, Mayenjur was just an SPLA barracks; its inhabitants lived in Warabyei, far into the Dinkalands.

In 2012, a Non-Governmental Organisation (NGO) had EU funding to build a payam office in Mayenjur. However, the construction workers refused to build the office in Mayenjur due to insecurity, so the NGO suggested building in Warabyei. A local politician refused. He was actively trying to resettle Mayenjur and had been lobbying for people to return. He argued that if they failed to return the Bul Nuer would claim their land. The payam office became a contested opportunity for an assertion of exclusive ownership of the land that would enhance the vision of division with the Nuer. In the end, no payam office was built at Mayenjur. In this case, the enduring

²⁵⁵ Cormack, *The Making and remaking of Gogrial*.

²⁵⁶ Bruno Latour, 'Paris, invisible city: The Plasma', *City, Culture and Society* 3, 2 (2012), pp.91-93.

²⁵⁷ See Chapter Nine of this thesis.

presence of the past decades of militarisation was through the material absence of the new signs of ‘good governance’ and settlement.

For a couple of years after December 2013, there has been a new, high-level political homogeneity because of the SSLA’s alliance with the Juba-government. Yet, this did not allow local inhabitants to reclaim the landscape as a shared place of meeting. In 2016, government leaders met in Mayenjur and issued an order that future raiders would be subject to the death penalty. This apparent return to rule of law was described as a court martial and asserted military authority over the landscape more than a reuniting of communities.

Amokpiny payam office

I first arrived in Amokpiny in 2012 tired and hot after our car was stuck in the mud of the new road being built by World Food Program (WFP). The chief arrived a few minutes after us by motorbike, having rushed from the government centre in Rumbek where he lived half the time. Even for the chief, the village had no tea. In the 1990s, Dinka of Amokpiny fled raids to resettle in Pan Awac along the Rumbek-Juba road. Raids had continued until 2009, but by 2012 the chief had led five hundred people to resettle in Amokpiny. Nonetheless, the inhabitants were still actively reclaiming their landscape from *roor*. Cormack’s research amongst the Apuk Dinka discusses how the turning of *roor* into *baai* (socialised land) can be a powerful restorative process and expression of human agency including after conflict and displacement.²⁵⁸ People returning to Amokpiny had brought oxen to plough fields to reclaim the land as *baai*. Yet, when I visited, tsetse flies were killing the cattle and the landscape’s material autonomy was limiting the ability of these five hundred people to reimagine the landscape.

When the chief rebuilt his Amokpiny home, he married a wife from the Nyuong. Crucial to his reconstruction of the landscape was the remaking of a relationship of law and lineage through the movement of cattle and people. Over the following few years, complex cattle negotiations over bride wealth continued in the Nuer courts and took the chief backwards and forwards. By 2012, there was also a small trade in cattle between Amokpiny and Ganyliel.

²⁵⁸ Cormack, *The Making and remaking of Gogrial*, p.125.

The government also asserted its presence on this landscape. In 2012, Ugandan contractors were building a USAID funded payam office in Amokpiny. Opposite, UNDP had already constructed a police post. In addition, the WFP road between these brick building was planned to bisect the landscape to reach to the Nuerlands. At the time, the road was still under construction and most people opted to travel on the less slippery, adjacent, small path. Yet, the trio of the police post, payam office and road were a visible reconstruction of the material landscape to include the hierarchical government and the penetrating influence of the international order. The landscape was visibly reshaped and this iron-sheeted image of modernity was a reminder of Amokpiny's future as a part of the whole state. A makeshift school had also started meeting behind the payam office. At the time, the Lakes State governor commented on the road as 'taking the towns to the people', imagining the new landscape as a fulfillment of the promises of the SPLA's liberation struggle.

As Fontein described in relation to the Mutirikwi (Zimbabwe),²⁵⁹ in Amokpiny different pasts co-existed in close proximity in the shared materialities of the landscape. The new constructions created in the present the future presence of government. A lack of ox-ploughs and the sick cattle continued in the landscape the memory and struggle of the long displacement. In addition, adjacent to the payam office was an old shrine that dated from a time Amokpiny was a cattle camp. It had been consistently remade and added to since. Even during the war, people had visited to make sacrifices at the shrine. This kept the ancestors alive in the present as the shrine 'constituted of an enduring record of – and testimony to – the lives and works of past generations who have dwelt within the landscape.'²⁶⁰ The shrine appeared to testify to a different, past regime of governance of the landscape, before the contemporary model of statecraft, when Amokpiny (not Juba) had been the centre.

²⁵⁹ Fontein, *Remaking Mutirikwi*.

²⁶⁰ Ingold, 'The Temporality of the Landscape,' p.152.



In 2012, the local chief was active in coopting donor construction and mingling these pasts. For him, Amokpiny was still ‘the centre of the earth and the earth goes around it.’²⁶¹ ‘Amokpiny’ itself makes reference to being in the centre. The chief admitted the landscape was new but he explained, ‘My uncle was the former chief, over twenty years ago. During his day, there was this cattle camp and the shrine. The payam office will now be my history.’²⁶² For the chief, both the office and cattle camp shrine were material displays of the history of his own lineage’s power. Despite the reconstruction of the landscape by donors to place Amokpiny in a state-centric hierarchy, the chief’s reimagining of these material additions kept Amokpiny central in its own regimes of rule of landscape.

After the December 2013 eruption of violence in South Sudan, Amokpiny sat on the edge of government-controlled territory and local inhabitants feared a renewed Juba-government assertion of militarised control over this space. Yet, in Amokpiny, despite the war and the further remilitarisation of places like Madol, the landscape was created as a place of refuge and meeting, illustrating this ongoing rule of the landscape by inhabitants.

²⁶¹ Interview, Amokpiny (Lakes State), 27 May 2012 (in Dinka).

²⁶² Interview, Amokpiny (Lakes State), 28 May 2012 (in Dinka).

The Nyuong Nuer faced severe food shortages due to flooding and conflict. In mid 2014, traders from Amokpiny walked through the waterlogged *toc* to Ganyliel, carrying food on their head. Nuer traders then returned to Amokpiny, using inter-ethnic familial networks to provide them security and a place to stay. By May 2014, hundreds of Nuer lived in Amokpiny. Larger-scale Dinka traders then brought goods to sell to the Nuer. The Nuer's dwindling cash reserves made the relationship with traders asymmetrical, but Nuer recognised their reliance on these relationships. NGOs even brought food to Amokpiny for the Nuer. In 2014, the peaceful settling of two elopement cases of visiting Nyuong girls further cemented relations.

The traders rapidly built iron-sheeted, brick shops, overshadowing the recently constructed government buildings and making less visible the decades of wartime abandonment. The traders reclaimed the landscape from *roor* and their buildings performed the social function of recreating a story of meeting and interdependence by solidifying Nuer-Dinka trade. In Domanska's words, these shops participated 'in the creation of human identity at the individual and collective levels, and they mark its changes.'²⁶³ The Nuer and Dinka public, as well as donors, physically gathered around these shops.

After the success of this trade, some Nuer traders even went as far as Juba. These traders used both their ability to speak Dinka and friendships with Dinka to subvert the national government's embargo on traders coming from opposition areas. These passages across militarised landscapes and under the guise of markers for another ethnicity not only silently challenged government's authority and control, but also made meaningless the constructed naturalised visions of division between the western Nuer and Dinka. Through 2014 and 2015, Nyuong Nuer were even able to use friendships with Ciec Dinka youth to continue to be traders in Juba's black market Forex trade. The shops in Amokpiny referenced this larger subversion in the landscape that reached from the *toc* to urban landscapes at the very centre of the state.

²⁶³ Domanska, 'The material presence', p.340.

Conclusion

It was early 2014, and I was sitting on the sofas in the lobby of the Radison Blu Hotel (Addis Ababa, Ethiopia). An eclectic combination of South Sudan's political elite walked passed me to access the hotel's lavish buffet. The day's IGAD peace negotiations on South Sudan had ended without significant progress and now the opposing elites of South Sudan's warring parties had returned to their internationally funded place of rest. One general joked to me that he had just been sent to the negotiations to fatten him up before returning to the battlefields. Their plates were piled high with food and they sat in close proximity to each other, irrespective of sides their soldiers were fighting on. This glistening, urban place of international extravagance could not have been a more contrasting landscape for meeting than the landscapes of the *toc* between the communities of the western Dinka and Nuer. There appeared to be a stark political, social and spatial dissonance between the Radison Blu lobby and the lived daily realities of the inhabitants of that landscape and their attempts to assert their own control over their lives and landscapes.

In the *toc*, naturalised visions of divisions were not the products of short-term diplomacy and elite choices, but instead were the result of long-term renegotiations of the histories embodied in the landscapes. Through changes in the use of space and the imaginings of the landscape, governments and authorities have altered visions of divisions between Nuer and Dinka. This remade political identities that were now entangled with the material experiences of daily life and entrenched through spatial distance. Ethnic political identity had indirectly been remade by the government wars that had made the *toc* and the spaces shared between the Nuer and Dinka into a militarised no-man's land.

At the time of writing, people are again asking how to rebuild peace in South Sudan. After the continued wars of 2016, no one is satisfied with the momentary peace made in the hotels of the regional capitals. More crucial than any momentary peace, are the times of war and peace in South Sudan that have militarised landscapes and made it almost impossible for communities to meet to marry and negotiate relationships. The common militarisation has constructed a naturalised vision of division between Nuer and Dinka, despite the consistent lack of political homogeneity amongst either group. Inhabitants have contested this militarisation and divisions in small acts of defiance and remaking that challenge governments' rule of the regime of the landscape and their elite

attempts to capture power. In the landscape, people might find democratic powers to assert peace and their own authority. Those who do not only focus on urban elite negotiations but are willing to protect these small acts of defiance to construct a new landscape may make a larger contribution to peace and democracy in South Sudan.

3. The Road, the Government and the Prophetess: Competing for Authority Through the Landscape of the Western Nuer

Chapter Three of this thesis continues Chapter Two's theme of landscape and introduces the Nuer prophetic idiom. The chapter does this through rich ethnographic descriptions of two political revolutions in the western Nuer since the 2005, namely the building of a murram road and the coming of the divinity of *Maani* to a new prophetess. The chapter focuses on the competing public authorities of the government and the prophetess, and the way in which this competition remakes the landscape.

Abstract

In early 2013, in the markets of the Haak Nuer, conversations kept wandering back to two dominant themes. Firstly, there was a new government-supported, Chinese-funded-and-built, murram road that cut through the *toic* and villages sketching a bold north-south line. This physical remaking of the landscape was proving to be a political revolution. The Haak Nuer were reconfiguring and reimagining their relationship to modernity in negotiation with the materiality of the road. Yet, more importantly, the road was provoking new imaginings and enactments of the power of government, and remaking the power between political actors. The road was an embodiment of the good and bad of the government and its entanglement in modern capitalism. Secondly, conversation was also about a nascent Nuer prophetess (Nyachol) who had first been seized by the divinity of *Maani* just three years before. Nyachol was intentionally trying to remake the landscape around her *luak* to provide an island of isolation from both modernity and the government. Nyachol was attempting to make a space of static tradition, with herself as the guardian of custom, in order to confront the uncertainty of the lethal violence and economic inequality that government and modernity were delivering. Nyachol's remaking of the landscape contrasted with earlier prophets of *Maani* who were still remembered as entangled with global influences, travel and innovative ideas. While Nyachol and global capitalist investment in a road appeared to be remaking the western Nuer landscape in contradictory fashions, many Nuer were able to reconcile these ideas in their daily decisions and politics.

A South Sudanese Road and Learning of the Prophetess

If you journey west from Rumbek on the murram road, you initially travel through an avenue of mango trees and on into scrubland before passing through the *Ror Cuol Akol* - the forest that lasts from morning until night if you are on foot. This journey is over a road that formed a key part of the road system of the first national government of Sudan. The Anglo-Egyptian government had used this red, laterite material (murram) in the earliest years of the twentieth century to construct a road system that ran from Juba to Wau via Tonj, and then on towards the Congo watershed in the east before returning to Juba via Yei. The government then built a branch in that road to Rumbek. The materiality of the ironstone plateau of this southwestern region allowed the government to access the locally sourced laterite *murram*. These material properties allowed the Government to build in this part of the South some of the best roads in the Sudan.²⁶⁴ Governments and traders used these roads to increase their mobility around this southwestern region, and through this mobility to remake a growing sense of unity and communication.

The conquest of the Sudan by the Anglo-Egyptian government is often credited to the building of the railways in the north. In the early days, establishing physical access was also crucial to the government's claims of control and sovereignty throughout the Sudan. The earliest Condominium government interest in southern Sudan was focused on simply controlling the Nile basin to ward off threats from the French in the west. British control of the Nile Basin gave Britain important control over Egypt's politics and economy that helped guarantee British passage through the Suez Canal.²⁶⁵ During the early decades, the Steamers and Railways Departments were dominant as the government used rivers and tracks to secure access.²⁶⁶ Both departments were extensions of the military administration.²⁶⁷

However, as government entrenched its territorial control it also sought to find opportunities to remake the connections between southern Sudan and the global economy. In the booming economy of the 1920s, the Sudan government could become financially self-sustaining through increased exports of goods in demand on the world

²⁶⁴ H. A. Morrice, 'The Development of Sudan Communications', *Sudan Notes and Records* XXX: II (1949).

²⁶⁵ Terje Tvedt, *The River Nile in the Age of the British: Political Ecology and the Quest for Economic Power* (London, 2016).

²⁶⁶ Thomas Fuller, 'The Professionals', In Robert O. Collins and Francis Deng (Eds.), *The British in the Sudan 1898-1956*, (Oxford, 1984).

²⁶⁷ Fuller, 'The Professionals', p.137

markets. The British government especially demanded cotton to supply the mills of Lancashire after Egypt threatened to produce a new type of cotton that would not suit these British mills. In this venture roads were increasingly important. The government conceived of raw materials (such as cotton) flowing down the Nile and consumer goods (such as soap) flowing up the Nile. To incorporate southern Sudanese into the global economy and modernity, roads needed to connect people to the rivers. Roads were a key part of the materiality of a government-imagined modernity and global capital in Southern Sudan.

In the late 1930s, Governor-General Sir Stewart Symes was increasingly eager to implement a technically informed development policy that would counter the economic challenges of the global depression. Some District Commissioners and other officials resented the loss of autonomy in their areas, but there was also recognition of the need to share information and develop.²⁶⁸

By the 1940s, the Sudan government increasingly hoped to use development to cement its authority.²⁶⁹ Government built these roads as they were assumed as necessity for development.²⁷⁰ Southern Sudanese were starting to produce goods that potentially had a market value, including arable food surplus, products from livestock and cotton. These products could access the world markets by travelling down the Nile to Sudan and on to Egypt. Yet, roads were needed to feed the ports with goods.²⁷¹ The government remaking of the landscape through the introduction of these roads remade these parts of Bahr el Ghazal Province into regions that were connected to the global flow of goods and produce. They made access to global markets.

However, the roads did not only allow produce to flow out of the interior and down the rivers. Government also came up the rivers and along the roads. Therefore, the roads created new imaginings of the possible powers and presence of government. We have long known that roads in Africa are not just iconic of modernity but can made concrete the perils and possibilities of modern life as well as condense histories.²⁷²

Research on violence and modernity has now long included ways in which space

²⁶⁸ Fuller, 'The Professionals', p.155.

²⁶⁹ This resonates with other colonial policies in the 1940s across Africa. F. Cooper, *Africa Since 1940: The Past of the Present*, (Cambridge, 2002).

²⁷⁰ Morrice, 'The Development of Sudan Communications'.

²⁷¹ Morrice, 'The Development of Sudan Communications'.

²⁷² Adeline Masquelier, 'Road mythologies: space, mobility, and the historical imagination in postcolonial Niger', *American Ethnologist* 29:4 (2002), pp.829-856.

connects and disconnects people.²⁷³ The arrival of roads in communities has often been seen as a pivotal historical turning point and for some analysts was a key moment in development.²⁷⁴ Even Gluckman, long before the current interest, started interest in this sort of space with this study of the opening of a road bridge.²⁷⁵ The making of roads can still conjure imaginaries of increased mobility and opportunity. New, large roads, such as motorways, have sometimes been seen as ‘anti-social’ and ‘alienating’ spaces.²⁷⁶ Yet, instead these spaces are not without social significance.²⁷⁷

For the Sudan government, the roads were part of a developmentalist vision. Based on her research near Rumbek and Yei in South Sudan, Leonardi notes that, for the Condominium government, the condition of roads was often considered a visible sign of good administration and essential for development.²⁷⁸ Newly constructed roads also brought the government opportunities for resettlement of communities next to the roads to ensure they could be easily governed.²⁷⁹

We know we should ‘interrogate the particular capacity of roads to hold a developmentalist vision, a seemingly intrinsic future-orientated temporality that seems to render them so irresistible to nation builders and state planners, despite the fact that as our examples show they are in practice as likely to manifest state uncertainty as state capacity.’²⁸⁰ Governments have built their strength and presence through road building, but have also revealed their uncertain characteristics and consequences.

Literature has told us that the modern change brought by roads is fraught with ambiguity as ‘it entails breaking away from an immanent “past” in which personal and communal identities were safely anchored through the ordering of physical space.’²⁸¹ As with other experiences of modernity, roads come at a cost. Roads might provide public goods but they also represent public works, the realisation of which involves the

²⁷³ See, for example, Allen Feldman, *Formations of Violence: The Narrative of the Body and Political Terror in Northern Ireland*, (Chicago, 1991).

²⁷⁴ S. Roseman, ‘How we built the road: the politics of memory in rural Galicia’, *American Ethnologist*, 23:3, pp.836 – 860.

²⁷⁵ Max Gluckman. *Analysis of a social situation in modern Zululand*, (Manchester, 1958).

²⁷⁶ G. Debord, *The society of the spectacle*, (London, 1967), p.174.

²⁷⁷ Dimitris Dalakoglou and Penny Harvey, ‘Roads and Anthropology: Ethnographic Perspectives on Space, Time and (Im)Mobility’, *Mobilities* 7:4 (2012), pp.450-465.

²⁷⁸ Leonardi, *Dealing with Government*, p.69.

²⁷⁹ Leonardi, *Dealing with Government*, p.69.

²⁸⁰ Dalakoglou and Harvey, ‘Roads and Anthropology’, p.463.

²⁸¹ Masquelier, ‘Road mythologies’, p.833.

enfolded of international, national and local regimes.²⁸² The Sudan government of the early twentieth century built such roads through forced labour and then through labour paid for by the collection of taxes. Therefore, government roads brought the associated burden of labour.²⁸³ Locally this labour was often viewed as fruitless especially when only government, and not locals, predominantly used the roads. This coercion of labour or monetary tax all involved the remaking of the hierarchies of power and the entrenching of local intermediaries to collect tax and force labour. Leonardi also notes that chiefs often mobilised labour for road building, changing their relationships with Southern Sudanese and the government.²⁸⁴ Roads were a lasting material expression of a violent socio-political re-ordering.

In Africa especially, roads have been part of the materiality of how governments and global capital have built extractive economies over the last two hundred years. The government forced people to grow crops such as cotton that were exported by roads to the rivers and then on to the north. For example, in Yei District in Southern Sudan in the Condominium era, side roads were built to ease the collection of cotton.²⁸⁵ Elsewhere, roads have been a material expression of the promise of (auto) mobility²⁸⁶ and a mobility that is correlated with freedom.²⁸⁷ Instead, in Sudan, the roads have long evoked memories of capture and forced labour, not freedom. In more recent decades, during the SPLA-GoS war, the road near Rumbek had also been embedded with memories of lethal violence and the access of government to vulnerable populations from which they demanded submission. The trunk road from Tonj to Rumbek had become crucial for GoS during the GoS-SPLA war of the 1980s and 1990s. As the SPLA 'liberated' vast amounts of rural South Sudan, GoS was left controlling garrison towns interconnected by these fragile lines of roads. For those GoS soldiers, these roads were places of terror where they were vulnerable to ambush and attack. They often confronted this fear by raiding along these roads. They travelled the route with aggression, storming into villages, looting and killing as they passed. These soldiers were a nameless display of the dangers of the roads fearing the assumed SPLA-loyalty of the villages. This government imagining and abuse near the roads remade the landscapes of the roads into places of fear and vulnerability.

²⁸² Dalakoglou and Harvey, 'Roads and Anthropology', p.460

²⁸³ Leonardi, *Dealing with Government*, pp.69-70.

²⁸⁴ Leonardi, *Dealing with Government*, pp.69-70.

²⁸⁵ Leonardi, *Dealing with Government*, p.70.

²⁸⁶ Dalakoglou and Harvey, 'Roads and Anthropology', p.460

²⁸⁷ Dalakoglou and Harvey, 'Roads and Anthropology', p.460

However, residents of the settlements along the road often only temporarily moved away, calculating that the roads also brought protection. Along the roads, they were more visible for potential help from NGOs. They also had easier access to imported goods, including food and medicine.

By the end of 2012, as we travelled on the murram road through the *Ror Cuol Akol*, it had become increasingly difficult to imagine the unity via the roads of the southwestern region of South Sudan and there no longer seemed to be a unified road circuit. The SPLA's warfare of 1990s had also irritated relationships between communities to the north against those towards the Congo watershed after the SPLA had moved Dinka cattle to the south in search of safe pastures. The SPLA insisted on their right to graze through the power of the gun, undermining previous relationships of cooperation. Much of this old road circuit now had pockets of insecurity that made it unsafe for most to pass.

Our journey was in late 2012, just at the time of year that much of the land has dried out, and I was on a brief, first visit to the local administrative headquarters of a payam in Tonj East (Warrap State). I had taken the chance to hitch a lift with an NGO vehicle.

Shortly after Tonj, if you take the road to the right, you start to creep along a track that swings round to the north. The track is no longer a platform for fast moving vehicles but sweeps through an open landscape, scratching a line from Tonj to the north. Your car helps make the track as you travel. Yet, the track was established enough for traffic to be expected; about an hour into the journey, we noticed two boys walking slowly by the roadside. They carried six small chicken eggs hoping to sell them to passers by. They were boiled and sweet, and for sale for 1SSP each.

The track led to the local administrative centre, demarcated with a ring of iron sheet fencing. There was no clear road beyond. Inside this small circle were a large tree and a huddled collection of thatched roof buildings. If you wandered just beyond the un-gated entrance, there was a large, rectangular concrete base on top of which stood an electric-powered water pump. Adjacent to it was a generator and an iron sheeted roof to protect it from the rain. For a couple of hours per day, a trusted government employee filled the pump with fuel and let the pump flow. I was warned

that, if I needed water to bathe or drink, I would have to collect water at these times. The allure of a mechanical driven pump had its attractions, but the limited supply of water made me slightly nervous. I was used to hand pumps that allowed me to drink water endlessly as long as the pump was pumped. I silently reassured myself that, in an emergency, I had the monetary power to pay for fuel to run the pump for another hour.

The pump's caretaker was visibly proud of his work and he showed me the pump with pride. It was a material declaration that their administrative centre had modern technology and was connected enough to the globe markets to run with a daily supply of diesel. The daily whirring of the pump at the caretaker's operation created a temporary soundscape that enabled a local imagining of modernity.

If I wanted to meet people in rural villages or cattle camps, I would usually just walk to find people who were sitting drinking tea and watching their cattle. Yet, that day, few cattle herders were free to talk. Instead they huddled in small groups, guns in their hands. My translator explained that they were preoccupied by thoughts of the previous day and fears of further attacks ahead.

The previous day, in the sun of the afternoon, a large group of armed Haak Nuer men had swarmed into their grazing land. They had come across the road-less *toic* lands around southern sections of the Bilnyang River system.

The local Nuer government commissioner had learned of the raid in advance, and had controversially warned the local Dinka government commissioner. The Nuer commissioner would later be chased from his office for this act. The Dinka Commissioner was far away on business in Tonj, but he had called people in Ramage to warn the community of the impending attack. The Dinka cattle keepers of Ramage had responded by creating an ambush at a water point. It was the first water point after crossing the *toic*. At this time of year the *toic* is stone dry and, therefore, they had known the Nuer men would have to stop to drink. They waited for the Nuer to come and then surrounded them, burning the grass behind them to prevent a place to hide in retreat. Thirty-four of the attackers were killed. Many of them were first wounded and then executed the following morning.

That next morning, when I arrived in Ramage, the community feared Nuer retaliation because of the large number of Nuer that had been killed. They watched and waited. They were not interested in talking to me.

Another section of the same Nuer attack approached Dinka cattle camps much further north. That time, the Dinka had been without warning and the attack came in the middle of the night as people were sleeping. Men, women and children were shot dead in their sleep, killing another twenty. Those attacks were only two of a series of attacks and retaliations between the western Nuer and Dinka in early 2013.

So the stories went, it was Nyachol, the nascent prophetess of *Maani*, who had conceived and blessed the initial raid. I intended to go to visit her.²⁸⁸

Introducing Nuer Prophets and the Prophets of *Maani*

Prophets are known in Nuer as '*guk*' or '*guan kuoth*',²⁸⁹ and are 'owners' of a Spirit.²⁹⁰ Prophets are seized by divine Spirits and hold their Spirit's divine power that they channel over life and death, health and sickness, fertility and famine. These *guan kuoth* first emerged in the second half of the 19th century.²⁹¹

British government officials first translated '*guk kuoth*' as 'prophets'. Writing during the Condominium government, Evans-Pritchard was writing that he was eager for 'prophets' to be used to name the '*guan kuoth*' to distinguish the prophets from magic men. 'Prophets' also reflected officials' association of the appearance of the *guk* with the spread of Mahdism and Mahdi prophets in Sudan. Later commentary by Evans-Pritchard questioned this origin of the *guk kuoth*, and Johnson later dismisses it. Yet, the British translation of the *guk* as 'prophets' entrenched the Condominium government's imagining of these Nuer prophets as closely linked to Mahdist, anti-government rebellion. Government officials' imaginings of the Nuer prophets varied, yet enough government officials saw the *guk* as, inherently, a symbol of resistance to foreign aggression encouraging suppression of the Nuer prophets for much of the Condominium government.²⁹² In the 1980s, the SPLA also sought to suppress the power of many of the Nuer prophets at the time. Therefore, Nuer prophets have often found themselves in opposition to government.

²⁸⁸ There is much scope for future work on other female figures with divine authority who have (re)created 'fictitious worlds' and alternative moral communities. Comparisons could be made, for example, with Alice of Uganda's Holy Spirit Movement. See: Allen, Tim, 'Understanding Alice: Uganda's Holy Spirit Movement in context', *Africa* 61:3 (1991), pp.370-400.

²⁸⁹ Evans-Pritchard spells it as '*gwan kwoth*'.

²⁹⁰ E. E. Evans-Pritchard, E. E. *Nuer Religion*, (Oxford, 1956), p. 44

²⁹¹ Evans-Pritchard, *Nuer Religion*; Johnson, *Nuer Prophets*.

²⁹² Johnson, *Nuer Prophets*, p.31.

More sympathetic observers saw the genesis of the Nuer prophets in the late 19th Century as explained by ‘the expansion of the Nuer and, more particularly, the threat to their independence by northern Arab slavers, the Mahdists, and Anglo-Egyptian rule, which required, if it were to be met, greater political unity and the development of political authority.’²⁹³ As Johnson notes, there was a threat from outside in the 19th century. ‘The caravans of the nineteenth-century did have a disrupting effect, and the organisation of trade routes linking a network of fortified commercial centres (*zariba*, pl. *zara’ib*) did assist the proliferation of free-divinities and the spread of magic.’²⁹⁴ Evans-Pritchard perceived the prophets as a response to the need in a time of crisis²⁹⁵ or ‘rapid social change’²⁹⁶ mimicking his understanding of the role of Old Testament prophets²⁹⁷. The prevailing discourse at the time was of the colonial state of the Anglo-Egyptian Condominium in Sudan as a new era of continuity and a period of undoing the disruption caused to traditional society by the invading Arabs. Nuer prophets, like the Anglo-Egyptian government, could be understood as an answer to this crisis of outside intrusion. Yet, if the government satisfied this need to response to the previous crisis, prophets were not longer needed.

However, more recently, Johnson has criticised colonial era literature for perceiving the Nuer prophets as focused on the government. He suggests that this literature by the government only mirrored the government’s distraction with itself²⁹⁸. Johnson suggests that the emergence of the prophets amongst the Nuer was more closely related to the expansion of the Nuer especially to the east²⁹⁹ and their consequential need to (re)create moral communities. As Evans-Pritchard explains, ‘the Nuer conquest of the Dinka broke up clans and lineages to an extent which must have greatly impaired the unifying influence of kinship.’³⁰⁰ Conquest caused dispersal of clans and absorption of conquered people. ‘The semblance of tribal unity based on kinship organisation is there but it lacks reality. The appearance of powerful prophets

²⁹³ Evans-Pritchard, *Nuer Religion*, p. 309.

²⁹⁴ Johnson, *Nuer Prophets*, p.65.

²⁹⁵ Evans-Pritchard, *Nuer Religion*, p. 309.

²⁹⁶ Johnson, *Nuer Prophets*, p.viii.

²⁹⁷ Johnson, *Nuer Prophets*, p.viii.

²⁹⁸ Johnson, *Nuer Prophets*.

²⁹⁹ Johnson, *Nuer Prophets*, p.65.

³⁰⁰ E.E. Evans-Pritchard, ‘The Nuer: Tribe and Clan’, *Sudan Notes and Records* 18 (1935), pp.37-88, p.56.

seems to me to denote a reorientation of the tribe along different principles.³⁰¹ The prophet provided a needed central point of identity around which to coalesce.

However, unlike to the east (where Johnson's study is focused), the western Nuer had not gone through a period of expansion and widespread assimilation. Johnson argues that the Nuer migrations east in the 19th Century meant distance from the *Kot-Liec* Tree. As Johnson argues, 'the tree is a communal symbol, a symbol of communities past, present and even future. In a sense trees 'create' communities by gathering people under them, and they represent the community in many myths throughout the region.'³⁰² Nuer remember the first Nuer (or even the first man) as being born underneath the tree. If you look carefully, you can see the marks in the earth from where the first mother knelt down to give birth. The tree and its material surroundings were a material story of previous generations that bound together the Nuer as a political community. Therefore, for the western Nuer, landscape has long been intertwined with spiritual power and history.

The Nuer to the east moved away from this tree and instead gathered around the prophets to form their moral communities.³⁰³ However, this does not explain the early appearance of the free-divinities and prophets amongst the western Nuer who still had easy access to the tree. The western Nuer may have been influenced by the emergence of the prophets to the east. However, contemporary western Nuer attribute *Maani's* appearance to as early as the free divinities to the east. Evans-Pritchard and Fr. Crazzolaro base their observations of western Nuer prophets on the western Nuer in the 1920s and 1930s, yet there has been minimal understanding of the history of the prophets amongst the western Nuer. Western Nuer prophets had their own specific idiom, although they were clearly also inspired by the frontier to the east.³⁰⁴

Early in the 1880s, *Deng* seized a Jagei Nuer woman named Nyapuka Dan. She joined with Macot Nyuon (a Dok Nuer) who was seized by *Teng* to fight with Wol Athiang to fight the Egyptians at Rumbek. Yet, when the Nuer had taken cattle at Rumbek, Wol turned on them and took them. Nyapuka died in a raid of retaliation in

³⁰¹ Evans-Pritchard, 'The Nuer', p.56.

³⁰² Johnson, *Nuer Prophets*, 45.

³⁰³ Johnson, *Nuer Prophets*.

³⁰⁴ Johnson, *Nuer Prophets*, p.243.

the 1890s.³⁰⁵ Although *Maani*, and not *Teng*, seized Nyachol in 2010 by *Maani*, the western Nuer still use the nickname ‘Nyapuka’ for Nyachol in order to reference this early prophetess.

The divinity of *Maani* or ‘*Madi*’ first appeared amongst the western Nuer during the last decades of the 19th Century. Johnson records his arrival as during the later days of the Mahdiyya, c.1890.³⁰⁶ Yet, Fergusson records that around 1886 Wal Athian of the Agar sent a message to ‘big Nuer Chief Madi inviting him to join forces and raid the cattle of the “Turks” which were kept in the North of the Jur country about 35 miles South East of Rumbek, and close to the Bahr en Naam River.’³⁰⁷ For Wal to have asked for his assistance, *Maani* (*Madi*) must have already have been an established figure of authority. This implies his powers came during the early 1880s at the latest.

Maani was first known through the *guk kuoth* Kolang Ket and Kolang Ket developed *Maani*’s prophetic idiom until his death in the 1920s. The history of *Maani* is still under-researched, but contemporary oral history in the western Nuer does link his origin to Kolang Ket’s travels to northern Sudan and with the coming of government. *Maani* coming to Kolang Ket is linked to Kolang Ket’s travel north.³⁰⁸ Kolang Ket is likely to have even seen the battle for Omdurman in which the city eventually fell to Kitchener’s army.³⁰⁹

By the mid 19th Century, the western Nuer were intensely aware of the coming of government from the north and new experiences of global trade. The 19th Century saw southern Sudan become a periphery to source Egypt with slaves to finance their global debt. The western Nuer did not host slavers’ forts and did not even have a full-time government presence until the 1940s. However, western Nuer were exposed to the brutality of global capital and government regimes of global trade through slaving ports in nearby Dinka areas.³¹⁰ For example, routine annual cattle migration patterns took the Nuer close to Meshra el-Rek. This was a notorious zeriba for the trade in ivory and

³⁰⁵ Johnson, *Nuer Prophets*, p.250.

³⁰⁶ Johnson, *Nuer Prophets*, p.249.

³⁰⁷ V. H. Fergusson, ‘The Nuong Nuer’, *Sudan Notes and Records*, 4 (1921), pp.146-155.

³⁰⁸ Accounts vary about whether *Maani* came to Kolang Ket after he travelled to the north or whether it was *Maani* himself that demanded Kolang Ket’s northern travels.

³⁰⁹ Johnson, *Nuer Prophets*, p.249.

³¹⁰ See Chapter Two of this PhD.

slaves on the last navigable point on the River Jur.³¹¹ Nuer would have, undoubtedly, been watching the coming of government to these grazing lands. Nuer and Dinka communities have also long grazed together, traded and intermarried. In the 1870s, Dinka even fled to the Nuer for safety from slavers and in the 1880s, some Nuer even returned with the Dinka to settle near Meshra el-Rek.³¹² Changing power relations amongst the Dinka would not have been unnoticed by the Nuer. Dinka slavers may have also targeted Nuer to sell onto this global slave trade. Therefore, the western Nuer faced new dilemmas from the uncertainty and shifting power dynamics brought by these first exposures to global capital.

Kolang Ket's authority amongst the western Nuer was not associated with isolation from government. The western Nuer still associated the first prophet of *Maani* with travel, connections with modernity and global routes of trade and politics. Kolang Ket had not built protection for the western Nuer through isolation. Instead, Kolang Ket had visited northern Sudan, and would have there seen expressions of modernity and the next steps on the paths of international trade. The western Nuer associated his power to protect with this additional exposure to modernity and his rare knowledge of the new government power. For example, the first government official, Captain Fergusson, went to visit Kolang Ket in 1923; he was impressed by Kolang Ket's ability to distinguish between the governments of the Turks, Arabs and English, and by Kolang Ket's awareness of the power of government.³¹³ Kolang Ket had seen in government a power he could harness for his own ends of power consultation and peace promotion.³¹⁴

Kolang Ket and his predecessors are not remembered as inherently being anti-government, but they were a new configuration of authority that dialogued with government. Kolang Ket's coming to *Maani* offered the western Nuer a new form of political authority and cohesion at the time of increasingly penetrating government and slave involvement, and at a time when new knowledge was needed to navigate these new forms of uncertainty.

³¹¹ Cormack, *Remaking of Gogrial*, p.66.

³¹² Johnson, *Nuer Prophets*, p.246.

³¹³ Johnson, *Nuer Prophets*, p.261.

³¹⁴ Johnson, *Nuer Prophets*, p.262.

After Kolang Ket's death in 1926³¹⁵, *Maani* then passed to Nyaruac Kolang (the daughter of Kolang Ket). She was prophetess of *Maani* until her death in 1973. For the following three decades, there was no prophet of *Maani*. During this period, people still offered sacrifices to *Maani* to petition for his help. A few years after South Sudan's independence, in 2010, *Maani* then took a new prophetess named Nyachol.

During Kolang Ket's lifetime, *Maani* became the most renowned divinity of the western Nuer³¹⁶. Amongst the first of the Nuer prophets, Kolang Ket was crucial in not only establishing *Maani*'s authority but also in shaping the idiom of the institution of the prophet itself and the authority it contained.

Maani seized Nyachol in 2010. She had fallen ill for a year and this illness had eventually turned her barren. It was then that people recognised the illness as *Maani* coming to her. As a relatively new prophetess of *Maani*, she was still establishing her claim as prophetess. After the long absence of a prophet of *Maani*, she also had to reconstruct the authority of this institution.

It is unclear if Nyachol displays the possibilities of female public authority amongst the western Nuer, or if Nyachol was not imagined as female by the time she became a prophetess. In the 1950s, Evans-Pritchard noted that Nuer have long been said to speak of a barren woman becoming like a man.³¹⁷ Nyaruac Kolang had never borne children directly. However, she did marry a wife and her brother biologically fathered Nyaruac's legal children. I met her daughter in Koch in 2013. Nyachol alternatively had a natural born son. Yet, she had fallen ill and attended hospital. At that time she had been warned that she had become barren because of her illness. *Maani* also came to her at this time.

Traveling to visit Nyachol

A couple of days after our return to Rumbek from Ramage, I arranged another journey in an NGO car to the north to visit the Haak Nuer and the prophetess. There was no commercial transport available on the road at the time. If you drive straight over the roundabout at the corner of the football pitch on the edge of Rumbek's central market,

³¹⁵ P. Coriat, 'Western Nuer District', in Willis *The Upper Nile Handbook*.

³¹⁶ Johnson, *Nuer Prophets*, p.249.

³¹⁷ Evans-Pritchard, *Nuer Religion*, p.192.

you find yourself on the road past the airport. After the capture of Rumbek by the SPLA in 1997, Rumbek became the Southern capital of the SPLA's 'liberated' areas. The SPLA government and the large Operation Lifeline Sudan aid operation centred their work from this town. A large, murram airstrip was created to receive food aid and foreign aid workers, and also arms and money for the SPLA. Risk-taking foreign investors opened safari-style hotels adjacent to the airstrip to house aid workers coming to save South Sudan. Guests paid for their room in USD and Kenyan staff largely managed these hotels. In the 1990s, Rumbek's new infrastructure was a visible display of its new status as a regional hub and the heartland of the increasingly popular SPLA. Yet, when the Khartoum government and the SPLA signed the 2005 Comprehensive Peace Agreement, the Southern capital was returned to Juba. Now the line of hotels was a historic, material record of previous times of prosperity and lost memories of when the future held promise. As Juba emerged as the capital and as the international NGOs shifted their headquarters to Juba, the growth of the glamour of Juba marked the decline of Rumbek. The mold in the hotel rooms and the rusting roofs testified to lost aspirations. One small, Kenyan airline continued to fly directly from Nairobi to Rumbek (with a quick stop in Lokichogio Airport (northern Kenya)) until 2013. The South Sudanese aviation authorities in Juba at the time were not even aware of this regular flight. Yet, by 2013, this airline had even stopped its direct flight to Rumbek. Rumbek's hotels only just managed to keep beating because United Nations Humanitarian Air Service (UNHAS) continued to make use of its good, murram covered airstrip. Many of their planes were stationed in the quieter airport of Rumbek. Large planes brought aid workers from Juba to Rumbek where the planes landed and redistributed the passengers into smaller planes destined for quieter, more rural destinations. UNHAS tried to keep pilots in Rumbek instead of Juba when possible as the night life had become quieter and there was less risk that they would have too much to drink the night before a flight.

This red murram road that passes the hotels lining the airport is the start of the 320km straight road to Bentiu in the lands of the western Nuer.³¹⁸ Trucks and machines of the Chinese Shandong Hi-speed Group had slowly drawn this red line through the landscape since the 2005 CPA. They thought the road worth building as it

³¹⁸ Log Cluster, *Road Assessment Juba-Rumbek-Mayendit-Bentiu-Wau-Mundri Road* (Juba, 2013), www.logcluster.org/sites/default/files/documents/juba-rumbek-mayendit-bentiu-wau-mundri_road_assessment_mission.

was a link from Bentiu (and the nearby oilfields) to Rumbek and on to Juba.³¹⁹ From Rumbek, the road turned north and drew a ruler-like straight line through forest and swamp. The road builders gave another means of access to the oilfields for trucks supplying food and equipment. The Rumbek – Bentiu road also allowed traders to bring food and clothes to the markets of Bentiu, and it allowed aid trucks to trundle food to the refugee camps in Yida. The rumour was always that much of the food aid was also being taken into the Nuba Mountains (Sudan) as the quantity of food looked so vast to the South Sudanese watching from the road's edge. Occasionally government and NGO 4x4s also used the road, and this was how I travelled.

Government and the Road Through the Western Nuer

Roads with history and a road without

The Anglo-Egyptian government over a hundred years before had easily built the large, triangular circuit of murram roads on the ironstone plateau to the southwest, yet they had had less success in Upper Nile. For governments, the creation of a road through the *toic*, swamp and clay plains of Greater Upper Nile (including the lands of the western Nuer) had become a longed for but fanciful logistical conundrum. While the government claimed sovereignty over the areas, the materiality of the landscape asserted an enduring autonomy that defined government imaginations about to remake the landscape for ease of access and a material display of the physical presence of government. Yet, across the empire, local landscapes were rarely hermetically controlled and the government was not a leviathan. Instead, its presence was scattered and overlapping.³²⁰ The roads of the western Nuer were a small etching on a larger landscape often beyond government reach and capture.

In 1949, in a piece on communications in the Sudan for Sudan Notes and Records, H. A. Morrice described the clay flood plains of Upper Nile as 'the most awkward problem of all' as the clay could not be stabilised. He described an ongoing search for an 'economical solution to the road problem of the Upper Nile' and advocated trying

³¹⁹ Zhou Hang, *China and South Sudan: economic engagement continues amid conflict* (2014), http://www.ecosonline.org/news/2014/20140912_china_and_south_sudan_economic_engagement_continues_amid_conflict/.

³²⁰ John L. Comaroff, 'Reflections on the Colonial State, in South Africa and Elsewhere: Factions, Fragments, Facts and Fictions, Social Identities', *Journal for the Study of Race, Nation and Culture* 4:3 (1998), pp.321-361.

whatever people could think of to solve the problem.³²¹

Formal government administration came late to the western Nuer and so did the government roads. In 1945 the Anglo-Egyptian Condominium government had started work on a road that would link the Nile port of Adok in the western Nuer to the urban, Dinka centre to the southwest at Tonj. This project continued through the 1940s.³²² The government's decision to build the road was intimately linked with the developmentalist imaginings of the day. The road would be the quickest connection from Tonj (on the ironstone plateau) to reach the Nile. Therefore, it would offer fast access to global markets. In this engineering project, the western Nuer was just a space to be crossed to connect lands to the west to the global markets to the north.

In the 1940s, when trying to justify increased expenditure on the roads, the commissioner of the Western Nuer argued that although the western Nuer roads were currently less commercially significant, trade would follow the road 'and until you have a good road you will not have the commerce to support its traffic.' The roads of the western Nuer would also benefit Bahr el Ghazal as it would allow Nile access. Government imagined the roads as the gateway to global trade and connections.³²³

Yet, through the 1940s, with the ambitions of the developmentalist state, roads grew in the western Nuer. The Sudan government was giving additional grants not only for road building but also for road maintenance including ad hoc grants after floods and an increasing emphasis on annual budgetary planning for road maintenance. By 1949, government was even discussing investment in machinery to annually repair the roads.³²⁴

By 1947, there were seven government roads in Western Nuer District.³²⁵ This included a fully banked, 90-mile road from Bentiu to Adok for Ler (Leir) and a fully banked, 45-mile road from Ler to Wunashwai. The banking helped protect the road from the annual penetrating flooding. By 1947, the Western Nuer District Commissioner was undertaking the ambitious project of trying to bank all the roads of

³²¹ Morrice, 'The Development of Sudan Communications', p.146.

³²² Letter from Beaton (for Governor Equatoria) to Governor Upper Nile, Roads Programme, February 1948, South Sudan National Archive (Juba) UNP.58.B.2.

³²³ Letter from W.P.G. Thomson (District Commissioner, Western Nuer) to Governor, 5th December 1949, South Sudan National Archive (Juba) UNP.58.B.13.

³²⁴ Letter from W.P.G. Thomson (District Commissioner, Western Nuer) to Governor, Upper Nile Province Roads Maintenance, 1st July 1949, South Sudan National Archive (Juba) UNP.58.B.13.

³²⁵ Western Nuer proforma for district annual maintenance. South Sudan National Archive (Juba) UNP.58.B.2

Western Nuer District.³²⁶ He saw this as essential for all the roads in the district. By 1948, the Western Nuer had 376 miles of road, 300 of which were banked.³²⁷ By 1952, there were 479 miles of roads.³²⁸

The black cotton soil and the lack of local murram in the western Nuer was a significant restraint on the power of the government.³²⁹ This forced the government to capture in their road building the previous paths that had been walked on foot through the western Nuer. The footpaths followed the higher patches of land above the swamp and, therefore, traced a route of curved and winding paths. The Condominium government roads mapped onto these old routes as the demands for construction were then less. Therefore, these new Condominium roads had a deep pre-colonial history as they incorporated the memories of the old routes of these paths. The roads were also an expression of the assumptions of indirect rule that tried to entrench the past while radically transforming it through its capture by government. The old was not rejected but remade. The pre-government paths continued to make new histories of travel, communications, relationships and power as journeys of the new government roads physically sat on top of the traces of the old paths.

Government officials explicitly discussed the cost of road maintenance in relation to the government relationship with the people of the western Nuer. In the earlier days of government, labour was forced in lieu of tax. 'It is only right and proper that as administration advances and as taxation increases, a larger and larger proportion of the work done on the roads should be paid for at economic rates.' This was especially true in the western Nuer 'as so much of our maintenance consists of rebanking and resurfacing roads at considerable distances from the houses of the people.'³³⁰ A government meeting in Nasir in July 1947 had agreed the cost of maintenance at L.E. 2 per mile for banked roads and L. E. 1 per mile for lower grade roads.³³¹ In 1949, the new Western Nuer District Commissioner complained that actual road maintenance cost L.E 5 and not just L. E. 2. The money was used to pay tribal

³²⁶ J. D. McJannet (Western Nuer District Commissioner), Letter to Governor of Upper Nile, Proforma for district annual maintenance, 14th November 1947, SSNA.UNP.58.B.2/47-48

³²⁷ Malakal 26.5.1948, SSNA.UNP.58.B.2.

³²⁸ Garland (District Commissioner of Western Nuer), Letter to Governor Upper Nile on 'Road Maintenance W/Nuer District', 23rd April 1952, Bentiu, SSNA.UNP.58.B.13.

³²⁹ Morrice, 'The Development of Sudan Communications'.

³³⁰ B. H. Denning (Governor Upper Nile), Letter to W.P.G. Thomson (District Commissioner, Western Nuer) on 'Road Maintenance', 7th January 1950, SSNA.UNP.58.B.13.

³³¹ J. D. McJannet (Western Nuer District Commissioner), Letter to Governor of Upper Nile, Proforma for district annual maintenance, 14th November 1947, SSNA.UNP.58.B.2/47-48

labour and from this the headman took a large share.³³² The road building itself was providing financial resources that would shift local political dynamics. The Commissioner was concerned that the under payment of the actual labourers meant that they were not receiving adequate payment and that their labour was still effectively forced. He also argued that the Nuer should no longer work at sub-economic rates as they were paying a full tax (25 P.T. per head per annum).³³³ The Commissioner complained of better funding of roads in Bahr el Ghazal despite easier conditions. The road to Adok, for example, had to cross two major khors.³³⁴

The government also hoped to materially remake the economy of the western Nuer by insisting on money as the key means of exchange. Nuer District commissioners were trying to increase cash in their districts, including increasing pay for road labour, to encourage merchants to import consumer goods. Instead the increased money flow was just pushing up the price of cattle,³³⁵ increased to as much as L.E. 12 from L.E. 5 just three years before. However, the Commissioner in the western Nuer claimed that they did not suffer the same problem as bush shops there were better stocked.³³⁶ The Nile allowed a larger flow of consumer goods from the north.

The Chinese road built in 2012 was the next significant investment in the road infrastructure in the western Nuer. By 2012, the old roads from the Condominium era had fallen into ruin yet their tracks still traced a path. However, these old roads still captured and re-enacted histories of movement and trade. People, motorbikes, cars and cattle still moved along these roads. Cattle were herded to northern Sudan to be sold in auctions. In peace times, cattle were even moved in trucks.

The Chinese road of 2012 was different. In contrast to the historically etched roads of the Condominium, the Chinese road portrayed a fictitious material expression of a landscape without history. It tracked a course directly through the swamp and did not trace a route over higher pieces of land. People crossing the swamps would have previously travelled by dugout canoe and still would likely have tracked this route because of the intersecting flows of the rivers. The footpaths tracked different routes.

³³² W.P.G. Thomson (District Commissioner, Western Nuer), Letter to Governor, 5th December 1949, SSNA.UNP.58.B.13.

³³³ Thomson, Letter to Governor, 5th December 1949.

³³⁴ Thomson, Letter to Governor, 5th December 1949.

³³⁵ J.S.R. Duncan (District Commissioner, Central Nuer), Letter to Governor on 'Road payments and their implications', 13th December 1949, Fangak, SSNA.UNP.58.B.

³³⁶ W.P.G. Thomson (District Commissioner, Western Nuer), Letter to Governor on 'Road Maintenance', 13th March 1950, SSNA.UNP.58.B.13.

The new road was of course historically situated and was a bold manifestation of Southern Sudan's involvement in the global, neo-liberal order.³³⁷ The roads remained an artery to import and export goods in the oilfields and to connect the oilfields to the political centre of Juba. Again the road builders were not there to serve the people of the western Nuer.

In early 2013, Nuer conversations in the markets of the day marvelled at the constructors' dominance and displays of sovereignty over a material landscape that had restricted the agency of previous governments. The Chinese Shandong Hi-speed Group had built the road by trucking large amounts of murram from the edges of the ironstone plateau. Through the swamp, they had built up a mound a couple of people tall that ran for dozens of miles. They had inserted culverts in the mound to let the water pass through the long mound. Large lorries had moved and flattened the road surface. The government's might was visible through its ability to bring this road through capture of global capital.

Elsewhere, roads have been a material expression of the promise of (auto) mobility³³⁸ and a mobility that is correlated with freedom.³³⁹ For most of the western Nuer, the promise of increased mobility along this red line was limited. This red line was largely a preserve of foreigners. Traders, oilfield workers and NGO workers were usually from far away or at least funded from a distance. Local traffic, including motorbikes and cattle, used the road to travel small distances. Yet, there were no vehicles available for local South Sudanese to make the longer journeys along this road to the south. There were some commercial cars where Nuer could pay to travel north.

Therefore, the road conjured imaginings of the power of modern government. It also brought closer to the western Nuer the visible inequality of this modern, neo-liberal world. The road was there to help the selling of the oil. The cars that drove along the road displayed the wealth of some in the world who had made their money, at least in part, from the exploitation of such natural resources.

Yet, down the roads did come consumer goods. When the road was in relatively good condition, prices dropped and western Nuer could easily share in the global consumption of goods.

³³⁷ Cooper, *Africa Since 1940*.

³³⁸ Dalakoglou and Harvey, 'Roads and Anthropology', p.460.

³³⁹ Dalakoglou and Harvey, 'Roads and Anthropology', p.460.

Our Journey

On our journey from Rumbek, initially the road passed through scattered forest. The couple of settlements along the road have their centres slightly hidden from the road's edge. Maper was the most northern Lakes State (and Dinka) administrative centre along the road. The country capital for Rumbek North County, it boasted an NGO-built, yellow painted office as the seat of the commissioner. We stopped at Maper to ask the commissioner for an armed escort along the following stretch of the road that traversed an ambiguous, disputed Nuer – Dinka border. This stretch of road ahead was a long, two-hour drive passing through an area that no longer had permanent settlements except a small village at Madol. This had once been a more significant settlement, but was now nothing more than a rural barracks with a few dozen soldiers and their families. Whenever our NGO driver made this journey, he usually asked for such an escort. Stopping to speak to the commissioner also allowed us to gain his permission and any latest news. We paid for the escort by fueling the commissioner's pick-up truck.

The new murram road continued on its relentless, straight path to the Bentiu and the north. Here, the road was still smooth enough for the drivers to progress at speed. If you travel along this road in the dry season, just before reaching Madol, you pass a large, almost dried-up riverbed and a large clearing in the scattered forest. In the middle of the clearing, as the road crosses the river, a culvert that is double the height of a human supports the road and allows the river to continue its flow. The commissioner's pick-up suddenly pulled to a stop and the armed soldiers jumped out. They quickly, automatically, flowed down to look inside the culvert and behind a few neighbouring trees. This was apparently a notorious place for armed raiders to hide. The soldiers were quickly satisfied that there was no danger nearby, and they settled down in small groups to fish. Soldier salaries were small and erratic, so the opportunity to catch some good, large fish was a massive perk. The driver of the commissioner's car continued with us, but the rest of the soldiers remained to fish until the driver returned. Now we had passed that point, no one seemed to be worried about having an armed escort. The car left us at Madol and returned to the soldiers.

Government heavily controlled people's activities all along the murram road. Further north, the government stopped vehicles moving between MiirNyal and Mayendit Town after the hours of 5pm. Young, armed men had ambushed lorries late

at night, looting goods and sometimes leaving fatalities. The government was far from able to patrol this route at night so kept it safe by prohibiting traffic. The traders and government had a common alliance in search of security, but this also forced many foreign truck drivers to sleep overnight next to the local government's compounds, allowing the government to have a tight oversight on all that flowed through their county.

If you continue north from Madol, along the red line, the scattered trees slowly give way to a vast, treeless expanse. Although it was the height of the dry season, water still spread out on either side of the road. The water that surrounded us was the overflow of the Nile that ran out along the Bilnyang River System. The water stretched as far as we could see and was decorated with large lilies and their pink and white flowers. Large cranes and small white birds also lined our route. The road itself was perched on a mound of murram above this watery mass. The mound had been built just wide enough for two large vehicles to pass. Yet, in just a couple of years since its construction, the rains and heavy vehicle use had eroded chunks of the road, narrowing it in places, and creating deep holes in others. The 320km journey, even with a strong 4x4, was at least an eighteen-hour drive. Plus, because sunlight was only available half the day and because driving at night was strictly prohibited for security reasons, the journey was never less than two days. The flight from Juba to London was about seventeen hours (including a long pause in Nairobi or Addis Ababa). In many ways, London was closer to Juba than to the western Nuer areas that we were travelling to.

Driving along these muddy, narrow roads, our NGO driver became a skilled artist. We all held on to parts of the vehicle to steady ourselves as the car pranced up and down, and we watched the driver. He kept the vehicle in motion, fearing that a pause would see the vehicle sink into the mud and be held to the ground. The constant motion forced him to make rapid assessments using an intuition that he had gained from long years of driving waterlogged roads. Our driver had started driving during the 1990s OLS aid operations and had originally driven heavy lorries of grain around Bahr el Ghazal. Therefore, he had connections across the landscape and his access to vehicles had been his way to some power and money. He had started his own restaurant business in Rumbek and was rumoured to make profit from various parcels of land he had bought and rented. Yet, he still drove for us.

I found it easy to see the road's rapid degradation as a monument to the

inadequacy of post CPA development investment in South Sudan. The rushed construction of the new road mirrored the hurried rebuilding of the postwar economy and the political structures of the state. Investors of global capital wanted quick profits, fearing a rapid return to conflict. They did not have time to learn from and remake the previous attempts at development. Sections of the road to the north that were locally used had now been abandoned because of the quick deterioration of the road surface. Instead people walked on the old pre-government and Condominium road-paths.

On that day of travel the red murram line in this watery landscape was just for us. Far from settlements, only foreign vehicles travelling long distances used the road. We did not see another car during the journey.

MiirNyal is a small, market village in one of the higher patches of land adjacent to this red road. For men who sat in the market at MiirNyal, on the edge of this road, the road's construction was a sign of the government's presence and strength. The road itself was a display of the government's power over the landscape. After all, no one until that time – neither Condominium government nor the divinity of *Maani* – had managed to make a dry path through the long swamp. After years of war, maybe this was now a sign of development and peace. Others were more sceptical.

Permission to Meet Nyachol

After a long day's journey, our car pulled into the residential compound of the Commissioner of Mayendit County in the western Nuer. As the senior local government authority, he was expected to host visitors to his county and we were expected to greet him. His large circular residence was demarcated with tall, red iron-sheets, and inside were the familiar handful of thatched roofed, mud walled *tukals*. The only other iron-sheeted construction was a small latrine / shower in the far corner. This commissioner had been recently appointed and he often commented on his intentions to improve the latrine. Having studied in the USA, his discussion of latrines appeared to be an expression of empathy with our distance from modern comforts. Each morning a lady would bring me a bucket of water so that I could precariously shower in the dirt-covered, lock-less hut and hope not to be disturbed by the commissioner's soldiers.

By the gate was a collection of worn-out cars that were planted beneath a tree, waiting to be harvested for their spare parts. One car visibly displayed the left over bullet holes from its final day of use. The car had belonged to the Commissioner of Rumbek North. The UN had encouraged him to visit the Mayendit Commissioner the year before, but the meeting was not cautiously planned and the bodyguards of the two commissioners had ended up in a shoot-out while the commissioners talked inside the compound. The commissioners had quickly intervened, although a handful of soldiers had already died. The Commissioner of Rumbek North had nearly been shot in his attempt to gain control. The Mayendit Commissioner escorted him safely home along the murram in his own car, but his car remained on the compound as a memorial to this attack. The Rumbek North Commissioner still requested the return of the car and that was never refused, but neither did it seem a likely priority. The Rumbek North Commissioner had entered Mayendit with such ease because of the murram road, and the bullet holes were a reminder of the road's dangers if it created a sense that history and political power struggles could be ignored. The cars also demonstrated the fragility with which even the government accessed the road.

That evening, the commissioner fed us with a feast of fizzy drinks, *walwal* (sorghum rolled into small balls and boiled) and dried fish. He was articulate and charming with a soft American accent. He was eager to share his vision of reconstructing political unity through shared development initiatives funded by international organisations. He has worked for the Carter Centre for many years and was confident with the language of NGO proposals. His authority rested on his ability to speak with the foreigner. Locally there was scepticism about his authority due to his lack of military experience.

I finally plucked up the courage to ask his permission to visit Nyachol. I had heard much about her and knew that the commissioner had little authority over her. Yet, I also knew he would know all my movements in his county and that his permission was necessary, if not sufficient.

He laughed in response to my request. He had not visited her yet and was trying to dismiss her as an educated, backwards, crazy phenomenon. Yet, it was clear that her authority was already challenging his. Young men were raiding at her command, ignoring his insistence that they should stop. Young men were refusing to meet him but were flocking to her. Her pretence that she could be ignored was wearing thin. Yet, he

was happy for me to visit her.

In warning, he told us the story of his chiefs. Only a week before he had ordered Executive Chiefs from his county to visit Nyachol. He hoped the chiefs could be intermediaries between him and the prophetess so that they could arrange terms for a meeting and hopefully deter her from sanctioning raiding. There was growing pressure on the commissioner from the state and national government, and he needed to look as if he was in control of security. Half a dozen chiefs agreed to go to Nyachol. Yet, when the chiefs approached Nyachol's *luak*, she had refused to grant them entry or meet them in person. She had forced them to wait beneath a tree at a distance. The chiefs had complied. Via a messenger, Nyachol had rebuked these chiefs for not previously showing her reverence and for not bringing cattle to sacrifice to *Maani*. The condition of their meeting was that they returned to bring her a bull to sacrifice from their herd.

They could also only return if they came to her naked. The chiefs complied.

The commissioner told the story with a laugh of disbelief, but there was also nervousness in the air. The chiefs had visibly submitted to the authority of Nyachol at her request, further challenging the commissioner. The commissioner claimed the only reason he wouldn't meet Nyachol was that she was also demanding he met her naked and that that was not fitting for a government official.

The next day, in anticipation of requests to undress, despite the 40-degree heat, I wore two layers of clothes. I hoped that removing one layer would be enough.

Meeting Nyachol – Taking Off Our Clothes

We finally turned off the murram road at the small market across the road from the MiirNyal football pitch and the broken down lorry. The road then travelled to the left, passing the payam's grass-fenced compound and circles of Nuer huts with their long, flowing thatch hanging down to sweep the ground. Vague tyre marks showed a route on into the village, past thin rows of trees that barely concealed the sweeping grasslands beyond. Wearing his bright yellow t-shirt, James (our Nuer translator) consulted a man for further directions. This older Nuer man pointed further on to beyond the edge of the village and into those grasslands of the *toic* (swampy, grazing lands) where the cows were feasting. If you sweep to the right a couple of miles, and then cut back to the left,

you avoid the water-filled swamplands. The car continued, passing stretches of trees only interrupted by the occasional pocket of houses.

In the dry months, from October until April, the swampy lands of the western Nuer dry out until the ground is black, baked, hard clay. The earth cracks as it dries, etching across the ground elaborate, endless patterns. They say that as the water dries, the snakes retreat into the cooler, wetter cracks in the earth. Therefore, the ground itself hides deadly creatures waiting to emerge.

Our car increasingly struggled as we passed over the sun-dried swamp bed. Littered with tufts of grass, the wheels repeatedly got stuck between these small obstacles and needed the engine's strength to struggle over them. Our car was a relatively new Land Cruiser with four wheel drive and front facing seats. Most NGOs used these as their standard car and they were a dominant vehicle on the South Sudanese roads outside of Juba. These modern Land Cruisers emerged from a Japanese manufacturer's response to Japanese military demand, and by the 1950s were produced for a global, civilian market. This car had been bought by the NGO the year before from Dubai and it had then been imported through Mombasa (Kenya) before travelling to Juba, Rumbek and now up into the western Nuer. The Land Cruiser was an expensive global import but the muddy, rock-hard tufts of the Sudd appeared to me a visible demonstration of the restrictive power of this swampy landscape against even popular, contemporary technology. My complaint echoed those of eight years before. 'In the clay plains of Upper Nile tracks are not so easily made by vehicles themselves, but nevertheless it is usually possible during the dry season to drive across country in any desired direction unless there is water or possibly acacia forest in the way. The process is, however, usually tedious in the extreme, for heavy clay cracks badly as it dries and vehicles are often forced to travel in bottom gear at walking pace as they lurch from side to side.'³⁴⁰

As the bumping car chugged to less than the speed of a walk, three boys caught up with the pace of the bouncing vehicle. Their hands were a sticky orange from the palm fruits they were cutting up with spearheads. They continued to chew as they approached our unusual visitation. The palm fruits are their morning feast and a staple diet for many children in the long, dry, hungry season. They did not introduce

³⁴⁰ Morrice, 'The Development of Sudan Communications', p.143.

themselves explicitly as envoys of the prophetess, but came to us with a clear message. They promised to lead us to near the prophetess's *luak*. They made it clear that the car could not come near the *luak* and that when they instructed us, we must leave the car and get out to walk. We agreed.

All the villages seemed to be left behind with only the infinite stretches of tall grass and swamp ahead. The boys pointed to a row of palm trees and a glimpse of a settlement could be seen beneath them. They told us to stop the car about two hundred metres from this small patch of houses, promising that it will be perfectly safe and untouched. No car should go closer to the prophetess's house.

Having passed a small cluster of houses, we first saw the *luak* on the distant horizon. I could see no other evidence of homes, habitation or humanity except for the activity that surrounded the *luak*. Everywhere else was covered with dry, tall grass that had grown during the wetter months when this area was a shallow swamp. Now the grass was dying back but still coloured the scene with a straw-like hue that glowed in the sun.

Nyachol's *luak* sat conspicuously on the western edge of the then current settlements of the western Nuer. Nyachol had positioned her *luak* on the eastern edge of Thor – a village that had been raided and burnt during a 2010 raid by Dinka from the west. They had killed children and women, recreating Thor as a dangerous place to live and prompting total displacement from the village. No one remained living in Thor. Yet, by positioning her *luak* on the edge of Thor, Nyachol was contesting the Dinka construction of Thor as a place of danger. She wanted to recreate it as a place of safety and a place that was made safe by the power of *Maani*.

Nyachol perceived the government and modernity as a danger. The government had failed to offer protection against the raiders in 2010. People of government and global trade had also allowed the Dinka youth to acquire the guns with which they had created this extreme destruction. Cattle raiding was also encouraged by the ability to sell cattle in the markets either to be sold abroad or to be bought by oil-rich élites. For the people of Thor, modernity had brought them lethal violence and poverty.

Notably, Nyachol's *luak* was not the *luak* of the former prophets of *Maani*. Kolang Ket (the first prophet of *Maani*) and his daughter Nyaruac (the second prophet of *Maani*) both lived and worked from a *luak* in the Jagei areas near Koch. Kolang

Ket's family still dated the *luak* to the early days of Kolang Ket's prophetic work in the late 19th Century, and many of his displays of miraculous power had occurred at the *luak*. This *luak* was a few hours journey by motorbike to the north. Ever since the death of Nyaruac in the 1970s, Nyaruac's son had looked after the *luak*. He did not claim to have *Maani* but instead he acted as a caretaker of the *luak* and allowed people to sacrifice at the *luak* when they wanted to petition *Maani*.

People recognised the *luak* as a material expression and embodiment of spiritual power. When *Maani* was not embodied in a prophet, people went to the *luak* to sacrifice cows and petition the divinity. Even during fighting in 2014, when Bul Nuer attacked villages near Kolang Ket's *luak*, they did not attack this *luak* fearing divine retribution. In 2010, Nyachol had visited Kolang Ket's *luak* and sacrificed cattle there. But, the family of Kolang Ket were not yet convinced that she was a true prophet of *Maani*. She was only connected to their family through marriage. *Maani* had come to Nyachol after the attack on Thor, and her popularity was greatest amongst the local Haak Nuer, so having an alternative *luak* in Thor helped her construction of authority and moved away from those directly challenging her.

As instructed, we parked our large, white 4x4 just a hundred metres away. The car was parked adjacent to a pile of other objects that appeared to be the disallowed possessions of other visitors to the prophethood. There were at least a dozen AK47s amongst the pile, as well as an assortment of clothes laid out on top of the spiky ends of the grass tufts.

This was the invisible but explicit boundary of the space of the prophethood. Guns, cars and many clothes were excluded. She was creating a spatial boundary that excluded certain material objects and constructed a material purity in proximity to her. She later describe to me how manufactured clothes, items of technology and constructions of large roads were not just part of the modern world, but were closely related to government. Government had brought such goods and controlled the comings and goings of these goods. She was creating a material landscape around herself in which these material goods of the government and modernity were excluded. To her, these material goods were dangerous as *Maani* sought to protect the western Nuer, they were spiritually dangerous in proximity to her.

Within this constructed boundary of the *luak*, Nyachol was re-enacting an

imagined material past that invoked memories of a previous era of certainty and local authority that was not dogged by the pounding, brutal deaths from guns or the uncertainties of foreign authorities and goods. She was constructing a lived experience that contrasted with the contemporary daily context of violence. Her enactment of this imagined history in her small piece of the landscape emanated out much further than the boundary and was a material hope for people that life could once again have certainty.

Nyachol was remaking a fictitious world that was able to isolate government and modernity. She claimed this world's authority in reference to tradition and pre-government days, as if there was a previous, fixed time of stability and balance. The western Nuer knew intimately the brute force of change and the Utopian nature of her remaking. Such an imaginary provided comfort even if they knew it was not true. The lack of truth was no less real than the false promises of neoliberalism that had alienated them and confronted them with lethal dangers.

She was also projecting a very specific materiality where she alone had the authority to categorise objects as acceptable. The remaking of the landscape itself was part of her construction of claims to authority amongst the Haak Nuer.

At the heart of her projection of authority were apparent contradictions. She claimed authority based on continuity with the power of Kolang Ket. Her construction of isolation contrasted with memories of Kolang Ket that were filled with travel and superior knowledge of the modern world (as discussed above).

At the boundary to the space of her *luak*, I was instructed to leave my flip-flops. We would then walk to a tree where we would wait for the prophetess's permission to meet her. When permission was granted, we would leave our other clothes beneath that tree.

It was already the heat of the day and the strong sun had quickly heated the black earth. Walking shoeless the fifty metres to the tree itself felt like a test of endurance and itself an ordeal of submission to the prophetess. My white, foreign feet were too weak.

We were ushered to a grass mat beneath two small trees that offered a little shade. We waited there for a few hours, growing in our speculations about what was to

happen. We had been warned that a significant legal case about clan feuding had been brought to the prophetess that morning and that she was still busy arbitrating between the parties. No certainty was given that she would agree to meet us. We would only be considered when it was our turn.

As we waited, the space seemed quiet and almost empty. A few women prepared sorghum and a couple of men stood nearby talking, yet there was not much movement in the landscape or near the large *luak*. We felt quite alone and I imagined the *luak* was as other *luaks* I had visited – a large empty space with the host in one corner of this thatched roofed atrium. It did not seem that any other visitors were likely to be there in significant number.

I was asked to undress and was grateful for my additional layers. My translator ended up in just shorts. I took off my skirt but remain in trousers and a bra. The requests to remove clothing were not universal.

When asked why our clothes were to be removed, the prophetess answered that they were signs of government so she did not want them on her compound. Before, I had assumed that the stripping of our clothes was to remove from us all signs of modernity. The car had to wait far away, cameras were prohibited and even glasses were removed. Many cattle camps further north utilise few clothes, and photos of previous ages did not see cattle keepers fully dressed. Was her compound a sanctuary to avoid the dangers of modernity and change? In the lands of the Nuer to the west of the Nile, much of the experience of modernity has been in the form of war and uncompassionate acquisition of oil reserves. In these villages, there are no schools, hospitals or phone signal. The most modern equipment in most homes is the gun. A sanctuary from all modern life could be a blessing.

Nyachol's demand to remove shoes and clothing also evoked for the western Nuer memories of the Prophetess Nyaruac. While, at the time, clothing was not so prevalent, if people were wearing shoes or clothes they would have to remove them³⁴¹. As one elder explained, this was to demonstrate that 'You didn't know government and

³⁴¹ Interview with elder, Miirnyal Market (Maynedit County), April 2013 (in Nuer).

only believed in the prophets.³⁴² Therefore, the removal of shoes was not a symbol of submission just to the specific prophet but to a whole, alternative realm of authority.

Yet, some of the surrounding women could have looked appropriately dressed for the most modern bar in South Sudan. They showed no retreat to the nakedness of the past and the surroundings showed no more esteem for the preservation of tradition than most poor, rural settings in South Sudan. They were an eclectic combination dressed no differently to women in most rural villages. I smiled back at them knowing they were laughing at my near nakedness. Elsewhere, girls ready for marriage are often topless at the cattle camps. I hoped my lack of clothes was not beyond commonplace here.

Nyachol sent her husband to talk to us and to then guide us into the *luak*. He was wearing a replica Arsenal football shirt. In wearing his football outfit, he demonstrated that he was also not subject to the same exclusion of modern clothing from far away worlds. I had seen similar football outfits on sale in the Ler market. The traders had brought them from northern Sudan in large ‘Khartoum’ lorries – lorries mechanically altered in Khartoum to give them the strength to trek along the roads of Sudan.

I never had the chance to ask him, but the red, tattered football outfit evoked for me a reminder of the prevalence of football fans amongst my South Sudanese friends. The red colours of Arsenal were a favourite. In the 1990s, when my friends migrated to Kakuma Refugee Camp (Kenya) or other regional urban centres, including Khartoum, they, as many South Sudanese, encountered for the first time TV and the broadcast of the Premiership on TV. TV was impossible to access in rural South Sudan at the time and still remains very difficult. In the late 1990s, Arsenal was doing well, winning or being runners up in the Premier League every year from 1997 until 2005. As South Sudanese were introduced to football, Arsenal’s profile was at a peak. Plus, their Gunners’ nickname carried a resonance for the child soldiers who had learnt to admire militarised force.

In west Africa, youths have been allured by the football because of its apparent possibilities of rapid, upwards social mobility.³⁴³ Instead, in South Sudan, the

³⁴² Interview with elder, Miirnyal Market (Maynedit County), April 2013 (in Nuer).

³⁴³ P. Darby, G. Akindes, M. Kirwin, ‘Football academies and the migration of

attachment to football teams was a way to ‘re-imagine communities’³⁴⁴ or, maybe, to make ‘imagined worlds’.³⁴⁵ Watching football allowed these fans to reimagine themselves as part of a positive global community that spanned nationalities, continents, wealth and class. Their participation in the emotions of the games by watching them in crowded bars in Kakuma allowed them to participate alongside the citizens of the metropole in the global order. For the duration of that match they shared a common identity as ‘Arsenal fans’ with the richest and the best. Watching football allowed a momentary, fleeting imaginary of participation in a global social community whereby these South Sudanese were equal with fans in the UK in their love of football.

For these refugee fans, it was not the spatial proximity of a local team that won their support, but it was the distance of these teams, both spatially, socially and economically from their situation in Kakuma, that made participating in these teams so attractive.

In their avid watching of the green, grass football pitches of England they were part of a perfectly trimmed world that capture their emotions as much as any fan in the stadium or supporters watching in a pub in London. They were part of the perfection, part of the competition, part of a group that was not bound by the refugee camp, or the hardship of life in South Sudan. In demonstrating to me the genuine depth of emotions felt by South Sudanese fans for their teams, one friend once boasted to me of a friend who had hung himself in his house in a refugee camp in Uganda after Arsenal lost a match. The team meant that much to him.

These refugee fans were part of a de-territorialised community of transnational Arsenal fans. After the CPA, people returning to South Sudan often brought with them this new love of football. New markets and trade meant that TVs appeared in rural markets and occasionally had the capacity to show the Premiership via DSTV. People

African football labor to Europe’, *Journal of Sport and Social Issues* 31:2 (2007), pp.143–161; R. Poli, ‘African migrants in Asian and European football: hopes and realities’, *Sport in Society* 13:6 (2010), pp. 1001–1011.

³⁴⁴ For discussion of Anderson’s ‘imaginary communities’ in relation to football see: A. Bairner, *A. Sport, Nationalism, and Globalization*, (New York, 2001); ‘Place, identity and football: Catalonia, Catalanisme and Football Club Barcelona, 1899–1975’, *National Identities* 10:3 (2008), pp. 329–343; N. Wise, ‘Transcending imaginations through football participation and narratives of the other: Haitian national identity in the Dominican Republic’, *Journal of Sport & Tourism* 16:3 (2011), pp. 259–275.

³⁴⁵ A. Appadurai, *A. Modernity at Large: Cultural Dimensions of Globalization*, (Minneapolis, 1996). Used in relation to football by Neil Conner, ‘Global cultural flows and the routes of identity: the imagined worlds of Celtic FC’, *Social and Cultural Geography* 15:5 (2014).

listened on the radio and checked results via the internet. Football posters, strips and magazines were in high demand.

For many, football strips were the epitome of an imagined connection to a global community. Yet, despite Nyachol's rejection of modernity, there was no hesitancy from Nyachol's husband in wearing his football strip. I saw the contradictory nature of this inequitable ruling, yet it seemed to be no problem for Nyachol or her husband. There was no suggestion that he needed to undress to display his submission to *Maani*. Maybe Nyachol's dismissal of the modern and global was not as lacking in nuance as I assumed. Or maybe she even recognised the local luxury of being able to afford clothes to wear and would not challenge her husband's privilege to do so.

Going to the luak

A tall, older man led us to the *luak*. Without shoes on, the sun-heated sand burnt my feet and it was hard to focus on anything but the pain. I was relieved to be brought in front of the shade of a small, neem tree on the far side of the clearing from the *luak*. The man lined us up and sprinkled water from a gourd over us. Then he led us towards the *luak* and paused at the large pile of cattle dung ashes (*pou*) beneath a woven grass platform. He took a little dust and smeared it on each of us. A few girls sat adjacent to this ash pile. Evans-Pritchard pondered whether the importance of cattle dung ash (as opposed to wood ash) was because of *pou*'s association with the cattle.³⁴⁶ It was the same ash that was later smeared on the sacrificial bull.

As my feet burnt beneath me, as soon as I was allowed, I rushed to the *luak* eager to get inside away from the burning sun. I often interviewed people inside their *luaks*. They were a routine place of meeting in the villages, where people would gather to negotiate and decide family matters. Their tall, coned roofs made them incredibly cool compared to the blazing heat outside. They were built to contain dozens of cattle. So, in the daytime, when the cattle were out grazing, they contained ample space for a gathered meeting. Usually people would just gather on one side of the *luak*, with the rest empty during the day. It never occurred to me that the content of Nyachol's *luak* would be any different.

³⁴⁶ Evans-Pritchard, *Nuer Religion*, p.262.

As I stepped inside, my eyes slowly became accustomed to the darkness. At my feet and stretching out in front of me to every edge of the *luak*'s floor, was a densely packed sea of seated bodies. Like us, the young men that filled the *luak* had taken most of their clothes off. The heat of the *luak* meant that their bodies were covered in a glistening sweat. It was just visible through the smoke from the small fire. These young men were the audience. Scattered at the sides and the back were also a few dozen girls and older women.

They were a material manifestation of the emotion that could be stirred to powerful, aggressive might.

To the right of the small door, elders were sitting. They were the elders of families who had come to Nyachol for legal settlement of their feud (see chapter 4 for further discussion). They were more eclectic in age and sat with less ease. Yet, they pushed themselves further back to make space for me to sit in front of them. To the left of the door, Nyachol sat with her back to the wall, facing the young men and the parties. Her eight disciples sat to her left, creating a line along the wall.

Nyachol was dressed in just a grass skirt with a leopard skin hung over her, small, fragile looking frame. Our entrance in to the *luak* appeared to go unnoticed as she did not look up. She was focused on a small pipe in her hands and was trying to stuff the tobacco into it and then light it from a small fire to her left. In wearing a grass skirt and leopard skin, she invoked images from the Nuer cultural institutions of authority. Nyaruac was remembered as wearing grass skirts. The *kuäär-kuac* (known in literature as earth-priests and leopard-skin chiefs) of the Nuer distinguished themselves by wearing leopard skins.³⁴⁷ The *kuäär-kuac* had long played an important role, amongst other things, in dealing with the spiritual consequences of death. Nyachol visibly displayed that her claim to authority rested on the continuity of the authority of Nuer custom.

I glimpsed back at the young men, who seemed to be all looking at us. I tried to count the rows and the columns. I estimated that about eighty were there. I was too afraid to really turn and stare and count. One of the young men introduced a chant and

³⁴⁷ Evans-Pritchard, *Nuer Religion*, p.290.

the rest of the crowd burst into a sung response. Nyachol still did not flinch. They sang of war with the Dinka, and called the Nuer men to war.

Nyachol and I talked as this audience behind us went quiet and listened. We would talk repeatedly over the next few months, always after the same ceremony. Over time, she demanded less that I undress. She always asked me to take something off as a symbolic expression of my intention. All cameras and phones were left far away, as was the motorbike I eventually bought.

Representing modernity and the rest of the world

As we talked, she explained that her initial reluctance to talk to me was because I was an outsider. As a white person, I was a foreigner. I must have come from *government*. Yet, *Maani* moved her enough to let us talk. I told her that a minor prophet in Ganyliel had named me Nyaluak. She named me ‘Made by God’. She said, ‘Your father is Riek Machar’. While I was researching the Haak Nuer, she was visited by the then Vice President Riek Machar. Despite her rejection of government, she accepted him. Even though I was *government* like Riek, she could also reconcile our meeting by associating me with Riek.

She said she was perplexed by her affinity to me, but she was glad that we were at peace. She called me to sit in front of her, and my translator ushered me forwards. She placed around my wrist a brass bracelet. They made the metal by melting down the shells from bullets. I had bought similar bracelets made by the blacksmiths on the edge of Rumbek town. I struggled to tighten the bracelet she had placed on my wrist, so one of her male disciples stepped forwards to help me. She said it had the meaning of life so I could not take it off and give it to another. She warned that if I removed it I would surely die. She promised that if I came again, she would give me a further bracelet.

A cow would also be sacrificed to bless our friendship. Many times, after a visit, I would carry home (tied to the back of the motorbike) parts from a slaughtered bull.

I had been teaching in the western Dinka, and formal education had become a default response to the situation. I knew I could easily get funds for a basic literacy programme in Thor. So, in an unexpected moment of bravery, I asked the prophetess

for permission to run a literacy programme in Thor. I was almost certain she would not agree. She agreed immediately and rebuked my surprise. She explained, ‘Thor used to have a school. It had a school before. It is not for me to stop the school. It will help rebuild Thor’.

I had misperceived her exclusion and isolation from modernity as strong. Yet, she clearly had a soft, fluid interpretation of history and modernity. Schools and formal education were much newer than government in the western Nuer. Yet schools, unlike consumer products and government, had helped her community. She could interpret schools as historical continuity, as she could allow Arsenal strips. Nyachol has materially reconstructed the landscape to evoke memories of Thor before the deadly raid and, therefore, rebuilding a school could be imagined as a previous age.

The Road and the Prophetess

A few weeks later, the news in the market was of Nyachol refusing arrest. The Unity State government had become tired of Nyachol’s refusal to comply. They feared further attacks into Warrap State that would highlight Taban’s inability to control his state. Taban Deng Gai was governor at the time in Unity State. He ordered her arrest. The commissioner had had to go to meet her and she had almost agreed to go.

However, the night before she was due to go to Bentiu, her drum beat outside her house. It beat to warn her not to go. It beat to tell her that she could not travel by car as cars were foreign objects of the government and not a material object that *Maani* could associate with. The drum beat to tell her that she could not travel by road. The only way Nyachol would go to Bentiu was to walk through the swamp. She could not be driven along the red, murram road.

Nyachol was not only constructing a landscape around her *luak* that was isolated from modernity. Nyachol reimagined her *luak* and its surroundings as the impossible, both pre and post historical space that was isolated from neo-liberalism and the brutal political government powers that relied on it and shaped it. She pursued an isolationist policy that reverberated with those around her who felt economically and politically disempowered by the new South Sudanese order. She was also casting herself as unable

to be forced to accept the provisions of modernity. It was spiritually impossible for her to travel by car.

Not all post CPA western Nuer prophets were rejecting cars and symbols of modernity. A minor prophet to the south had even accepted the gift of a car from President Salva Kiir, having travelled by plane to meet him and discuss security. I saw the prophet's car dumped in the corner of his local commissioner's compound. As soon as it had broken down, no one had the money or spare parts to fix it.

When Nyachol demanded to walk, not be driven, to Bentiu, the commissioner refused to walk with her to Bentiu. He also refused to confront the armed youth that surrounded her. Nyachol was not arrested.

Since December 2013

Since December 2013, Nyachol's enacted prophecy of the dangers of the Chinese road was realised when the brute force of the government's violence ploughed itself down these roads and flamed out from this funnel. Commander James Koang and many members of his 4th Division defected in Bentiu in December 2013 and prompted large-scale fighting between the government and emerging opposition. Initially, it was unclear if the lethal government violence would spread south. The drier months of early 2014 slowly dried up the road south from Bentiu. As the road dried, the government forces progressed southwards using destructive force to display a brutalised power and control. Only the mounted pick-up trucks and tanks of the government could easily pass along the murram road. Raids splintered out from this artery and destroyed homes, people and cattle in their wake. People ran to the places furthest from the roads – initially the remoter villages, then the cattle camps and then the swamps. The road imagined as the embodiment of government danger had been fully realised in devastating, lethal and brutal violence.

4. Violence, legitimacy, and prophecy: Nuer struggles with uncertainty in South Sudan

Nyachol remade the landscape as one way to set limits to the power and brutal might of government. Yet, she has also used other devices to seek to demand limits to lethal violence, including by the government. Chapter Four compares and contrasts how Nyachol and Gatdeang Dit – a male prophet of the divinity of *Deng* - have evoked God's powers to push back against forms of violence glorified by governing élites.

The chapter was co-authored with Sharon E. Hutchinson and was published as an article in *American Ethnologist* in 2015.

Abstract

Contemporary South Sudanese Nuer prophets play powerful roles in interpreting the moral limits of lethal violence and weighing the legitimacy claims of rival government leaders. These prophetic activities remain largely invisible to external observers investigating the making and unmaking of fragile states. Focusing on South Sudan's tumultuous 2005-2014 period, we reveal these hidden dynamics through an analysis of the two, most powerful, living, western Nuer prophets. Gatdeang Dit, a male prophet of *Deng*, rejects all forms of violent aggression and fosters relations of peace and intermarriage with Dinka neighbors. Nyachol, a female prophet of *Maani*, inspires thousands of armed Nuer youth to retaliate against Dinka cattle-raiders and other external threats, while insisting on purification for all Nuer-Nuer homicides. Despite their differences, both prophets invoke God's superior powers in order to push back against the simplified, secularised and objectified forms of violence glorified by rival government elites.

Concerned international peacekeepers and negotiators currently struggling to hold together South Sudan, the world's most fragile state, remain largely unaware of the regional peace-making and peace-breaking potentials of two powerful western Nuer prophets, named Gatdeang Dit and Nyachol. Despite their growing regional and national prominence, these prophets and their activities remain largely invisible to external observers and thus, unrecognised by social scientists investigating the making and unmaking of fragile states. Focusing on South Sudan's tumultuous 2005-2014 period and drawing on complementary research experiences, spanning a wide range of places and times, we offer insight into these hidden dynamics here, with an eye to revealing the supra-governmental roles Nyachol and Gatdeang Dit play in setting the moral limits of lethal violence and weighing the legitimacy claims of rival government elites.¹

Over the past 120 years, Nuer practices and traditions of prophecy have evolved in tandem with state-based assertions of exclusive control over the use of force and thus, over the ability to kill or protect. Johnson has described the atmosphere of political paranoia that eventually led British colonial officers of Sudan's Anglo-Egyptian Condominium Government (1899-1956) to capture or slaughter all major Nuer prophets by the late 1920s.³⁴⁸ Nuer prophets and prophetic traditions subsequently rebounded during Sudan's lengthy first and second civil wars (1955-1972 and 1983-2005), as thousands of Nuer men and women sought refuge from unpredictable waves of violence generated by ever growing numbers of rival southern military commanders and militia leaders.³⁴⁹ As competition among southern political and military elites intensified during these wars and into South Sudan's independence period in 2011, many high-ranking Nuer and non-Nuer government leaders also turned to powerful contemporary Nuer prophets and prophetic traditions in hope of bolstering their legitimacy claims.

Nuer communities have suffered the cumulative legacy of this wartime violence especially intensely, owing in part to the abundant oil wealth and strategic location of their traditional homelands straddling the White Nile basin and extending into Ethiopia. Nuer-Nuer killings have been proportionately much larger than among other South Sudanese, if for no other reason than Nuer men have fought on every side of every

³⁴⁸ Johnson, *Nuer Prophets*.

³⁴⁹ Jok and Hutchinson, 'Sudan's Prolonged'; Hutchinson, 'Death, Memory and the Politics of Legitimation', 'Food itself is fighting with us'.

political schism that has radiated outwards from Khartoum and Juba over the past sixty years.

This collective experience has generated its own insecurities and anxieties about the moral limits and spiritual consequences of lethal violence. When is recourse to lethal violence legitimate? And when does it risk angering God or Divinity (*Kuoth*), as the ultimate guardian of human morality? Do killings committed under the banner of ‘government war’ (*koor kume*) differ in their social and spiritual consequences from homicides generated by more localised feuding and fighting, or ‘homeland wars’ (*koor cieng*)?³⁵⁰ If commanded by one's military superior to kill, what personal responsibility, if any, does one bear for that death? Are extreme levels of violence still susceptible to moral limits? If so, what ultimately determines the legitimacy of lethal violence: God (*Kuoth*), government (*kume*) or guns (*mac*)?

Seeking answers to these haunting questions, generations of Nuer men and women have looked to individual prophets (*guk*), also known as ‘owners/masters of divinity’ (sing, *guan kuoth*). Every *guk* claims the ability to channel divine powers over life and death, health and illness, fertility and infertility, through their blessings and curses. Moreover, all prophets are embedded in a cultural infrastructure of legitimacy with a deep history that has been elaborated and transmitted across the generations since the first Nuer prophets emerged during the second-half of the 19th century.³⁵¹

Here we explore these themes through a comparative case study analysis of the two, most powerful, living, western Nuer prophets: Gatdeang Dit and Nyachol. Both Nyachol and Gatdeang operate within similar historical and cultural environments from distant and non-contiguous regions of the Western Upper Nile, a region also known by the misnomer ‘Unity’ State; and our analysis focuses on this region.² Both are self-styled and regionally respected prophets of ‘peace’ (*maar*), who strive to safeguard the physical security and enhance the spiritual wellbeing of their respective ‘moral communities.’³⁵² Both received their divinities during times of heightened insecurity and indeterminacy. Moreover, as of this writing (March 2015), both Nyachol and Gatdeang are struggling to contain a firestorm of military and political chaos blowing

³⁵⁰ Hutchinson, *Nuer Dilemmas*, p.109.

³⁵¹ David Anderson and Douglas Johnson (Eds.) *Revealing Prophets: Prophecy in Eastern African History* (London, 1995); Evans-Pritchard, *Nuer Religion*; Hutchinson, *Nuer Dilemmas*; Johnson, *Nuer Prophets*.

³⁵² Anderson and Johnson, *Revealing Prophets*, p.18; Evans-Pritchard, *Nuer Religion*.

through their rural homelands since mid-December 2013, when simmering power struggles between independent South Sudan's President, Salva Kiir Mayendit, and former Vice President, Riek Machar Dhurgon, exploded in Juba, violently splitting the ruling political party and national army, still known as the Sudan Peoples Liberation Movement/Army (SPLM/SPLA), into two warring factions.

While the 2005 signing of the Comprehensive Peace Agreement (CPA) marked the formal conclusion to more than two decades of civil war between the Government of Sudan in Khartoum and the SPLM/SPLA, it did not bring true peace. Instead, it ushered in a suspended state of neither peace nor war³⁵³ that ultimately culminated in late 2013 in the political and military implosion of the newly independent state government of South Sudan. Despite these prophets' shared reputations as agents of peace, Gatdeang and Nyachol have adopted very different strategies for crystallising, uniting and defending their respective communities. Lethal violence and the Nuer/Dinka identity distinction have played major roles in Nyachol's divinely inspired strategies, but not in Gatdeang's.

Nyachol, a female prophet of the divinity *Maani*, emerged very recently amongst the Haak Nuer (also spelled as 'Aak' Nuer and pronounced with an aspirated vowel), who are commonly grouped together with the Dok Nuer of central Western Upper Nile. Nyachol has responded to the government's abandonment of the local population to increased vulnerability to conflict by encouraging her followers to arm themselves, and by sanctifying their protective strategy through ritual. She also insists on the ritual purification and the formal reconciliation of local families of Nuer fighters who have killed fellow Nuer before allowing the perpetrators admission into her moral community. Gatdeang is a more senior and more established, male prophet of the divinity *Deng* based in Bul Nuer territories in northwestern Western Upper Nile. Gatdeang rejects the idea that regional peace and security can be restored through the barrel of the gun, but he is not a pacifist. His guiding moral vision accepts the legitimacy of lethal violence when used defensively. However, he seeks to obviate its need by fostering bonds of mutual respect, hospitality, kinship and intermarriage with surrounding Dinka and Nuer communities. Whereas Gatdeang has urged his followers to remain neutral with respect to the national government's mid-December 2013 schism,

³⁵³ Carolyn Norstrom, *Shadows of War: Violence, power, and international profiteering in the twenty-first century* (Berkeley, 2004); Richards, *No War No Peace*.

Nyachol has become a major regional player in unresolved leadership struggles between former Vice President Riek Machar, a Dok Nuer from Western Upper Nile, and President Salva Kiir, an Awan Rek Dinka from neighboring Warrap State.

More generally, Nyachol and Gatdeang have been pursuing a common endeavor by seeking to provide accessible arenas for people to manage feelings of anxiety and uncertainty fostered by decades of political instability, social division and wartime violence. Nyachol and Gatdeang's abilities to inspire, guide, unite, defend and reassure their followers in troubled times have inspired tremendous loyalty and respect.

Significantly, Autesserre, in a provocative book focusing on the Congo's interminable troubles, urges international peacekeepers to focus on the local underpinnings of regional conflicts or risk long-term failure.³⁵⁴ All too often, she argues, a failure to address smaller, more localised conflicts within the Congo has proceeded to jeopardise larger national and international settlements. In a different but related register, Finnström and Lubkhemann both call for more locally and culturally sensitive studies of how ordinary people maintain balance and control in the midst of civil war.³⁵⁵ The national state framework in which civil wars are conventionally referenced must be augmented and complemented with studies of the everyday practices and perspectives of people living with 'bad surroundings'.³⁵⁶

Following their leads, we weave our argument in this paper back and forth between state-level historical analyses of South Sudan's post-2005 turmoil and more locally and culturally embedded, prophet-centered perspectives. After first discussing several key concepts and introducing the founding moral visions of our two prophets, we take a step back in order to provide a state-level account of South Sudan's struggles from the CPA's signing in 2005 to mid-December 2013. This historical summary is followed by a discussion of the contrasting peace-building strategies adopted by the prophets Nyachol and Gatdeang. We then examine these prophets' relations with some of the most highly ranked leaders within the South Sudanese political establishment, through the prism of two revealing encounters. The final core section of this paper

³⁵⁴ Sèverine Autesserre, *The Trouble with the Congo: Local Violence and the Failure of International Peacebuilding* (New York, 2010).

³⁵⁵ Fiinstrom, *Living With Bad Surroundings*; Lubkhemann, *Culture in Chaos*.

³⁵⁶ Finnström, *Living with Bad Surroundings*.

examines post-December 2013 events and shows how Nyachol and Gatdeang have responded to them.

Prophecy, government and lethal violence

Nuer prophetic practices and traditions begin with *Kuoth*. Every prophet claims possession by one or more spiritual refractions of a single, overarching, universal, distant creator 'Spirit' or Divinity/God, known as the Great Divinity (*Kuoth in Dit*) or as the Sky/High God (*Kuoth Nhial*) or simply, *Kuoth*.³⁵⁷ Lesser manifestations of *Kuoth* may manifest at any time and may fall from the sky (*nhial*) 'like a shooting star' to possess literally anyone--whether man, woman, child or even, animal.³⁵⁸ A bout of abnormal behavior or an unusual illness may be the first signs of divinity's descent.³⁵⁹ Just as suddenly, divinity may depart, returning its former host to a prior state of ordinariness. Owing to the unpredictable movements of *kuoth* (pl. *kuuth*), Nuer prophets must continuously demonstrate divinity's inner presence or risk losing legitimacy.³⁶⁰ Once permanently established within a particular prophet, it is not uncommon for specific divinities to be subsequently inherited by one of the prophet's children or grandchildren, after his or her death. This expectation is especially pronounced within contemporary Nuer communities living west as opposed to east of the White Nile River. Gatdeang, for example, inherited the divinity *Deng* through his father and paternal grandfather. Nyachol is related through her mother's line to the previous prophet of *Maani*, who died in 1973. Nyachol's lack of a patrilineal connection, however, has weakened her legitimacy claims in the eyes of the previous prophet's brothers, a challenge that she has worked to overcome. Among contemporary eastern Nuer, it is more common for aspiring prophets to seek to establish a personal connection with the famous 19th century Lou Nuer prophet, Ngundeang Bong (d 1906), whether through pilgrimage, imitative practice or self-identification with fragments of previously issued prophecies.

The most successful Nuer prophets draw creatively on the collective memories, expectations and contemporary concerns of their adherents. Nuer prophetic practices and traditions have evolved over time, but the underlying structures of belief and of ritual authority have endured.

³⁵⁷ Evans-Pritchard, *Nuer Religion*, p.1.

³⁵⁸ Hutchinson, *Nuer Dilemmas*, p.307

³⁵⁹ Evans-Pritchard, *Nuer Religion*, p.44

³⁶⁰ Hutchinson, *Nuer Dilemmas*, p.306, pp.338-350.

Kume, or ‘government’, for Nuer is not a static, unitary or homogeneous concept. Derived from the Arabic term for government, *Hukūma*, Nuer initially applied *kume* to the colonial government. The term’s field of reference subsequently expanded beyond ‘the state’, as most conventionally understood. Multiple civil wars broadened its scope to include, as well the state’s military challengers, assorted militias and related institutions. Previously tight associations between government authority claims and the power of guns loosened with the widespread dissemination of powerful automatic rifles during the war years.³⁶¹ Boundaries formerly separating government from non-government, and separating *kume* from civilians, became more frayed, indeterminate and contested.³⁶² The prophets Nyachol and Gatdeang, as we will show, have become pivotal players in the continual re-negotiation and situational resolution of these boundaries.

Although there are many forms and many ways to conceptualise the power of ‘violence’, including ‘structural’ and direct, asymmetrical and balanced, we focus here on fatal or lethal violence. Interestingly, Graeber has recently stressed ‘[v]iolence’s capacity to allow arbitrary decisions, and thus to avoid the kind of debate, clarification, and renegotiation typical of more egalitarian social relations.’³⁶³ He views this arbitrariness as deeply troubling since ‘those relying on the fear of force are not obliged to engage in a lot of interpretative labor, and thus, generally speaking, do not.’³⁶⁴ While sharing Graeber’s concerns about violence’s capacity for sheer rawness, particularly when wielded asymmetrically, we think there is more to this story. As we will argue in this paper, even when a particular refraction of *kume* controls the capacity for overwhelming force and uses it with impunity against the civilian population, government leaders must still take account of how such violence is interpreted by others. This is because in the eyes of Nuer, and many other people around the world, lethal violence can have spiritual as well as judicial repercussions for perpetrators.³⁶⁵ Indeed, Nuer prophets embody and project this ‘truth’ in multiple contexts. The idea that a person is ultimately answerable to *Kuoth* is powerful. Consequently, it is not as easy for South Sudanese government leaders to dispense with Graeber’s ‘interpretive

³⁶¹ Hutchinson, *Nuer Dilemmas*, pp.103-122.

³⁶² See also Leonardi, *Dealing with Government*.

³⁶³ Graeber, *Dead Zones of the Imagination*, p.112.

³⁶⁴ Graeber, *Dead Zones of the Imagination*, pp.115-116.

³⁶⁵ Hutchinson, ‘Death, Memory and the Politics of Legitimation’.

labor’, as he seems to suggest—even when those same leaders endeavor to convince their rank-and-file military troops that killings carried out under government orders are morally, socially and spiritually ‘risk-free’.³⁶⁶

Both President Salva Kiir and his former Vice President and current military challenger, Riek Machar, must make the effort to stay abreast of competing moral perspectives on violence's legitimacy advocated by powerful non-government actors, such as Gatdeang and Nyachol, or risk losing legitimacy. From this vantage point, and others to be developed more fully below, Gatdeang and Nyachol may be viewed as pushing together, despite their philosophical differences, against the secularised, simplified and objectified forms of violence routinely glorified by competing government elites, and of concern to Graeber.

The guiding moral visions of Gatdeang and Nyachol

Gatdeang (‘Son of the Great [Divinity] *Deng*’), born Mut Turoah Nyaweah, is a third-generation prophet of *Deng*, the most powerful divinity in the Nuer spiritual pantheon. Both Gatdeang's father and grandfather were prophets of *Deng*, a divinity honored by generations of Dinka and Nuer alike. Associated with the power of lightning and the fertilising potential of rain, *Deng* brings coolness (*koc*) and coolness dispels more than heat and dryness. States of coolness are associated with people's heartfelt wishes for ‘the good things of life’: health and fertility (a cool body), generosity and kindness (a cool heart), equanimity, patience and persuasiveness (a cool tongue), and communal harmony, peace and prosperity (a cool world).³⁶⁷ Rain is the symbolic source and joyful expression of all these life-promoting states of coolness through the divinity *Deng*.

Deng first fell on Gatdeang after his father's death in the 1960s, when he was a young man and when Sudan's first civil war was in full blaze. By the 1980s, he matured into a regionally renowned spiritual leader and rainmaker. At that time, Gatdeang was galvanising local Bul Nuer youth to defend their communities against Baggara cattle- and slave-raiders, who were armed and directed by the Khartoum government to clear oil-rich regions of the Western Upper Nile of the Nuer and Dinka inhabitants.³⁶⁸

³⁶⁶ Hutchinson, *Nuer Dilemmas*, pp.103-109.

³⁶⁷ Hutchinson, *Nuer Dilemmas*, pp.78-79.

³⁶⁸ Hutchinson, *Nuer Dilemmas*, pp.1-20.

Gatdeang is known among neighboring western Dinka communities as Deng Loth or Gader.³⁶⁹ Over the decades, major delegations of Dinka chiefs have journeyed to Gatdeang's homestead in the hope of curtailing drought.³ Water falling from Gatdeang's hand is the primary symbolic means through which he conveys *Deng*'s blessings. Gatdeang's blessings extend to the Christian Church. He actively encourages his family and followers to accept Christianity and to attend services in a small Catholic Church he helped establish in his home village. Since 2000, Gatdeang has resided in Koani, a rural village located 20 kilometers south of the district market center at Mankien.⁴

Now in his sixties, Gatdeang is, unquestionably, the most senior and most widely respected living, western Nuer prophet. His reputation now extends eastward across the Nile to Nuer communities as far away as Ethiopia. Gatdeang is also widely esteemed as a rainmaker and peacemaker in Dinka communities as far away as Rumbek, the capital of Lakes State, located 640 kilometers further south. His messages from *Deng* move easily and transparently across this cultural and linguistic divide.

Nyachol or Nyapada Chuol Labieth, who appears to be in her early forties, first gained regional prominence in 2010 amongst the Haak Nuer, during an escalating cycle of cattle raiding with surrounding Dinka communities. Honored by generations of western Nuer and some western Dinka, *Maani* provides a powerful channel of communication and supplication with *Kuoth Nhial*. *Maani* also restores fertility and protects cattle and children, the twinned sources of wealth and security in Nuer eyes. As *Maani*'s prophet, Nyachol is sometimes addressed by the honorific Nyaguandong ('grandfather's daughter'), although she is usually called Nyachol ('daughter of Chuol'). She is only *Maani*'s third prophet since the divinity first manifested itself in a western Jagei Nuer prophet, named Kolang Ket, during the 19th century.

Nyachol's immediate spiritual predecessor was Kolang's daughter, Nyaruac Kolang (d 1973), who was the only major Nuer prophet to have escaped colonial suppression by playing successfully on Victorian gender stereotypes equating femininity with passivity (Johnson 1994:283ff)--a path Nyachol has not followed. The late prophetess' byre (*luak*), near the contemporary town of Koch, remains a gathering

³⁶⁹ Jok and Hutchinson, 'Sudan's Prolonged', p.138

place for western Nuer and Dinka seeking *Maani* 's protection. Even foreigners are remembered as having sought Nyaruac Kolang's support. Nyachol's *luak* stands in the village of Thor in Haak Nuer territory, near the border separating Unity State from Lakes and Warrap States.

During the first four years after *Maani* manifested in Nyachol, she has become a leading spiritual figure among the Jagei, Dok and Haak Nuer of central Western Upper Nile and has garnered increasing attention from national and state leaders. Compared with the prophet Gatdeang, however, Nyachol is still consolidating her spiritual credentials. *Maani* first possessed Nyachol after an illness that left her barren. As Nyachol gained ritual authority, it has become common for adolescent girls to enter a trance that then directs them to Nyachol. These trances confirm *Maani* 's powers through Nyachol and command allegiance. Local Presbyterian church leaders, however, shun Nyachol, although this has hardly impacted her growing regional prominence. She has also antagonised several state government officials.

Nyachol strives to differentiate herself from *kume* and, indeed, from all manifestations of 'modernity' she considers contrary to her deep roots in Nuer prophetic traditions. She forbids many 'modern' imports, including imported clothing, photography, telephones and motorbikes from entering her homestead. Nyachol has nightmares about foreigners trying to photograph her. She interprets these nightmares as warnings from *Maani* to limit her interactions with the outside and things foreign. Guns, while centrally important to her protective aspirations through local youth, are not permitted inside her house or cattle byre.

Commonly dressed only in a grass skirt and a draped leopard skin, the prophet Nyachol usually insists that first-time supplicants remove their clothes before appearing before her. Although not universally enforced, Nyachol's expectation for physically demonstrated transparency, humility and deference has definitely discouraged some local government officials from meeting her. In these ways, Nyachol has fashioned herself as outside and above government, while simultaneously performing many of the tasks over which government claims to have exclusive right of action.

South Sudan's 'post-conflict' period, 2005-2013

The signing of the 2005 CPA marked the official conclusion to 21 years of civil warfare stemming from the southern regions' resistance to the central government of Sudan. A tense, six-year interim period followed, during which the SPLM established a semi-autonomous Government of Southern Sudan within a continuing united, national Government of Sudan. The SPLM also gained control over half the revenues from southern oil fields, and the rights to participate in a national census and conduct regional state and parliamentary elections. Most importantly, Southern Sudanese gained the right to hold in January 2011 a regional referendum to decide whether to remain part of Sudan or establish an independent state.

Although the 'thorny' historic outcome of this process is now clear,³⁷⁰ SPLM leaders in Juba and millions of Southern civilians initially feared Khartoum would not honor the CPA through the self-determination referendum. Consequently, the CPA was viewed initially as little more than a temporary truce. The SPLM's first priority was to preserve and strengthen its military capacities by binding the loyalties of senior SPLA officers and rank-and-file troops through financial incentives and regular monthly salaries—something that was impossible before receiving a cut of southern oil revenues. These revenues also allowed 'kleptocratic' SPLA and SPLM leaders to build personal patronage networks, held together primarily by incentives for financial gain, and to create their own bases of militarised political support.³⁷¹ Oil revenues also facilitated covert purchases of advanced military hardware.

Various CPA provisions required a major restructuring of southern security arrangements. At war's end, there existed a plethora of 'other armed [southern] groups' operating independently of the SPLA. Some had been armed and orchestrated by the Khartoum government during the war, and others, coalesced as localised defense groups. The CPA stipulated that, within one year of its signing, all members of these groups must either fuse into the ranks of the SPLA, join newly created, temporary Joint Integrated Units (JIUs) shared with Khartoum, or disband.³⁷² Through these requirements, Southern SPLM leaders hoped to differentiate the 'legitimate' military

³⁷⁰ James Copnall, *A Poisonous Thorn in Our Hearts: Sudan and South Sudan's Bitter and Incomplete Divorce* (London, 2014); Schomerus and Allen, *Southern Sudan at odds with itself*.

³⁷¹ De Waal, 'When Kleptocracy'.

³⁷² John Young, *Jonglei 2010: Another Round of Disarmament*. Institute for Security Studies.

might of the SPLA from other armed persons, who were deemed ‘civilians’ to be forcibly disarmed, if necessary. This marked a radical departure from wartime patterns in which Khartoum and the SPLA dispersed increasingly powerful automatic rifles among Southerners, seriously blurring the civilian-military boundary.

Following John Garang's tragic death in a helicopter crash shortly after he signed the CPA, Salva Kiir was appointed Chairman of the SPLM and the fledgling southern regional government. Salva Kiir brought a new and more explicit vision of Southern Sudanese independence to the party. Before Garang's death, the declared political aim of the SPLM was to establish a united, democratic, secular Sudan. In another break from preceding SPLA policies, Salva Kiir made an offer of amnesty to the largest ‘other armed groups’ in the South--the Southern Sudan Defense Force (SSDF)--led by a notorious Bul Nuer commander, Paulino Matip, and based in the Western Upper Nile. This amnesty was formally accepted in the 2006 Juba Declaration. The SSDF had been constructed from a patchwork of local defense forces across South Sudan, making its membership fluid and uncertain. Many ‘other armed groups’ and Southerners soon joined the salaried ranks of the SPLA by asserting prior membership in the SSDF as it merged.

The SPLA's python-like absorption of almost 100,000 members of ‘other armed groups’—an overwhelming majority of whom were Nuer—over the next several years, left southern military forces internally divided and extremely unstable. Pre-CPA networks of power and patronage often proved stronger than newly restructured SPLA command structures, something that fostered deep suspicion and uncertainty among its ranks. Despite these tensions, the center held through the historic 2011 self-determination referendum in which more than 98% of the southern Sudanese voted in favor of political secession and independence, which South Sudan acquired on 9 July 2011.

The post-CPA and independence periods also witnessed major civilian disarmament campaigns,³⁷³ aimed at sharpening the government military-civilian division by removing the power of the gun from the latter. In theory, disarmament could have promoted greater civilian security, provided it was conducted comprehensively,

³⁷³ Cecily Brewer, ‘Disarmament in South Sudan’, *Case Study 7* (2009).

simultaneously and evenly across all regions. In practice, it amplified local-level instability and violence for the simple reason that government officials failed to take subsequent responsibility for protecting communities disarmed.³⁷⁴

Guns collected from civilians, moreover, were not destroyed but placed in dispersed government stores, where local state officials could potentially redistribute them to civilian communities for reasons ranging from newly perceived national security threats, through ethnic favoritism, to more personal interests on the part of individual state officials to ensure the safety of their home communities and personal herds. The selective dissemination of previously collected guns was one of many ways individual officials could use their new, post-CPA authority to shape local community politics, often provoking inter-communal violence in the process.³⁷⁵ Not surprisingly, many southern Sudanese civilians hesitated to hand over their guns to government authorities that they had more experience fighting than trusting. Frustrated by the government's seeming indifference to their security concerns, many Nuer and Dinka civilians sold cattle or other valued resources to rearm.

Major Dinka cattle raids deep into both Bul and Haak Nuer areas in recent years often only served to confirm suspicions amongst many Nuer that the government's disarmament campaigns had been lop-sided and designed to disempower Nuer communities. This discourse built on long-established fears about the dangers of a 'Dinka-dominated' government, which echo back in time to Khartoum's wartime efforts to divide and conquer the South by fanning hostilities between Dinka and Nuer communities. Western Nuer and Dinka communities suffered greatly from this wartime dynamic. This was especially the case after SPLM/SPLA leadership struggles between John Garang, a Bor Dinka, and Riek Machar split the southern rebel movement in 1991, triggering off a decade of Dinka/Nuer military violence from which the region has never fully recovered. The 1997 signing by Riek Machar of an ill-fated peace agreement with Khartoum subsequently intensified vulnerabilities by opening the way for Khartoum to launch a massive military campaign to clear Nuer and Dinka inhabitants from oil-rich areas of the northern and western Unity State, often working in coordination with powerful Bul Nuer SSDF Commanders, like Paulino Matip and Peter Gatdet. During this chaotic decade, Nuer political and military leaders frequently switched sides between Khartoum and a moving kaleidoscope of southern rebel military factions and

³⁷⁴ Saferworld, *Civilian disarmament in South Sudan: a legacy of struggle* (2012).

³⁷⁵ Pendle, 'Interrupting the Balance'.

militias, some of which periodically allied with Garang's SPLA Mainstream forces. Caught between competing and unpredictable southern military commanders and militia leaders, it became impossible for ordinary Nuer and Dinka villagers to determine where the next security threat would come from, and who, if anyone, could provide protection. The wartime legacy of this Nuer/Nuer and Nuer/Dinka violence was left unresolved after the CPA's signing and thus, surfaced with a vengeance, as will be explained, as a second rendering of the SPLM/SPLA developed in Juba in late 2013.

The contrasting peace-building strategies of Prophets Gatdeang and Nyachol

Throughout this chaotic southern-against-southern military violence, the prophet Gatdeang succeeded in maintaining an inviolate sanctuary amongst the Bul Nuer. As earlier noted, Gatdeang first established himself as a regional spiritual force during the mid-1980s, when the greatest local security threat was raiding from Baggara Arab slave- and cattle-raiders. Periodically during the civil war, the prophet used his ritual authority to inspire local Bul Nuer men to defend their villages and herds from northern Baggara Arab raiders. Then, as now, Gatdeang urged armed local youth not to fight amongst themselves: 'If you kill yourselves, the Arabs will be laughing and, when you are finished, they will come and take your lands!'

Nevertheless, the prophet's efforts to galvanise local Nuer men in defense of their home territories may not be characterised as a form of identity politics in which the Nuer/Dinka identity axis, so central to Nyachol's spiritual vision, is replaced by Gatdeang with a version of the 'Northern/Southern' Sudanese, Baggara/Nuer or 'red Arabs'/'black people' (*marol/karegni - nei ti caar*) identity distinction. None of these identity categories are significant to Gatdeang. For him, the only question of relevance regarding violence's legitimacy is whether or not it has been used defensively. No armed Nuer civilian would be foolhardy enough to try to mobilise a raiding party into the Baggara's homelands in distant southern Kordofan. All Bul Nuer confrontations with Baggara seasonal pastoralists and raiders occur in Bul Nuer territories. Even so, armed Nuer youth can, and sometimes do, mount offensive raids on Baggara herds grazing their home territories. And it is precisely such violence that Gatdeang has consistently sought to discourage.

The prophet tells everyone who will listen that *Deng* never supports the party that fires 'the first shot.' Violent aggression provokes *Deng*'s anger, which in turn

causes heavy losses of life on the offending side. Only defensive violence is morally legitimate and worthy of *Deng*'s protective attentions, even when engaging with Baggara Arab pastoralists. Nor does *Deng* tolerate the killing of wounded or captured opponents. In these and other ways, Gatdeang strives to support traditional Nuer ethical codes of fighting and raiding frayed by decades of civil war.³⁷⁶ Gatdeang's capacity to restrain Nuer youth from undertaking offensive raiding has been strongest in his home district of Ruath Nyibol. He has nonetheless succeeded on many occasions in dissuading other Bul Nuer youth from mounting retaliatory attacks on Dinka cattle camps.

Gatdeang's core security strategy revolves around not the power of guns but the powers of traditional cultural norms of hospitality, marriage, kinship and shared cattle rights and obligations. In many ways, Gatdeang's peace-building practices mirror those of earlier generations of Nuer *tut* or 'bulls of the cattle camp,' as originally described by Evans-Pritchard.³⁷⁷ Gatdeang aims to gather around himself a united and loyal circle of supporters by providing them with security, hospitality and gifts of cattle. In addition, Gatdeang can also bestow rain and all the other life-promoting gifts of health and fertility *Maani* can bestow.

Gatdeang himself has married 20 Dinka wives, and many of his sons have followed suit. However, it is Gatdeang's daughters who continually attract marriage proposals from neighboring Dinka communities as well as from leading Nuer government official and military commanders from across the political spectrum. Many Nuer and Dinka members of the contemporary government elite continue to practice polygyny, whereby the number of wives a man may marry is limited solely by his cattle wealth. Moreover, each new marriage, as Evans-Pritchard earlier explained, endures across five generations, linking descendants of the bride and groom's extended families through a complex system of shared bride wealth rights through each other's daughters and granddaughters.³⁷⁸ Consequently, the binding force of marriages forged earlier by Gatdeang's father and grandfathers continue into the present, uniting their descendants

³⁷⁶ Hutchinson, 'Death, Memory and the Politics of Legitimation'; Hutchinson and Jok, 'Sudan's Prolonged Second Civil War'.

³⁷⁷ Edward. E. Evans-Pritchard, *Kinship and Marriage among the Nuer* (Oxford, 1951), p.9.

³⁷⁸ Evans-Pritchard, *Kinship and Marriage*.

as 'kin,' or *mar* or *maar*—a word that also means 'peace' in Nuer. And arguably, the most fundamental reciprocal obligation binding kinsmen is "not to kill each other".³⁷⁹

Like previous generations of Nuer 'bulls of the cattle camp,' Gatdeang can also forge asymmetrical bond of hierarchy and obligation with an unrelated man by giving him a cow or two for marriage. Cattle gifts can also be used to create relationships of social symmetry and equality. For example, General Paulino Matip, the notorious, and now late, Bul Nuer commander who consistently represented Khartoum's military interests through the civil war, maintained a formal bond of 'friendship' (*maar*) with the prophet Gatdeang, in which each provided the other with a bride wealth cow received upon the marriage of each of their daughters. The fathers of Paulino Matip and Gatdeang also maintained this (usually single generation) relationship of formal friendship. When one considers all of the ties created through marriage and cattle exchange by Gatdeang's extended family over the generations, plus the kinship rhizomes uniting him with other residents of Koani, this network binds together an extraordinarily diverse and extensive 'moral community'.

Gatdeang also fosters regional peace and security by maintaining an inviolate sanctuary under *Deng*'s protection accessible to everyone, without prejudice or social distinction. 'Everyone is a child of *Deng*', Gatdeang maintains, and thus, everyone must be welcomed at *Deng*'s 'homestead'. Baggara Arab adulterers dodging vengeful husbands, Dinka chiefs praying for rain, war captives and war criminals, women seeking enhanced fertility, parents of sick children hoping for a miraculous cure, urban residents and rural villagers fleeing 'government' military violence, and even President Salva Kiir himself have all come to Koani seeking Gatdeang's divinely-inspired guidance and support. The prophet's homestead thus serves as a neutral gathering place for defusing and renegotiating negative social relationships of various kinds. Gatdeang's has in many ways created a respected sanctuary similar to those maintained during pre-'government' times by *kuaar muon* (translated as 'leopard-skin chief' by Evans-Pritchard and translated as 'earth priest' by Hutchinson).³⁸⁰

Gatdeang reinforces *Deng*'s egalitarian and non-discriminatory ethos in his home village by distinguishing cattle offered as gifts to *Deng* from those of his personal

³⁷⁹ Hutchinson, *Nuer Dilemmas*, p.165.

³⁸⁰ Evans-Pritchard, *Nuer Dilemmas*, p.5; Hutchinson, *Nuer Dilemmas*, p.106.

herd. 'Everyone' shares milk rights in heifers given to *Deng*. Moreover, *Deng*'s cows are often redistributed spontaneously upon arrival among Koani's residents. While Gatdeang accepts gifts of money, *Deng* rejects them. Lacking blood, breath and procreative capacities, money makes a poor substitute for a sacrificial cow.³⁸¹

Gatdeang's 'tut'-like and 'kuaar muon'-like method for building a growing community of followers and supporters can also create land pressures. Significantly, Gatdeang has always chosen to situate himself on the southern edge of Bul Nuer territories. Back in the 1990s, Gatdeang based himself in Ruath Nyibol, then a seasonal cattle camp area with few year-round inhabitants. Overtime, Gatdeang's presence attracted many other settlers and Ruath Nyibol gradually developed into a small market center with limited grazing capabilities. Gatdeang then shifted his homestead further south to establish Koani, originally a seasonal cattle camp area as well. Nearby swamplands provided excellent cattle forage during the dry season.

Before the SPLA's 1991 schism, Dinka herds also grazed these valued swamplands. After John Garang and Riek Machar turned their forces' guns against each other's entire civilian populations, however, many Dinka villagers pulled away from grazing grounds and settlements previously shared with or neighboring Nuer villagers, as a security precaution. Some Dinka communities shifted tens of kilometers further west, creating a vast swath of unoccupied land.

Gatdeang's founding of Koani in 2000 represented a move back into these war-emptied lands. He then worked to stabilise and integrate his new permanent, wet-season 'homestead' in ways beneficial to surrounding Dinka communities. Backed by the power of *Deng*, the prophet sought to restrain Bul Nuer men from raiding Dinka cattle camps. He also encouraged Nuer/Dinka intermarriages, partly with the aim of creating opportunities for the peaceful sharing of critical resources across this cultural and linguistic divide during periods of drought, hunger and insecurity. Moreover, Gatdeang successfully accomplished this aim in Koani without loss of human life.

The founding moral vision of Nyachol's peace-building strategy revolves around very different idioms and premises than those advocated by Gatdeang. Despite such

³⁸¹ Hutchinson, *Nuer Dilemmas*, p.56ff.

differences, Nyachol is also recognised locally as a prophet of peace and she constructs her ritual authority around this promise. The peace she builds, however, focuses more narrowly on strengthening her immediate home region and moral community from within.

Significantly, the divinity *Maani* returned to the Western Upper Nile after many decades of absence, and during a post-CPA season of civilian disarmament and rising vulnerability. *Maani* first descended on the prophetess Nyachol in 2010, after a large group of Dinka raiders attacked her home village at Thor. The return of *Maani* after nearly forty years was remarkable. Nyachol interpreted *Maani*'s return as championing and supporting the need for a revenge attack on neighboring Dinka communities, placing at the heart of Nyachol's imagining of peace and violence the Nuer/Dinka identity distinction. *Maani*'s return provided both the prophetess and her home community with hope of divine support for their offensive and defensive security strategy. Metaphorically, the regional 'peace' Nyachol forged was much 'hotter' than the regional 'peace' fostered by Gatdeang.

Nyachol constructed her ritual authority through an assemblage of local youth. Commonly armed, Nuer youth remain the community's main implementers of defense and retaliatory violence. They often guard the herds not only of local communities but also of government elites. The physical control these youth exercise over local areas can restrain and challenge local elders and government elites. High-ranking politicians from Juba must ask permission from local cattle guards before visiting dry-season cattle camps to view their cattle. Nyachol's popularity and authority over regional youth has thus rattled many levels within the state and national government. The prophetess Nyachol sympathises with their plight and embraces their militarised sub-culture. She also praises their bravery and fighting prowess. As the channel for *Maani*'s spiritual protections, Nyachol promises to help the youth build a stronger local security apparatus than a largely distant and indifferent government.

To achieve this, she endeavors to contain and reduce violent aggression and inter-clan fighting within her extended rural community by reinforcing the pollution risks of Nuer-Nuer homicide in *Maani*'s name. The prophetess can sense ritual pollution lingering on people who visit her, especially, a highly contagious and lethal form of pollution known as *nueer*, associated first and foremost with acts of Nuer-Nuer

homicide and with the institution of blood feuds, more generally.⁹ Those Nuer who know that they are so polluted, but still want to gain access to Nyachol's moral community and the protection and certainty *Maani* provides, can do so. However, they must first ritually purify themselves and reconcile with the families of those slain through payments of blood wealth cattle. Because state government officials have failed to support adequately earlier institutions responsible for suppressing and resolving local feuds and fights, Nyachol has stepped into this political vacuum to enforce compliance on threat of *Maani*'s punishment. Chiefs began referring difficult cases to Nyachol, who operated as an informal appeal structure on the margins of an otherwise dysfunctional government court system. Following South Sudan's independence, the new national government prohibited all such referral to 'non-government' leaders, with regional state authorities opposing local chiefs sending any cases to Nyachol. Many chiefs and families continue to seek out the prophetess' judicial and purification services, however. Nuer-Nuer conflicts in Nyachol's home region have plummeted since 2010 under the combined influence of *Maani* and Nyachol.

At the same time, Nyachol provides local youth with added spiritual protections when they seek to guard cattle or acquire cattle from their Dinka counterparts. Nyachol ceremonially blesses offensive Nuer raids in advance by providing mustered youth with ashes taken from the central cattle dung fire (*gol*) of *Maani*'s sacred byre. Nyachol's blessings allegedly protect her followers from bullets during cross-border cattle raids. Cattle successfully captured during retaliatory raids thus constitute 'gifts' from *Maani*, and in a sense, Nyachol. Captured cattle further bind the loyalties of her followers to Nyachol, reinforcing relations of mutual dependence as well as of hierarchy between them.

In brief, Nyachol's divinely inspired protective and judicial services are responsibilities that government in Western Upper Nile jealously claims as its own exclusive responsibilities, but has failed to fulfill, as has been the case with the government across South Sudan.³⁸² Nyachol's growing popularity can pressure local chiefs and community elders to recognise her spiritual authority and defer to her, if only for fear of alienating many thousand armed Nuer youth. This they do by stripping

³⁸² Naomi Pendle, Marco Pfister, Martina Santschi, Mareike Schomerus, Denielle Stein, Edward Thomas and Craig Valters, *Local Socio-Political Organization and Implications for Community Driven Development in South Sudan: An Analysis of Existing Literature* (London, 2012).

naked before appearing before her and by presenting *Maani* with honorary gifts of cattle. Nyachol has pronounced cattle purchased with money in the marketplace unacceptable gifts for *Maani*, since there is no certainty of their morally legitimate origin.

Like Gatdeang, Nyachol has also encouraged forward movements into areas less accessible before the wartime Dinka pullback by formally blessing newly established Nuer villages and by actively mobilising armed local men to defend them, when necessary. These ‘unoccupied’ borderlands have also attracted the interests of powerful state elites. For example, Riek Machar established a military based at Madol (on the border of the Agar Dinka and Haak Nuer) in the late 1990s. After the CPA, Riek Machar converted it into a large, mechanised farm. Machar used his Dok Nuer identity to lay claim to the legitimate use of this land. Based on this discourse, Nuer youth could be more easily mobilised to counter any aggression against Machar’s farm from Dinka groups further south, by portraying it as a generalised attack against the Nuer.

Nyachol has assisted in perpetuating this interpretation by ritually blessing Machar’s farm and the forward movement of other Nuer settlements. She justifies these actions by *Maani*’s concern with the protection of children, and these villages being the rightful homes of Nuer children. Faced with the continuing failure of the government to assert clarity over these conflicting claims to land, *Maani* has stepped into this void with a promise of shielding, solidifying and legitimising advancing Nuer settlements and land claims.

Nyachol’s border politics are clearly much ‘hotter’ and less peaceful than Gatdeang’s. In ritually supporting Machar’s attempt to lay claim to a large chunk of contested borderlands for a private mechanised farm, Nyachol has certainly aggravated Nuer/Dinka hostilities and inter-communal violence, not calmed them. Her control of the youth and her calls for unified Nuer opposition against negatively portrayed Dinka has long held strategic appeal for Machar. The simplified clarity of this rigidified and reified identity opposition readily masks differences in education, wealth, privilege and power separating then, Vice President Riek Machar from the everyday experience and lifelong opportunities of rural Nuer and Dinka youth. By papering over such differences, Machar opens up room for future mobilisation of Nuer youth around whatever shared vision serves his political ambitions. For all of these reasons, Nyachol

easily found herself an assumed ally of Riek Machar following the December 2013 outbreak of renewed civil war.

Long before the late 2013 eruption of targeted ethnic violence in Juba, however, Nyachol and Gatdeang had established direct relations with high-ranking government elites. In the next two sections, we analyse two exemplary encounters, which reveal the fluidity and complexities of these prophets' ties to *kume*.

President Salva Kiir visits Gatdeang

In 2008, immediately following another round of civilian disarmament in Bul Nuer country, a party of heavily armed Dinka youth from Warrap State staged a raid on the dry-season cattle camp where Gatdeang kept his personal cattle. Outgunned and outnumbered, the youth protecting his cattle were soon overwhelmed. The Dinka raiders escaped with some 2,000-3,000 head of cattle, most belonging to Gatdeang himself.

Members of Gatdeang's home community as well as thousands of other Bul Nuer throughout Mayom County were very angry and upset because they considered this raid an intolerable affront against the prophet himself. Some of them immediately began planning a counter-raid to recapture the prophet's stolen herd. But Gatdeang adamantly refused to condone their plans. He challenged, saying: 'Let them have the cows. If they take the cows, they will be the ones to bring them back another day.' With these remarks, Gatdeang was alluding to the fact that he, personally, had received many gifts of cattle from visiting Dinka dignitaries, government leaders and other supplicants from neighboring Warrap State over the years. He went on to explain: 'I don't care about the cattle. My mind is on the independence [referendum].' People deferred, abandoning the idea of a retaliatory raid.

News of Gatdeang's losses soon reached Juba, however, where President Salva Kiir was concerned. National and state elections were scheduled for early 2010, to be followed by the self-determination referendum in early 2011. Inter-ethnic hostilities among southerners could delay or scuttle these events. Consequently, the prospect of a major cycle of Nuer and Dinka cattle raiding across the Warrap/Unity state border was worrisome. President Salva Kiir's original home, moreover, is located in Rek Dinka

country in Warrap State. Dinka cattle herds from that region often graze the borderlands adjacent to the Bul Nuer during the height of the dry season.

A few months after this raid, President Salva Kiir journeyed from Juba all the way to Koani to visit Gatdeang at his homestead. Perhaps the President felt he needed to assuage the Prophet for his losses. But Gatdeang received him calmly and showed no anger. In fact, Gatdeang expressly reassured the President that he was not troubled about the stolen cows. Gatdeang then drove home his point by telling President Salva Kiir: ‘Do you see those [starving and motherless] calves over there? They are all yours! Take them to their mothers in Warrap.’

This poignant offer no doubt startled the President, for it indirectly challenged the entire system of hierarchically nested regional and ethnic distinctions through which ruling government officials rule. From Gatdeang’s spiritually inspired vantage point, personal greed and narrow ethnic divisions of any kind are non-existent within the moral universe symbolised by *Deng*.

With these twin gestures—namely, the prophet’s offer to give the President his remaining calves and his refusal to request the return of his stolen cattle—Gatdeang adeptly reoriented hierarchical relations between himself and the President, and between his locality and the government, as well as among various Nuer and Dinka communities. In essence, Gatdeang reframed his cattle losses as “gifts.” Within both Nuer and Dinka social norms, this sort of giving creates and sustains hierarchical relations between cattle-givers and cattle-takers, although in this instance the obligation owed would seem to be ‘peace’.

By provoking a reaction from the President in these ways, Gatdeang ultimately succeeded in providing his home community with enhanced security by shaming the government, as it were, to do more. After President Kiir returned to Juba, he dispatched ten armed policemen to serve as Gatdeang’s personal guard, together with two SPLA army battalions to safeguard the prophet’s extended rural community. Although the SPLA soldiers were later withdrawn, the policemen stayed.

This incident reveals the prophet as significantly more than a meso-level mediator between the highest levels of the state and smallest units of civil society.

President Kiir himself appeared to defer to Gatdeang. Perhaps the fact that both Gatdeang and President Kiir work to solve problems beyond their home communities facilitated greater communication and mutual understanding. Gatdeang's eagle-eyed focus on the independence referendum was significant in this regard.

Finally, the President's decision to visit Gatdeang reveals how rapidly cattle connections can scale up or down the multi-layer hierarchy of power networks and institutions comprising the South Sudanese state. In these ways, Gatdeang's relations with *kume* were more diverse, diffuse and non-confrontational than was Nyachol's militarised youth approach. And Gatdeang managed to secure his home area—as far as possible—without sacrificing the lives of anyone. Rather than glorifying the raw power of guns, Gatdeang's moral vision for managing uncertainty, instability and violence rested firmly on ideals of non-aggression, non-discrimination, egalitarianism and tolerance.

Nyachol eludes government arrest

By late December 2012, Nyachol had acquired a large, loyal following among Haak and Dok Nuer youth. Her loyalists also included at that time more than one hundred Bul Nuer youth and disparate Nuer recruits hailing from the east bank of the Nile. She ceremoniously sanctioned and blessed a large party to raid deep into Luac Dinka territories in Warrap State. This raid was explicitly justified as retaliation for an earlier Dinka raid on her home village of Thor. As Nyachol explained: 'Over forty women and children were killed by the Luac Dinka in 2011, so we had to return and take revenge. I am a prophetess of peace, but this raid was necessary.'

A series of counter-raids followed through January 2013, attracting the media's attention as well as that of UN and NGO personnel stationed in South Sudan. Nyachol's activities also provoked a government response. The then Unity State Governor, Taban Deng, ordered Nyachol's immediate arrest. He viewed himself and, more generally, the state government as responsible for enforcing peace across the Unity/Warrap state border. Nyachol's action represented an unacceptable usurpation of that responsibility.

The Commissioner of Mayendit County (where Thor is located), however, failed to implement Nyachol's arrest warrant, for fear of provoking violence among her armed followers. The Commissioner considered himself a devout Christian, who did not

believe in *Maani*'s powers. This Commissioner had been educated in the USA and had built his political authority on his modern education. For this Commissioner, his refusal to accept the authority of Nyachol and the reality of *Maani*'s powers was an extension of his rejection of her attempt to create a sphere of influence detached from modernity and government. For this Commissioner, the force protecting Nyachol was not *Maani* but, rather, the propensity for violence from her followers. The Commissioner later remarked: 'The government of the state and in Juba now also fear her.' Nyachol's widespread support in her home village made it impossible for this commissioner 'to separate her from what people believe' and thus, to differentiate between Nyachol and the divinity *Maani*.

Later a higher-ranking state minister from the state capital invited Nyachol to come voluntarily to visit him in Bentiu. However, throughout the night before she was meant to travel, *Maani*'s sacred drum beat itself outside Nyachol's *luak*, instructing her not to go. Nyachol's supporters composed new songs explicitly criticising Governor Taban. In the end, *Maani*'s divine intervention, together with threat of physical violence from the youth, combined to prevent Nyachol's arrest. Nyachol also made it clear to the government that she was unable to travel to Bentiu using a car because cars were part of the 'modernity' she rejected.

Governor Taban Deng and other state government officials responded by trying to paint Nyachol as the main regional deterrent to peace. Yet their conspiracy to limit Nyachol's influence had little impact because the government still failed to address people's underlying needs for improved security and certainty—making the alternative 'peace-building' strategies promoted by the prophetess all the more appealing. Youth in Mayendit County at this time refused to meet with the Commissioner, even upon his explicit request. A strong defense against stigmatised Dinka raiders by a divinely inspired prophetess, capable of assembling thousands of armed Nuer youth by beating *Maani*'s sacred drums, easily trumped more empty government promises.

This incident reveals how Nyachol stood between the government and the civilian grassroots, and how she was capable of explicitly challenging government authority both through eluding government orders and by more successfully fulfilling responsibilities associated with government. Her refusal to obey the government while retaining popularity highlighted the power of the legitimacy she demanded. Although

Nyachol ostensibly works within a ‘non-political’ idiom, it is precisely her ritual powers that make her a political force to be reckoned with for officials at all levels of *kume*.

Post-independence South Sudan’s implosion

During 2013, long simmering leadership struggles in South Sudan reached a boiling point with President Salva Kiir seeking to rearrange the personalities and conditions of power at the top. In early 2013, President Salva Kiir retired various leaders of the SPLA. In July 2013, he then summarily dismissed almost his entire cabinet including Vice President Riek Machar. Weeks before, President Salva Kiir had also suspended the Secretary General of the SPLM, Pagan Amum. President Kiir offered a new phase of amnesty to armed groups that had rebelled against his government since the CPA. These included forces of the South Sudan Liberation Army (SSLA), which contained many Bul Nuer recruits and gained prominence from 2011 under the leadership of Bul Nuer Commander Peter Gadet.³⁸³ In 2013, the SSLA leadership accepted Kiir’s amnesty offer, creating what was to become a foothold for Salva Kiir in Bul Nuer regions of the Western Upper Nile, when the young country dissolved into civil warfare a few months later. In 2013, Kiir had also brought near Juba a force known as the *Dut ku Beny* (Protector of the Leader), which was composed entirely of western Dinka from his home region. Suspensions generated by these events seriously rattled the balance of power formerly obtained within the SPLM and SPLA by greatly expanding the reach of President Kiir’s personal power and patronage networks at the state’s center.

On December 15th, military violence erupted in Juba between Nuer and Dinka soldiers within the elite Presidential guard. By the next day, the violence spilled out of the barracks into surrounding neighborhoods, where hundreds of Nuer civilians were rounded up and killed during house-to-house searches by unidentified military officers. Tens of thousands of terrified civilian residents took refuge behind the walls of the UN camps in Juba, eventually including the vast majority of all Nuer men, women and children living in the national capital.

This violence quickly assumed cataclysmic proportions, after Kiir accused his former Vice President, Riek Machar, together with other former members of his cabinet, of staging an attempted military coup, a charge everyone adamantly denied. Riek

³⁸³ Small Arms Survey, ‘Pendulum swings: The rise and fall of insurgent militias in South Sudan’, *Sudan Human Security Baseline Assessment for Sudan and South Sudan 22* (2013).

Machar and the previously dismissed Unity State Governor Taban Deng ran for their lives from Juba. After escaping, Riek Machar assumed leadership of a major military insurgency already gaining traction in parts of Western Upper Nile and Jonglei State, following the defections of two Nuer SPLA generals. General Peter Gadet, a mercurial Bul Nuer commander, then stationed near Bor in Jonglei State, and General James Koang, an eastern Jikany Nuer SPLA commander then stationed at Bentiu in Unity State, announced their defections immediately after hearing close relatives were slain in Juba. In essence, they declared a blood feud against the government. Previously, these two Nuer generals had almost consistently fought on opposite sides of South Sudan's civil wars, including the SPLA war with Khartoum and the SSLA rebellion against the post-CPA Juba government. But they immediately united and rallied around reports that Nuer civilians were being intentionally targeted and killed in Juba in mid-December 2013. Former SSDF commanders also joined Riek's nascent rebel movement and became the military backbone of a growing military rebellion.

Within weeks war had engulfed three of South Sudan's ten states, with heavy fighting concentrated in Nuer territories on both banks of the Nile, as well as in mixed urban centers in the Unity, Jonglei and Upper Nile States. Conflict quickly led to the shutdown of the oilfields in Western Upper Nile, with local villages now experiencing severe water and grazing land pollution as a result of spilling oil from these unused fields. While most Nuer men and women found themselves in opposition to Kiir's government and sympathetic with Machar's SPLA-In-Opposition movement (SPLA-IO), Nuer communities in the Western Upper Nile remained politically divided. Prominent Bul Nuer commanders fought on both sides of the emerging civil war, with Peter Gadet's opposition forces confronting SSLA troops now aligned with President Kiir's SPLA forces. SSLA forces proved key allies by facilitating the government's recapture of Mayom and Bentiu towns, before marching further south to destroy the town of Ler and attack Nyachol's home area in February 2014. At the time of writing, SPLA-IO forces currently control most rural Nuer regions on both banks of the Nile, with the noteworthy exception of some Bul Nuer areas. Bentiu and Mayom towns—or their deserted and destroyed carcasses—remain under the control of Kiir's government.

In response to South Sudan's December 2013 implosion, Nyachol has continued to mobilise local youth to defend their homelands, this time against government forces. Her ability to inspire and organise thousands of armed Nuer youth has since proven a

boon to SPLA-IO forces. Government forces initially used the road stretching south from Bentiu to move troops and vehicle-mounted weapons, before pushing east and west along unmade tracks into more rural settlements. Nyachol successfully mustered and coordinated several thousand armed Nuer youth to defend their home communities, preventing government forces moving west from the road at MiirNyal into the villages such as Dablual and Thor. These Nuer youth, who sometimes refer to themselves as ‘white soldiers’ (*dec in bor*), much like their counterparts amongst Nuer communities on the Nile's, operate independently of the formal SPLA-IO command structures, although they coordinate with them on an ad hoc basis. Nyachol's promise of *Maani's* protection, conveyed through blessed ashes, emboldened her loyal followers on the battlefield, enabling them at one point to capture a government tank near the prophetess' home village.

Nyachol's ties with the opposition movement strengthened further after she announced a month into the conflict that she foresaw Riek Machar's forces marching on Juba in a dream. General James Koang also tried to rebuild bridges with the prophetess, after having earlier crossed her by approving her arrest warrant. After defecting from President Kiir's SPLA forces in late December 2013 and being pushed out of Bentiu, the General brought Nyachol cattle as a sign of his support and allegiance. Koang was impressed by the ease with which his gift of a few cattle facilitated Nyachol's mobilisation of large numbers of local Nuer youth to support his armed insurgency. Despite having command over a militarised force, Koang realised the benefits of Nyachol's interpretative authority to add legitimacy to his cause.

Gatdeang, in contrast, has refused to take sides in the present conflict. He has offered instead a rare refuge of peace and security for thousands of Nuer and non-Nuer civilians fleeing intensifying military confrontations. Gatdeang has urged Bul Nuer civilians, including armed youth, to remain politically and militarily neutral. The prophet has also worked hard to maintain a grassroots peace agreement forged between leading Bul Nuer chiefs and their Western Twic Dinka counterparts less than a week before violence erupted in Juba. As late as January 2015, most civilian Bul Nuer area youth appear to have heeded Gatdeang's calls for non-alignment and non-engagement. Consequently, fighting in Bul Nuer regions remains largely confined at that time to the market town of Mayom and villages along the road running from Mayom to the state capital at Bentiu.

The space for political neutrality in this conflict, however, may be dissipating, as vectors of violence increasingly follow narrowly defined ethnic and sub-ethnic divisions. Although Gatdeang has long advocated against the significance of such identity distinctions, his moral vision remains under pressure from those wielding guns on both sides. Because most Bul Nuer civilians stood back and did not immediately rally to support Riek Machar's SPLA-IO rebel forces, Bul Nuer have sometimes found themselves accused by other Nuer of taking bribes, or otherwise acting as mercenaries for Kiir's 'Dinka government'. Their presumed alliance with Kiir's SPLA forces—despite the presence of many prominent Bul Nuer commanders fighting together with Riek Machar—has prompted questions about whether or not Bul Nuer should be considered 'Nuer' at all. There are reliable reports that some unarmed Nuer youth were targeted and killed in Bentiu simply for being Bul Nuer. They were deemed non-supporters of Machar and hence, 'enemies' of forces loyal to him. In the United Nations Mission in South Sudan (UNMISS) civilian protection site in Bentiu, many young Bul Nuer men were forced to live in a separate camp, away from other Nuer, many of whom equated non-alignment with de facto support for Kiir's government. The possibility that any civilian could remain impartial in the conflict was thus violently denied by some Nuer fighters.

Despite this worrying development, Gatdeang's sanctuary at Koani has not yet experienced any violence in large part because leading military and political figures on both sides of the conflict share a personal interest in safeguarding the prophet. SPLA-IO Commander Peter Gatdet, for example, now attributes his personal longevity on the battlefield to *Deng*'s spiritual protection. In 2006, Gatdet sent a delegation to Gatdeang's homestead, bearing a new drum for *Deng*, as a gesture of his gratitude. Former Governor Taban Deng, who has become the lead SPLA-IO negotiator at continuing international peace talks, is one of Gatdeang's sons-in-law. His Kiir-appointed replacement, Joseph Monytuel, a Bul Nuer, is reportedly seeking to marry a daughter of Gatdeang as well. Furthermore, Gatdeang's sons, nephews, sons-in-law, close relatives and other personal supporters currently pepper the military ranks of both armies as well as surrounding Dinka communities. The commanding general of Kiir's SPLA troops in Bentiu, Matthew Puljang, for example, is a close nephew of Gatdeang's. All these political and military leaders want to protect the prophet and his homestead.

And as of this writing, Gatdeang's sanctuary at Koani has held firm, despite continuing spasms of military violence in the Western Upper Nile, and despite continuing frustration on the part of international peace negotiators trying to forge a durable peace agreement between Machar and Kiir.³⁸⁴ At the height of the violence of 2014, when all Western Upper Nile schools were closed, secondary school children from around the state were sent to Gatdeang's sanctuary at Koani so they could continue studying for their exams without out fear of violent interruption. During the first months of 2014, Gatdeang's home community also provided temporary sanctuary for urban Nuer, Dinka and other families fleeing the military destruction of the state capital at Bentiu and a major regional market center at Mayom. *Deng* 's sacred sanctuary has offered safety to them all.

Conclusions

We have shown how the prophets Gatdeang and Nyachol have played powerful "supra-kume" roles in setting the moral limits of lethal violence and weighing the legitimacy claims of rival political leaders. They have also provided valued arenas for people to manage feelings of anxiety and uncertainty generated by decades of political instability and civil warfare. The guiding moral strategies they have developed for safeguarding their respective moral communities from government instability, neglect and military abuse differ dramatically, however. Nyachol, a female prophet of *Maani*, encourages and directs a loyal following of several thousands of armed civilian Nuer men, whose keenness to organise retaliatory attacks against Dinka cattle raiders and defend forcefully against other external threats, including most recently government military attacks, she inspires. She has simultaneously sought to strengthen her moral community from within by insisting on the ritual purification of all cases of Nuer-Nuer homicide, and by resolving and suppressing internal blood feuds. Gatdeang Dit, a male prophet of *Deng*, has striven to foster relations of peace, hospitality and intermarriage with neighboring Dinka communities and has rejected both social identity distinctions and offensive violence as incompatible with the moral universe governed by *Deng*. Both Nyachol and Gatdeang have also endeavored to solidify and expand grazing rights and settlement areas of their respective communities into previously Dinka-controlled lands abandoned during the civil war: one backed by the threat of force, the other through more peaceful means. Both have also taken moral positions with respect to South

³⁸⁴ Small Arms Survey, 'The Conflict in Unity State: Describing Events', *Human Security Baseline Assessment for Sudan and South Sudan* (2015), pp.4-7.

Sudan's current quagmire: one as judgment against *kume* or the government, one irrespective of it. Their contrasting moral visions and security promoting strategies are in many ways structural variations of one another--alternative possibilities from within a spiritual pantheon encompassing both.

Despite striking differences in their spiritual perspectives, Gatdeang and Nyachol have also pursued a common endeavor by looking to manage feelings of anxiety and uncertainty, especially with respect to people's unmet security needs. Each in their own manner has also worked to reign in the amoral, secularised and objectified forms of violence all-too-often lying at the heart of government legitimacy claims whether in the former Sudan or today's South Sudan. Their contrasting moral narratives help to remind people that the power of guns and of the government are always secondary to that of God. By so doing, Gatdeang and Nyachol have provided a crucial check on '[v]iolence's capacity to allow arbitrary decisions'³⁸⁵ by forcing ambitious state leaders to take account of alternative, popular frameworks for interpreting the moral limits of lethal violence, or risk losing legitimacy.

Perhaps one of the lessons offered by these two prophets' divergent efforts to create local enclaves of civilian security and peace in the midst of South Sudan's recurrent crises is that there is no 'silver bullet' in situations like these. These prophets' peace-building strategies have nothing to do with the cookie-cutter solutions toward which international human rights and state bodies tend. Consequently, political discourses and perspectives that ignore local, ostensibly 'non-political' actors, also overlook and, perhaps, intentionally narrow the diversity of possible solutions available. The international community's reluctance to engage these prophets and other leading local actors in current discussions about how best to 'cool' South Sudan's intensifying violence may represent a mistake that needs correction.

³⁸⁵ Graeber, 'Dead Zones of the Imagination', p.112.

PART II: LAWS

5. The Nuer Prophetess and The Art of Making Government Legally Accountable

In the previous article, we explored the contrasting peace-making strategies of two powerful Nuer prophets. The article mentions that a key part of Nyachol's repertoire of powers is her ability to recognise people's contamination with *nueer*. She has used this to resolve Nuer-Nuer feuds post-homicide and fill a vacuum in government provision. This chapter expands discussion of Nyachol's use of conflict mediation, justice provision and legal claims. In this discussion, I critically interrogate the very notion of Nuer customary law and argue that the value of law amongst the western Nuer is a legacy of governments since the early 20th Century. Nyachol's central claim to authority was based on her utopian vision of protection through isolation from modern governments and the global flows of capital. Nyachol's struggles for authority over the customary law do not reflect her as a custodian of an imagined, static, customary past, but instead reflect her adoption of idioms that are closely associated with government. This adoption has allowed her to remake ideas of the law that challenge government's sovereignty over the law and its impunity before the law.

The Sacrifice of a Bull

On that first visit to Nyachol's *luak* in February 2013, we had been first ushered to a small tree that struggled to stretch its shade across the woven, grass mat beneath. We waited there for over an hour with some of Nyachol's followers to keep us company. They explained that our delay to meet Nyachol was partly because she was not convinced of our integrity and the utility of meeting us. She was also busy. We were told that she had the elders of two feuding families with her in the *luak*. Their case had not been solved in the Chiefs' Courts and the feuding had continued for over a decade. The current feud traced back to a death in the 1980s although there had been a string of tit-for-tat killings since. At last the Chiefs' Court had told the elders to bring the case to Nyachol so that *Maani* could settle the case and end the feud. The case was too difficult for the Chiefs to settle, but *Maani* might have the authority. We waited outside, at a small distance, while the conclusion of the case was discussed inside the *luak*.

Nyachol's followers explained to us that *Maani* had the ability to spiritually reconcile families and curse those who dared to reopen the feud. *Maani* also had the ability to know who had slain another and was still polluted by the deadly contamination of *nueer*. Both this threat of sanction and *Maani*'s knowledge of the facts cast Nyachol as superior to the Chiefs in these judicial functions.

Before the 1980s and 1990s, Nuer justice had heavily relied on the norm that slayers would openly share the material facts of the killing to avoid the spiritual dangers associated with lethal violence. Nuer in the early 20th Century perceived that blood passed from the victim to the slayer on their death. The slayer had to have this bitter blood removed by a small incision (*bier*) before they ate or drank; if not he would likely die of the highly contagious form of pollution known as *nueer*.³⁸⁶ The *bier* needed to be carried out by an appropriate spiritual authority, such as an earth priest or a prophet, forcing the slayer to openly share his actions with this authority.

During the 1980s, the brutal realities of the civil wars had forced the Nuer to actively debate the concept of *nueer* in relation to lethal violence.³⁸⁷ Did killing someone with a spear have the same spiritual consequences as slaying someone with a

³⁸⁶ While Evans-Pritchard had defined *nueer* as a sin concept, Hutchinson prefers to describe it as pollution. See: Evans-Pritchard, *Nuer Religion*, p.183; Sharon E. Hutchinson, "'Dangerous to Eat': Rethinking Pollution States among the Nuer of Sudan", *Africa* 62 (1992), pp.490-504.

³⁸⁷ Hutchinson, *Nuer Dilemmas*, p.107.

gun?³⁸⁸ What if you did not know whether your gunshot had killed or not? Did killing someone in the wars of government result in *nueer* in the same way as killing someone in local feuds? Was this distinction meaningful in spiritual terms? Were you still polluted with *nueer* when you were forcibly recruited to be soldiers in battles, when there was no opportunity to seek cleansing from *nueer*?

As these questions became debated, many Nuer no longer sought *bier* to redress the *nueer* after killing. Killings were concealed by the slayer and sometimes, especially when guns were used in battle, were not even known by the slayer. As killers were hidden, public authorities lacked the knowledge to make peace. During the Nuer wars of the 1980s and 1990s, many concealed grievances mounted up as Nuer killed Nuer in wars of the government and home. The punitive nature of the law and the unpredictability of the swaying governments that enforced it also meant that men had found it easier to hide their killings. This all happened at the same time as an escalation of Nuer-Nuer killings as Nuer were captured to fight on every side in the government wars. By 2012 in the Haak Nuer, no one had been able to re-establish the universal necessity of *bier*, and even in local clan feuds there was no certainty that it would be sought.

Yet, the families of the slain often still sought compensation and justice against their loss. This new lack of openness about the material facts brought uncertainty to the heart of the Chiefs' Courts and their ability to resolve the feuding. The context of war and underdevelopment brought few other opportunities to establish the material facts of the case through modern methods of evidence collection. Therefore, the courts struggled to bring the parties to agreement on what had happened and, therefore, how the case could be settled.

Nyachol's ability to solve these difficult cases of feuding was partly because *Maani* had the ability to recognise *nueer*. Nyachol warned that it was potentially fatal to enter her presence when polluted by *nueer*. She could immediately discern its presence. These insights allowed her to demand a confession of events and prevented killers ignoring the dangers of *nueer*. Many of the cases she heard started with long ceremonies of *bier* to remove the pollution from the killers. These confessions opened

³⁸⁸ Hutchinson, *Nuer Dilemmas*, pp.106-107.

the possibility of compensation exchange between feuding families and the return to peaceful relations.

In February 2013, when we were eventually invited to enter the *luak*, the representatives of the feuding families remained alongside us, amongst the sweating, semi-naked young men. They listened quietly as we talked to Nyachol. Finally Nyachol completed her conversation with us and indicated that we should all proceed outside. The *luak* emptied its crowd onto the burning, dry ground. We went outside to see the sacrifice of a bull that was to conclude the feuding of the families. The families had previously exchanged cattle compensation based on instructions from Nyachol. Now the spiritual dangers of their friendship were to be ended and their feuding stopped by the sacrifice of a bull. Nyachol was also to sacrifice a white bull to us as a sign of friendship.

That day, the promise of leaving the stifling *luak* brought me renewed energy. We were ushered out first by Nyachol's husband, and guided to sit at the near left-hand side of the area in front of the *luak*. In the milieu of unease and uncertainty, her husband seemed more like a contrasting, jovial football fan ushering his children out of the stadium at the end of a good game.

The rest of the crowd inside the *luak* followed us out. In the light of the sun, the individual faces of this small militia of young men became visible. An elderly man brought a goat's skin for me to sit on. He insisted I take it, describing how I would find the sun-heated, burning ground too hot. My feet already felt as if they were on fire and so I accepted. The sun was now high in the sky and pounded down upon us in an aching brutality. The young men sweated from the pounding heat. It was hard to focus on anything but the thought of the water bottle that I had left in my bag.

As the people in the *luak* emptied they formed a circle that created an arena in front of the *luak*. At the far end of this circle were the few tethered animals and the *gol* – the pile of ash from the burnt cow dung. Nyachol's eight *dayiemni* (disciples) lined the fence to the right of the *luak*, opposite where I sat on my small goat's skin.

A small, white bull was brought into the centre of the crowd and tethered to a post next to the *thariaka* in front of the entrance to Nyachol's *luak*. This shrine was

decorated with innumerable piles of animal skulls from recent sacrifices. They had also left tethered to the *thariaka* the ropes the sacrificed animals no longer needed. This would be the centre of the stage for the sacrifice. As the bull was tethered, he quickly became skittish, aware of the surrounding crowd or maybe freshly aware of his proximity to the smell of those who had been killed before him. One of the *dayiemni* came to his side and reassured him until he lowered his head again and started an unhopeful search for grass.

First, Nyachol stepped forward to initiate the ceremony. The gathered crowd was silent. She slowly and gently approached the bull, and almost with timidity, started to speak whispered invocations over the animal. As she walked around the bull and spoke, she held up a spear. Her whispering made explicit her threat of likely lethal sanction against anyone who dared break the peace that *Maani* was now making.

Throughout the ceremony, she wore a grass skirt and leopard skin. People remember Nyaruac dressing the same. In wearing the leopard skin, she evoked association with the *kuaar muon* (land priest). Land priests had long rested their authority primarily in settling feuds in amongst the Nuer.³⁸⁹

During her invocations, a young girl wandered into the centre of the circle. Seemingly in a trance, she walked into the stage without paying attention to the surrounding audience. She collapsed on the floor near the feet of the prophetess and her body convulsed. For a moment or two she kept fitting. Nyachol continued to wander around the bull, only occasionally lifting her gaze towards the convulsing girl. Eventually, having been seemingly oblivious to her presence, Nyachol returned to her side. She stood over her and raised her spear. She hit the spear down hard onto the ground inches from the girl's body. The girl stopped fitting and lay still. After a pause, men came to help the girl to her feet and walk her out of the arena to rest at the side of the gathering.

As Nyachol concluded her invocations, one of her *dayiemni* handed the spear to the elder of one of the families. Nyachol sat next to her *dayiemnis* in the shade of the small, palm leaf fence.

³⁸⁹ Johnson, 'Judicial Regulation', p.60.

Now an elder from either side of the dispute took it in turns to hold the spear and speak words over the bull. As each spoke, he would *buk* (smear cow dung ashes) onto the back of the bull. The words spoken were curses over those who would break the peace between the families.

In the 1950s, Evans-Pritchard wrote about the Nuer equation of man and ox. There was an equivalence between men and cattle to the extent that one can be substituted for the other, namely in sacrifice.³⁹⁰ For Evans-Pritchard, it was in the rubbing of ash in consecrating an animal for sacrifice that the life of the man was substituted for the life of the animal.³⁹¹ *Buk* represented a unity, solidarity and identification.³⁹² As the ash was cow dung ash (*pou*) taken from the *gol* it represented the home of the lineage or, in this case, the prophet.³⁹³ He reached this interpretation through comparison with Judeo-Christian ideas of sacrifice.³⁹⁴

For youth in the western Nuer in 2013, the most common explanation for *buk* was that it made the cow clean and beautiful. *Buk* cleans the bull, making the sacrifice more acceptable to the ancestors or divinity. Nuer demanded purity and beauty in the sacrifice that was to be made so that the sacrifice would be accepted.

‘It was because cattle and people were in some sense “one” that individuals were able to transcend some of the profoundest of human frailties and thereby achieve a greater sense of mastery over their world: Death became surmountable, infertility reversible, and illness something that could be actively defined and cured.’³⁹⁵

As Hutchinson has recorded, the oneness of cattle and people has been challenged in the 20th Century.³⁹⁶ As cattle became exchangeable for money, Nuer questioned whether they maintained their equivalence. Nyachol refuses to accept cattle as gifts for *Maani* if the cattle have been bought in the market. This appears to directly challenge the monetarisation of the value of cattle and restore their oneness with people.

³⁹⁰ E. E. Evans-Pritchard, ‘The Sacrificial Role of Cattle Amongst the Nuer’, *Africa* 23, 3 (1953), pp.181-198.

³⁹¹ Evans-Pritchard, *Nuer Religion*, p.261.

³⁹² Evans-Pritchard, *Nuer Religion*, p.262.

³⁹³ Evans-Pritchard, *Nuer Religion*, p.262.

³⁹⁴ Evans-Pritchard, ‘The Sacrificial Role of Cattle’, p.191.

³⁹⁵ Hutchinson, *Nuer Dilemmas*, p.60.

³⁹⁶ Hutchinson, *Nuer Dilemmas*.

However, when I asked one of her followers, he explained this as a practical way to check the legal ownership. Nyachol wanted to be certain that the cow was not a stolen cow sold at auction. Men who have raided cattle often sell their cattle at auction and buy other cattle as a way to ‘launder’ their stolen animals and ensure they end up with cattle of sound provenance.

The bull was to be speared through the ribs and not slaughtered through a split to the throat. The Government Commissioner later complained to me about how cruel the practice of spearing the bull was. Yet, with ongoing war and a lack of hospital treatment, even humans in this area were not immune from such cruelty and pain.

After the men had spoken, Nyachol briefly raised herself to hold the spear and add to the remarks, but quickly returned to her shaded seat to watch.

Eventually, as one sentence ended, without warning that the speeches were at their conclusion, one of the elders lifted up his arm and speared the bull.

To create a clean kill the spear must penetrate the rib cage. To hit the heart of a moving bull is difficult, especially as many men would have had few opportunities in a lifetime to attempt such a kill. The man failed to reach the heart but created a large bleed from near the bull’s neck.

The bull staggered around, clearly shocked, weakened and angered by the wound. He stumbled from side to side. Even the young men around me appeared to have empathy with the pain and slow death of the cow. People quietly watched, unsure what would happen next. Was this failure to kill the bull a sign of *Maani*’s rejection of the sacrifice? Was the bull injured enough to die? The wait was long, but he eventually sat down on the far side of the post. He appeared more as if he was recovering from his injuries than waiting to die.

Nyachol intervened. The bull must fall the right way for the sacrifice to be accepted³⁹⁷. The failed spearing of the bull did not prompt Nyachol’s rejection of the

³⁹⁷ Interview with a Former Commissioner, Mayendit, 2013 (in English).

sacrifice that day. She accepted the sacrifice of the bull to *Maani* and herself spoke further invocations over the bull, again acting out the spearing of the bull.

As Nyaruac had done before her death in the 1970s, Nyachol asked her male *dayiemni* to carry out the spearing of the bull on her behalf.³⁹⁸ She then handed the spear to one of her experienced male *dayiemni*. He dragged the bull to his feet again and quickly speared the fatal blow. Relief was palpable.

In this ceremony and others like it, Nyachol was remaking the spiritual significance of lethal killing and the necessity of peacemaking within a religious framework. Previous decades of war had seriously undermined the certainty in the consequences of death. Government wars had killed hundreds of thousands of people in the western Nuer, raising the question of whether it was still possible for death to have a spiritual response when death was so widespread. The dilemma was particularly acute as the Nuer civil wars in the 1990s had torn-up moral communities and social groupings in the western Nuer. Even brothers killed brothers. Government persecution of the prophets over time, and the weakness of the courts, had also increased the ambiguity of the meaning of death and lethal violence. By 2010, local government in the western Nuer lacked authority and could not bestow authority over the law. Feuds were proliferating as people turned to self-help justice in the absence of functioning courts.

In this context, the prophetess was able to provide the threat of force and sanction that was needed to remake the power of the Nuer customary law. Her ability to remake the force behind the law itself reinforced her legitimacy and popularity in the community. In these sacrifices that she performed to end feuds, Nyachol was reasserting that death had spiritual consequences and solutions.

In the 1980s, Johnson usefully reformed our understanding of the Nuer prophets around their role in the rebuilding of moral communities through religious idioms.³⁹⁹ Lienhardt described moral community amongst the Nilotics as ‘a willingness to share, give, loan, and accept compensation for wrongs’.⁴⁰⁰ Mediators and peacemakers were key in determining how far mediation extended and, therefore, how wide the

³⁹⁸ Johnson, *Nuer Prophets*, p.280.

³⁹⁹ Johnson, *Nuer Prophets*.

⁴⁰⁰ Also quoted by Johnson in *Nuer Prophets*, p.56.

community was. Nuer prophets had had an exemplary role in drawing communities together by making peace and enforcing a moral framework.

However, Nyachol was not only remaking a moral community but also a legal community amongst the western Nuer. Nyachol's religious response to death was not detached from the Nuer customary law. Nyachol was making law to the extent that her rulings were emerging as a systematic form of social control administered by an institution.⁴⁰¹ As discussed in the introduction of this thesis, we have long known that laws are ways to express and channel social power.⁴⁰²⁴⁰³ 'Laws enable particular people to gain particular types of power over others.'⁴⁰⁴ Therefore, laws and legal systems are not matters of nature but artifice. Nyachol was remaking a systematic form of control amongst the western Nuer that could be understood as law. In demanding *bier* to cleanse *nueer* and in hearing feuding cases before ending them with compensation exchange and sacrifice, she was performing a judicial role. She was able to bring peace and justice. Yet, she demanded obedience in a way that extended these moral orders into legal claims, and in a way that made use of the government-shaped Nuer customary law.

Yet, beyond this, Nyachol was also referencing the specific legal system of the Nuer customary law. She invoked laws that referenced the substantive content of the Nuer customary laws and insisted that people pay the compensation that the Nuer customary courts required before peace was made. The nature of the Nuer law and Nyachol's understandings are discussed in more depth below.

By 2013, Nyachol's growing success in this judicial function was directly challenging the authority of the local government. For over a hundred years amongst the western Nuer, one of the primary claims of the government had been that it alone had the legitimate use over force and the administration of justice.

Nyachol was able to craft her own authority through enforcement of these customary laws especially in this situation where local government authorities were

⁴⁰¹ Leslie Green, 'Introduction', to Hart's *The Concept of Law* (3rd Edition) (Clarendon Law Series, Oxford, 2012), p.xv.

⁴⁰² Green, 'Introduction', p.xxxiii.

⁴⁰³ Moving away from the 19th Century legal positivists, Hart had pre-empted the writing of people such as Foucault in constructing a legal theory not centered on sovereignty.

⁴⁰⁴ Chanock, *Neo-traditionalism*.

failing to enforce the laws. Nyachol's declarations and demonstrations of divinely sanctioned punitive consequences were crucial in setting her apart as a more effective power than government to back up the law. Nyachol was remaking a moral community by extending the group amongst which peace could be mediated. Nyachol denied people protection unless they were subject to these codes. She demanded compliance to the Nuer customary law from a cross-sectional group of the Nuer. This legal community was tightly bound up with notions of the Nuer customary law.

Nyachol was remaking the power of the spiritual danger of disobeying the Nuer laws and customs. Nyachol was also remaking law as based not on government authority but as backed by divine sanction. She claimed even she herself was limited to the Nuer law based on the threat of sanctions from *Maani*. In remaking the customary law as divinely sanctioned, she was not only challenging government's authority as an administrator of the law but also trying to make government accountable before the law. She was trying to cast the legal net wide enough to capture people of government and to avoid claims of impunity based on government membership.

At the same time, her use of the customary law drew her closer to things of government. Since the early 20th Century, these Nuer laws had been intimately entangled with government and claims by government to sovereignty. Governments had captured Nuer law into their administrations and reshaped it through negotiations in courts and meetings. Plus, because of government policies, as mentioned in the introduction, by the time *Maani* came to Nyachol, for over a hundred years in the western Nuer public authority and sovereignty had been claimed through power over the Nuer customary law. The Condominium government had made in the Sudan a 'juridico-discursive' representation of power that had been replicated by later governments. In Sudan, as with many post-colonial countries, there was an apparent fetishism for the law.⁴⁰⁵ Recognition of the law and courts' authority, therefore, was intimately entangled with questions of sovereignty. By the 21st Century, the customary courts still remained a key route to authority, and authority over the law was a key part of claims to sovereignty.

⁴⁰⁵ Jean Comaroff and John L. Comaroff, *Law and Disorder in the Postcolony* (University of Chicago Press, Chicago, 2006).

The courts under the British had a secularising trend.⁴⁰⁶ Courts had often ended up replacing other authorities' mediating role in disputes amongst communities, and were, therefore, actors in this constant process of redefining the moral community. Yet, as the government now mediated disputes through law, the law became increasingly central to questions of dispute resolution, the community and the production of public authorities. These seeming contradictions and tangled ideas are discussed below.

Legacy of the Normative Value of the Law and Claims of Government Immunity

As seen in this and previous chapters, Nyachol's central claim to authority was based on her utopian vision of protection through isolation from modern governments. She has presented herself as a powerful custodian of an imagined, static, customary past. However, to do this, she has framed and legitimated violence in reference to the legacy of the value of the customary law as entrenched by governments since the early 20th Century Anglo-Egyptian government. In this section, I will discuss how the government inauguration of the Chiefs' Courts in the western Nuer and the entrenching of customary law left a legacy that entwined local public authority with the ability to uphold the customary law. Customary laws went beyond mere moral claims and needed to be backed by sanctions.

As elsewhere in the Sudan, the Nuer customary courts were an innovation of the early 20th Century government principally to increase security through non-violent dispute resolution.⁴⁰⁷ From as early as 1904, Governor Matthews believed that Nuer could be 'settled' by incorporating Nuer customary law into administrative practice.⁴⁰⁸ From these very early stages, the customary law was at the heart of government administration and a way to create order through dispute resolution.⁴⁰⁹ Chiefs' Courts were forums in which government claimed and negotiated its sovereignty.

Government officials were explicit that government sanction transformed moral codes into sanction-backed laws. Howell in the 1950s described how the Nuer (and other Nilotic courts) had come to uphold claims that 'in the past were mere matters of

⁴⁰⁶ Johnson, *Nuer Prophets*, p.59.

⁴⁰⁷ P. P. Howell, *A Manual of Nuer Law*, (Oxford University Press, Oxford, 1954), p.2.

⁴⁰⁸ Johnson, 'Judicial Regulation', p.65.

⁴⁰⁹ Johnson, 'Judicial Regulation'; C. Leonardi, L. Moro, M. Santschi and D. Isser, *Local Justice in Southern Sudan* (Rift Valley Institute, London, 2010).

convention and usage and could not be defined as law even in the most extended definition of that term.’⁴¹⁰

For the government, the Chiefs’ Courts provided order and control. The government’s provision of a judicial service was also a cheap way for government to demonstrate to the Nuer the benefits of being under government authority.⁴¹¹ Initially *ad hoc* judicial interventions of British officials took place as they toured the Nuerlands. In the early 1920s, the Government of Sudan officially adopted the policy of ‘indirect rule’. Courts in the South were only finally formally recognised in the Chiefs’ Court Ordinance 1931.⁴¹² Government was to have a supervisory role over the courts. As Johnson highlights, this meant that ‘virtually anything could pass as “indirect rule”, even direct involvement in the law.’⁴¹³

From this very early stage, government officials intervened in the intricacies of domestic affairs as well as more macro-level community disputes. Therefore, as highlighted in the introduction, from the very start of the Twentieth Century, dispute resolution and the law became intimately entangled with the legitimacy of government authority and government claims to be beneficial for its subjects. The customary courts were forums for the government to negotiate and legitimise its power.

Before the Condominium government amongst the Nuer, family heads or figures such as the *kuaar muon* (land priest) settled disputes and dealt with the spiritual consequences of lethal death. Nuer prophets were a particularly important arbitrator especially as their authority extended beyond kinship and territorial groups.⁴¹⁴ Even Dinka sought out famous prophets such as Ngundeng Bong to settle feuds.⁴¹⁵ In the western Nuer, Kolang Ket had long established his authority to settle feuds and was often visited by the western Dinka as well as the western Nuer.⁴¹⁶ Johnson highlights that the central power of Nuer prophets was their ability to make and expand moral communities.⁴¹⁷

⁴¹⁰ P. P. Howell, ‘Observations on the Shilluk of the Upper Nile. Customary Law: Marriage and the Violation of Rights in Women’, *Journal of the International African Institute* 23, 2 (1953), pp.94 – 109.

⁴¹¹ Johnson, *Judicial Review*, p.68.

⁴¹² Johnson, *Judicial Regulation*, p.67.

⁴¹³ Johnson, *Judicial Regulation*, p.68.

⁴¹⁴ Johnson, ‘Judicial Regulation’, p.61.

⁴¹⁵ Johnson, ‘Judicial Regulation’, p.61.

⁴¹⁶ Jok and Hutchinson provide an example of Dinka community leaders in 1997 trying to visit another western Nuer prophet Deng Loth. Jok and Hutchinson, ‘Sudan’s Prolonged’.

⁴¹⁷ Johnson, *Nuer Prophets*.

Government officials assumed that these settlements depended on consensus and having sufficient cattle to exchange.⁴¹⁸ However, this may have underestimated fears of *nueer* that oiled the workings of the pre-government local justice system and that included the ultimate potential sanction of death. As Johnson describes, ‘The spiritual and judicial were interwoven to such an extent that Nuer did not readily differentiate between the two.’⁴¹⁹

Yet, with the coming of government, government-powers were a new competitive force behind the sanctions against transgressing these normative codes. The ability to offer the force behind these sanctions became the new test of public authority. The powers of prophets to kill and curse often placed them in competition with government. Like the prophets, the government now also claimed the right to kill with impunity.⁴²⁰ The government’s involvement in law extended the ‘secularising thrust of government intervention’ and challenged divine sanction’s monopoly.⁴²¹ Now, for prophets to demonstrate their equivalent power to the government, they had also to be able to settle feuds, bring peace and demonstrate sanction with the same consistency as government law. They now had to be as systematic as the law, whether or not they had been before.

The Anglo-Egyptian Condominium government was late in its attempts to control the western Nuer. It was not until the 1920s that British official Captain Fergusson even started the nascent government attempts to engage the western Nuer. The government’s earliest demands were that they had the right to settle all grievances and that self-help justice through raiding and revenge should end. The Nuer and Cic Dinka brought cases to Rumbek to be heard.⁴²² At the time, Kolang Ket – the Prophet of *Maani* – was the dominant public authority in the western Nuer with the spiritual power to kill.

In earlier decades to the east, the government had been sceptical of working with the Nuer prophets. However, by the 1920s, there was a new government emphasis on working with pre-existing authorities and using Nuer as agents of government. More

⁴¹⁸ Johnson, ‘Judicial Regulation’, p.60

⁴¹⁹ Johnson, ‘Judicial Regulation’, p.60

⁴²⁰ Hutchinson, ‘Death, Memory and the Politics of Legitimation’.

⁴²¹ Hutchinson, *Nuer Dilemmas*, p.132.

⁴²² Johnson, *Nuer Prophets*, p.257.

generally, in over the early decades of the twentieth century, there had been significant shifts in the government's ideas of how to govern. In 1922, Egypt had gained its independence. This prompted significant questions about ownership of the Nile. This hydro-politics encouraged Egypt to shift its cotton production to a new type of cotton. Cotton mills of England had machines suited to the former cotton and, therefore, feared that Egypt's new decisions and economic independence would undermine their supply of cotton. Therefore, new energy was placed on the Sudan Gezira Scheme to provide the require cotton for the mills of Lancashire. In northern Sudan, the government had a new energy for economic development to supply the global markets. In the South, there was also a growing demand for people to grow cotton. However, there was not an initial parallel investment in any large-scale schemes.⁴²³ In much of South Sudan, order and government security were still the government priority.

The British–Egyptian antagonism of this era meant that for British officials in the Sudan government, people claiming alliance with Egypt were increasingly feared.⁴²⁴ In 1923, Ali Abdel Latif started the White Flag League in opposition to the Sudan government. Latif aligned his campaign with Egypt. This alliance with Egypt fuelled Sudan and British government concerns about the security of the cotton supply in the Sudan if rebellions like Latif's could gain ground. Latif was the son of a Dinka slave, and there were other prominent Dinka leaders in this league.⁴²⁵ Latif's birth to a slave had allowed his urbanization and education. His rebellion prompted some Sudan government officials to diagnose the security problem as the result of educating and civilising Southerners too quickly. This sentiment echoed the work of Maine in the 19th Century who had attributed Indian rebellions as the result of the government too quickly trying to civilise native communities and laws.⁴²⁶ Luggard (who had worked for the Imperial British East Africa Company) had related this work to dynamics in Africa by Luggard.⁴²⁷

Government official Willis especially adopted a negative attitude to educated Southerners. Willis was appointed Governor of Upper Nile Province in 1926. Speaking specifically about the Dinka, Willis wrote in 1927-28:

⁴²³ The Zande Cotton Scheme started after World War Two.

⁴²⁴ Tvedt, Tvedt, *The River Nile in the Age of the British*.

⁴²⁵ L. L. Mawut, *The Southern Sudan Under British Rule 1898 – 1924: The constraints reassessed* (Durham, 1995), p.206.

⁴²⁶ Henry Maine, *Ancient Laws* (1861).

⁴²⁷ Frederick Luggard, *The Dual Mandate in British Tropical Africa* (1922).

'They ... adopt anything that they think will give them a higher social status. For this reason they are easily Arabicised, but the result is deplorable. It is noteworthy that quite a number of the leaders of the White Flag League were Dinka (notably Ali Abdel Latif the head of it). It seems particularly desirable in the circumstances to keep the Dinka developing along own lines and not adopting alien customs'.⁴²⁸

In India, Maine's Ancient Law had justified indirect rule. In the 1920s, the Sudan government shifted to a more intentional, explicit policy of indirect rule and the government formulated its famous Southern Policy. Civil Secretary MacMichael famously described the Southern Policy in the following terms:

'The policy of the government in southern Sudan is to build up a series of self contained racial or tribal units with structures and organisations based on whatever extent the requirement of equity and good governance permits, upon indigenous customs, traditional usage and belief.'⁴²⁹

The government went on to entrench the chiefs and their courts as a key part of these tribal structures. As elsewhere in the empire, the Chiefs' Courts were to become a key part of the central government's control over South Sudan.⁴³⁰

Therefore, by the time Captain Fergusson came to the western Nuer, there was a growing government ideology in favour of local, pre-existing public authorities. In the western Nuer, the prophets' authority and their recognition of the need for public order impressed Fergusson.⁴³¹ Describing the Prophet of Teng, based in Ler, Fergusson said, 'His word is absolute law and it is indeed fortunate that we have been lucky enough to make a favourable impression on him.'⁴³²

Fergusson first met Kolang Ket, the first prophet of *Maani*, at Kolang Ket's home in July 1923.⁴³³ Kolang Ket was cordial and apparently accepting. His authority

⁴²⁸ As quote by Mawut, *The Southern Sudan Under British Rule*, p.206.

⁴²⁹ Civil Secretary H. A. MacMichael, 25th January 1930.

⁴³⁰ Mamdani, *Citizen and Subject*.

⁴³¹ Johnson, *Nuer Prophets*.

⁴³² As quoted by Johnson, *Nuer Prophets*, p.260.

⁴³³ Johnson, *Nuer Prophets*, p.261.

was useful to government if they could capture it with loyal submission. These prophets challenged the necessity of government power behind the law, as opposed to the power of the divinities.⁴³⁴ However, the government could subsume this power by co-opting their authority into the government courts. The government also appointed chiefs who had no spiritual powers behind them. Their equivalence in the government challenged the hierarchical expectations of the prophets.

Government involvement in the Nuer customary law through the courts changed the nature of the law. Johnson has described how Nuer saw judicial procedures in terms not of guilt, innocence and punishment, but as a system of arbitration and restitution of relationship.⁴³⁵ Throughout Anglo-Egyptian rule, Nuer dispute settlement continued to be a process of negotiation.⁴³⁶ Plus, because of spiritual contamination with *nueer*, the settlement of cases involved both political negotiation and spiritual atonement.⁴³⁷

Johnson discusses how Ngundeng in the 19th Century in the east had gained a reputation for arbitrating disputes.⁴³⁸ Ngundeng would summon defendants to him and those who refused to attend were believed to face his wrath. His curse was an instrument of legal compliance. Punishment was threatened. Yet, it was not a reliable instrument as it waned when Ngundeng's own authority waned.⁴³⁹

By the 21st Century, government involvement had resulted in law in the western Nuer having incorporated ideas of arbitration and restoration of relation. At the same time, the customary law of the Chiefs' Courts explicitly often involved punitive measures and this also intermingled into the customary law the potentially punitive nature of the law.

The potentially punitive nature of the law meant that law's application could involve physical violence. A key part captured by government was government's demand that Nuer chiefs carry out acts of violence as part of their government role in line with government demands. Hutchinson highlights that this gave rise to the question of whether there were different spiritual consequences for Nuer when violence was

⁴³⁴ Douglas Johnson, 'Judicial Regulation', p.70.

⁴³⁵ Johnson, *Judicial Regulation*, p.59.

⁴³⁶ Johnson, *Judicial Regulation*, p.60.

⁴³⁷ Johnson, *Judicial Regulation*, p.60.

⁴³⁸ Johnson, *Judicial Regulation*, pp.61-62; Johnson, *Nuer Prophets*.

⁴³⁹ Johnson, *Judicial Regulation*, p.62.

carried out in the line of government duty.⁴⁴⁰ This distinction was at the heart of the authority of indirect rule as it distinguished government behaviour and made it subject to alternative moral and legal boundaries. As recognition of the right to govern had been made synonymous with compliance with the rule of law and the settling of disputes in the courts (as opposed to through self-help justice), the rights of government were intertwined with recognition of the lack of spiritual significance of government actions.

As early as 1899, the Sudan government entrenched in the Sudan Penal Code the government's impunity under the law. As the government relied on local officials, the expectation of government impunity demanded an alternative moral, legal and spiritual framework for these agents of government. Thomas argues that this impunity has been transferred to the government's competitors including armed rebel groups.⁴⁴¹ Yet, this government exceptionalism has not been uncontested by actors such as the prophets, both in relation to court rulings and to other lethal acts of government.

The Killing of the Prophet of *Maani* and Government's Inability to Kill With Impunity

The example of *Maani* provides an early example of the contestation between a prophet and a government official of the official's attempt to kill with impunity. *Maani*'s contestation of government impunity is seen in the events surrounding a Nuer government official's killing of Kolang Ket himself. In the 1920s, Dinka-Nuer raids and retaliations resulted in the death of Kolang Ket's son.⁴⁴² Kolang had initially not retaliated in obedience to government but this lost him many of his supporters.⁴⁴³ He sought violent revenge for his son's death. The government interpreted his retaliation as an act of defiance against the government itself and not just the Dinka. For the government, this justified violent, punitive patrols against Nuer communities and the government arrest of Kolang Ket and his imprisonment in Malakal.

⁴⁴⁰ Hutchinson, *Nuer Dilemmas*, p.108.

⁴⁴¹ Edward Thomas, Protracted Crisis Conference, British Academy (London), 3rd June 2016.

⁴⁴² Johnson, *Nuer Prophets*, pp.259-261.

⁴⁴³ Johnson, *Nuer Prophets*, p.261.

Kolang Ket was already an old man and local memory recounts that Kolang Ket fell gravely ill during this imprisonment. British officials in the Sudan government were said to have made the decision to send him home to die. The Nuer government official Caath Obang was given the task of escorting him home from the Nile port of Adok.⁴⁴⁴ Caath was part of a vanguard of Nuer who would be promoted into leadership based on government support. Johnson described how Caath had been subordinate to Wuon Kuoth but was ambitious and gravitated to government.⁴⁴⁵ In 1924 he had been deported from the Nuerlands for oppressive acts against his fellow Nuer.⁴⁴⁶ Later, in 1929, he would briefly be appointed to the Dok Chieftaincy further south. Yet, his lack of local support would quickly see his downfall. Caath Bang represented to the Nuer the imposition of the government. He is remembered as a government soldier.⁴⁴⁷

On reaching the western Nuer with Kolang Ket in June 1925, Caath killed Kolang Ket by burying him alive.⁴⁴⁸ Popular memory upheld this account of Kolang Ket's death and was still widely told when I was interviewing in 2013:

‘When Kolang Ket got sick, they brought him back from Malakal. When he reached Thoar [just inland from the Nile port of Adok], the soldier Caath Bang caught Kolang again. He caught him and killed him. He dug a grave while the man had not yet died and put him in alive. He ordered the people to put much soil on it.’⁴⁴⁹

The burial of Kolang while still alive is common to most accounts of his death. Yet, some accounts suggest that Caath's stance against Kolang was only to refuse to let him go home to die. Caath then buried him away from his home.⁴⁵⁰ Either way, Caath was using his government authority to confront and subvert *Maani*'s will over the death of Kolang Ket. Caath directly challenged *Maani*'s power over death and claimed his power as a government official to kill with impunity.

⁴⁴⁴ Johnson, *Nuer Prophets*, 265.

⁴⁴⁵ Johnson, *Nuer Prophets*, p.265.

⁴⁴⁶ Percy Coriart, Western Nuer District Report, 1st February 1931, p.303

⁴⁴⁷ Interview with youth, Adok (Ler County), 30th April 2013 (in Nuer).

⁴⁴⁸ Johnson, *Nuer Prophets*, p.265.

⁴⁴⁹ Interview with youth, Adok (Ler County), 30th April 2013 (in Nuer).

⁴⁵⁰ Interview with son of Nyaruac Kolong, Koch, 3rd May 2013 (in Nuer).

In 2012, nearly ninety years later, Kolang Ket's grave was still a sizeable mound on the main road to Adok. Local residents say that they have not marked or tended the grave to show disapproval at the way Kolang died.

However, after Kolang's death, *Maani* directly challenged Caath's ability to kill with impunity. In the 1990s, Johnson records that Caath's death in 1930 was attributed to *Maani*.⁴⁵¹ The following is an account given to me in 2013 of *Maani*'s revenge:

'As he was buried, Kolang said to Caath, one day I will come back as an elephant. When the time came, in the morning there were clouds in the east that looked like a lone elephant coming. There was an elephant on the ground and a black cloud above. When the soldier saw, he told them not to go to it but that he himself would kill it. He went out shooting but no bullets came out. So the elephant captured him and killed him.'⁴⁵² Others provide similar accounts.⁴⁵³

In the memory of Caath's death, *Maani* displayed his superior power over the government and the gun, and showed that the government too would be held accountable for its lethal killings. The government was not beyond spiritual consequences. The story continued to remind people that the power has limits, despite its brutal and lethal nature. The story tells us that despite Kolang Ket's death at the hands of government, *Maani* still retains the power to sanction those who kill, including government.

Government reports record Caath Obang briefly becoming a chief of the northern Nyuong after Kolang Ket's death. However, the government records recounted an elephant killing Caath while out hunting.⁴⁵⁴

People also remember the way the news of Caath's death spread.

'At the time, as Caath was a soldier, the guard wanted to tell people he was killed. But a crow went first. A crow sat on the *luak* of every Nuer, and spoke

⁴⁵¹ Johnson, *Nuer Prophets*, p.272.

⁴⁵² Interview with youth, Adok, Leer County, 30th April 2013 (in Nuer).

⁴⁵³ Interview with son of Nyaruac Kolong, Koch, 3rd May 2013 (in Nuer); Johnson, *Nuer Prophets*, p.272.

⁴⁵⁴ See Johnson, *Nuer Prophets*, p.272.

in Nuer saying an elephant killed Caath. The crow went from one *luak* to another. The guards were running on foot as they had no other means of communication. Yet, they found that people already knew the news of Caath's death because of the crow.⁴⁵⁵

Elephants are of significance amongst the Nuer⁴⁵⁶. When elephants are killed, they cannot be killed by stealth but must be killed in a fight. To kill by stealth (*dhom* or *biem*) is considered cowardly and will be avenged by the elephant or its spirit. Therefore, the vengeance of an elephant implies that Caath's killing of Kolang was in stealth and cowardly. Forcing, probably at gunpoint, the live burial of an old man could easily be accepted as cowardly.

Evans-Pritchard and Hutchinson also note powers of the crow.⁴⁵⁷ A crow, like the earth priest, is the first to cut flesh after death. The crow's saliva has powers to counter *nueer* making it comparable to an earth priest.⁴⁵⁸ The appearance of the crow at the time of Caath's death again highlights the continuity of *nueer* and of spiritual consequences.⁴⁵⁹

Nyaruac and the Female Preservation of Spiritual Sanction

After Kolang Ket's death, *Maani* passed to his daughter Nyaruac. A musician of Kolang Ket had contested Nyaruac's claim, but his defeat during raids entrenched Nyaruac's authority and also emphasised the non-violent nature of higher divinities.⁴⁶⁰ Despite having an amicable relationship with Nyaruac, the Sudan government did not see her as an option for chief as she was female. In 1937, Chief Thiei Pot even suggested giving Nyaruac the head chief as she had the most influence over the Jagei but nothing became of it.⁴⁶¹

⁴⁵⁵ Interview with youth/port official, Adok (Ler County), 30th April 2013 (in Nuer). "I know these things as I always talk to elders".

⁴⁵⁶ P.P. Howell, *Letter*, 1945.

⁴⁵⁷ E. E. Evans-Pritchard, 'The Nuer Tribe and Clan', p.48.

⁴⁵⁸ Hutchinson, 'Dangerous to Eat', p.492.

⁴⁵⁹ These accounts were told to me in 2012 and 2013. This again was an era amongst the western Nuer of new claims of government and government power. In retelling of these histories, their narrators were also remaking not only the specific history of resistance against illegitimate, lethal force, but they were also remaking the continuity of these Nuer histories.

⁴⁶⁰ Johnson, *Nuer Prophets*, p.266.

⁴⁶¹ Johnson, *Nuer Prophets*, p.280.

This acted to Nyaruac's advantage as she retained her independent authority based on *Maani*'s power and not the government's power. She was better able to safeguard the power of spiritual sanction. Plus, 'as the only active prophet who was not part of the administration system, she was not directly involved in the sectional politics. She could more easily assert the universal appeal of her divinity and attract visitors from beyond the Jagei.'⁴⁶²

Without the divine power to sanction that prophets such as Nyaruac could have offered, the government was left 'with a court system composed of leaders representing small political units, and a legal system very much dependent on government force as its main support.'⁴⁶³ The government had tried to replace the spiritual threat of the curse with the threat of government punishment. The Condominium government recognised Nuers' continued perception of wrongs in spiritual terms and allowed rituals to take place, yet the government had challenged this spiritual authority as the force behind the law. Throughout the 20th Century, this would remain a key legacy and weakness of the Chiefs' Court system amongst the western Nuer. Because the authority of the Chiefs' Courts was based on government (or a government-like) force to support it. Therefore, when the government was weakened or unwilling, the rule of law also became flimsy.

At the same time, by the mid 1930s, the western Nuer seemed to be actively using the Chiefs' Courts. When describing the cases before the Chiefs' Courts, the western Nuer District Commissioner in 1935 attributed the cases of theft to self-help justice. Theft 'usually consists of a man who has lost his case in a Chiefs' Court but who is firmly convinced of the justice of his claim, stealing the animal in question from the successful litigant.'⁴⁶⁴

In 1936, based on the District Commissioner's reports, the Upper Nile Governor reported that there had been 3874 cases in the western Nuer District in the previous year, more than any other district in Upper Nile including over a thousand more than

⁴⁶² Johnson, *Nuer Prophets*, p.284.

⁴⁶³ Johnson, 'Judicial Regulation', p.69.

⁴⁶⁴ District Commissioner Western Nuer, Letter to Governor of Upper Nile, S. S. Kerreri, 11th March 1935, SSNA.UNP 57.A.1.

Yirol District, the second most litigious in the Province with 2315 cases.⁴⁶⁵ Over the following years, recorded court cases continued to be in the thousands⁴⁶⁶ and exceeded cases in other districts.⁴⁶⁷ ‘Civil cases’ and cases related to marriage dominated proceedings.⁴⁶⁸ However, the District Commissioner often struggled to visit the courts to even collate the number of cases heard as reported by the chiefs and so figures were often estimates.⁴⁶⁹ At best, the District Commissioner had a rough idea of the types and numbers of cases heard by the Chiefs’ Courts but District Commissioners thought it incredibly difficult to find out the number and amount of fines collected.⁴⁷⁰

District Commissioners had a limited role through appeals from the courts. For example, in 1940, only 111 of 4089 Chiefs’ Court cases came to the District Commissioner on appeal.⁴⁷¹

However, at the same time, no cases in the western Nuer had resulted in imprisonment as there was nowhere for people to be imprisoned.⁴⁷² This was in contrast to Chiefs’ Courts in the rest of Upper Nile Province who, in 1935, issued 399 sentences of imprisonment.⁴⁷³ Imprisonment was indicative of strong government influence over the Chiefs’ Courts and customary law, partly because imprisonment was not a sanction applied for infringement of norms before the government. Plus, prison was an expression of government’s power that required the immediate brute force of government to restrain the accused.

⁴⁶⁵ Parr, Governor of Upper Nile, Letter to Legal Secretary on ‘Chiefs Courts Statistics’, Malakal, 19th February 1936, SSNA.UNP.1.B.6 Attached pro forma – ‘Upper Nile Province Chiefs Courts Statistics’.

⁴⁶⁶ District Commissioner Western Nuer, Letter to Governor of Upper Nile, S. S. Kerreri, 9th February 1937, SSNA.UNP 1.B.6R.80; District Commissioner Western Nuer, Letter to Governor of Upper Nile, S. S. Kerreri, 5th April 1939, SSNA UNP 1.B.6.R District Commissioner Western Nuer, Letter to Governor of Upper Nile, S. S. Kerreri, 1st April 1940, SSNA.UNP 1.B.6.149.

⁴⁶⁷ District Commissioner Western Nuer, Letter to Governor of Upper Nile, S. S. Kerreri, 9th February 1937. SSNA.UNP 1.B.6R.80

⁴⁶⁸ Other cases were categorised under the terms ‘hurts’ and ‘adultery’.

⁴⁶⁹ District Commissioner Western Nuer, Letter to Governor of Upper Nile, S. S. Kerreri, 19th December 1935, SSNA.UNP 1.B.6 p.36.; District Commissioner Western Nuer, Letter to Governor of Upper Nile, S. S. Kerreri, 14th February 1938, SSNA UNP 1.B.6.96; Letter from District Commissioner, Western Nuer to Governor of Upper Nile, S. S. Kerreri, 31st March 1939, SSNA.UNP 1.B.6.139.

⁴⁷⁰ District Commissioner Western Nuer, Letter to Governor of Upper Nile, S. S. Kerreri, 11th March 1935, SSNA.UNP 57.A.1.

⁴⁷¹ J.H.T Wilson, A/DC Western Nuer, Pro Forma, 21st January 1941, SSNA.UNP 1.B.6

⁴⁷² District Commissioner Western Nuer, Letter to Governor of Upper Nile, S. S. Kerreri, 11th March 1935, SSNA.UNP 57.A.1.

⁴⁷³ Parr, Governor of Upper Nile, Letter to Legal Secretary, ‘Chiefs Courts Statistics’, Malakal, 19th February 1936, SSNA.UNP.1.B.6, p.48.

By 1936, Chiefs' Courts in the western Nuer had started to imprison people. In 1936, 98 people were imprisoned in the western Nuer.⁴⁷⁴ In 1937, this rose to 226 people (203 for crime and 23 for default).⁴⁷⁵ The figure for those imprisoned stayed around 200 people.⁴⁷⁶ This brought increasing demand on Nuer chiefs to instruct violence in the name of government.

Chiefs' Courts increased the number of fines they issued in this period. For example, in 1936, only 4% of cases (130 of the 3250 recorded cases) paid fines.⁴⁷⁷ In 1940, 15% of cases (733 of 4881 recorded cases) resulted in the payment of fines.⁴⁷⁸ In 1940, homicide cases also started to be recorded separately. Chiefs ordered a combination of fines, imprisonment and compensation for homicide and causing death.⁴⁷⁹

Therefore, the Chiefs' Courts of the government had now captured compensation. As we will see amongst the western Dinka, this meant that regimes of compensation and lethal violence were now entangled with government. Government will and capacity would determine the ability to make peace.

In the War Years

In later decades, government authorities continued to try to reshape the consequences of lethal killings when acting as government. Hutchinson gives an account of how Riek Machar tried to persuade the western Nuer that violent deaths resulting from the civil war were without pollution as they were acts of 'government'.⁴⁸⁰ If Nuer killed when acting as part of the government in the government war, they were not personally responsible for the death and were, therefore, not vulnerable to *nueer* and its personal, spiritual dangers. Government's ability to govern through local intermediaries while claiming a different moral authority relied on Nuer acceptance that when acting as

⁴⁷⁴ District Commissioner Western Nuer, Letter to Governor of Upper Nile, S. S. Kerreri, 9th February 1937. UNP 1.B.6R.80

⁴⁷⁵ District Commissioner Western Nuer, Letter to Governor of Upper Nile, S. S. Kerreri, 14th February 1938, UNP 1.B.6.96.

⁴⁷⁶ 198 in 1937. District Commissioner Western Nuer, Letter to Governor of Upper Nile, S. S. Kerreri, 1st April 1940, UNP 1.B.6.149.

⁴⁷⁷ District Commissioner Western Nuer, Letter to Governor of Upper Nile, S. S. Kerreri, 9th February 1937. UNP 1.B.6R.80

⁴⁷⁸ District Commissioner Western Nuer, Letter to Governor of Upper Nile, S.S. Metemma, 10th March 1942, UNP 1.B.6.203.

⁴⁷⁹ District Commissioner Western Nuer, Letter to Governor of Upper Nile, S.S. Metemma, 10th March 1942, UNP 1.B.6.203.

⁴⁸⁰ Hutchinson, *Nuer Dilemmas*, p.108.

government, individuals faced different moral and spiritual consequences. They already faced different legal consequences.

Through the 1980s and 1990s, *Maani* was not present in any Nuer prophet. Nyaruac died in 1973.⁴⁸¹ *Maani* did not immediately seize another prophet. Many people attributed *Maani*'s absence to the divinity's rejection of the violence and pervasive *nueer* brought by the wars of these decades. His absence was in response to the illegitimacy of government violence. The SPLA in the 1980s also actively persecuted the Nuer prophets.

At the same time, the wars between western Nuer elites and communities throughout the 1990s displayed the empty power of the Chiefs' Courts. When the western Nuer civil wars erupted, there was no common government through the western Nuer.⁴⁸² Without a common government to provide sanction for their rulings, the Chiefs' Courts were unable to settle feuds between families. The Chiefs' Courts were weak and not necessarily worth listening to. They also had no sources of power through which they could challenge the uncontrolled killings of the government.

Peace at the End of the SPLA-GOS Wars

The peace agreements between communities and warring parties towards the end of the 1990s and in the early 2000s, as well as the 2005 Comprehensive Peace Agreement, entrenched government impunity. The CPA did include mention of 'a comprehensive process of national reconciliation'. However, there was no mention of justice including for the elites. In addition, the reconciliation process never took place.⁴⁸³ After independence in 2011, the then Vice President Riek Machar did try to initiate a process of national reconciliation and even apologised for his responsibility for the 1991 Bor massacre of eastern Dinka by eastern Nuer. Riek's agenda prompted new discussion of reconciliation and healing, although there was still little mention of elite accountability. Plus, President Salva Kiir was concerned that Riek's new reconciliation campaign was primarily about Riek's rebuilding of a new, electoral constituency in time for the 2015

⁴⁸¹ Johnson, *Nuer Prophets*, p.281.

⁴⁸² Johnson, *Root Causes*.

⁴⁸³ Power Sharing Protocol, Article 1.7, Comprehensive Peace Agreement (2005).

elections. This deepened tensions between Riek and Salva that eventually led to Riek's removal from office in July 2013 and the civil war that erupted in December 2013.

Either way, the chiefs had been far from the conception of the CPA or this process of national reconciliation. In contrast, at the 1999 western Dinka–Nuer Wunlit Peace Meeting, western Nuer chiefs had been at the heart of the preparations and content of the meeting.

However, the chiefs were unable to use this meeting to assert accountability of government. While the western Dinka and Nuer did agree to a peace agreement, there was no compensation or other expression of justice exchanged between them. The peace meeting framed the conflict in Nuer–Dinka terms and ignored the culpability of government in the conflict. Witnesses of the pre-Wunlit meetings suggest that there was more open discussion of the government's culpability. Some chiefs did vocalise their grievance with government. However, these comments were quickly criticised for being too provocative.

For example, Paramount Chief Malual Wun – a senior chief from Panyijar (western Nuer) – described the responsibility for the fighting being with the Anya-nya I (the rebel force of the first civil war) and then the SPLA as these 'government' forces had been the ones to bring the guns. He criticised Nuer and Dinka chiefs for blaming each other. He instead stated that it was Riek Machar who raided Dinka cattle and John Garang who raided Nuer cattle, although they never risked their lives themselves. Their grievance was against government. A chief from Koch also asked, 'Chiefs, is this our conflict? It is the conflict of the soldiers of Garang, and those of Riek.' At this time, when the Nuer civil war was still raging, the Nuer were particularly aware that the division was not simply between the Nuer and Dinka but between the *government* elites. However, these comments that tried to imply the need for government accountability were made quiet in the public meeting.

Nuer Customary Law and Government's Challenges to Nyachol's Legal Authority

In 2013, by adjudicating between the feuding families and by hosting the sacrifice of this white bull, Nyachol enacted her authority and legal jurisdiction over cases of homicide and feuding, and she claimed legal authority to judge in relation to 'Nuer customary law'. She was active in making not only a moral but also a legal community amongst the western Nuer. She actively evoked ideas of the Nuer customary law and claimed to have the power to provide legal sanction.

Nyachol's capture of authority of the customary law did not go unchallenged by local government authorities. Nyachol's presentation of herself as the only provider of adequate sanction to support the customary law was an implicit response to the inadequacy of government justice provision and its limits in reality to provide sanction.

After that first visit to Nyachol, we returned that evening to the Mayendit County Commissioner's compound. Despite the ceremony of the day, he continued to tell us how he was active in instructing the government chiefs not to refer cases to Nyachol.

'When I became commissioner [in 2012] I found that the customary courts were referring cases on to the prophetess. But the system in South Sudan is not like that. It goes from the court in the Boma to the Payam to the County Court. Then it should go to the first grade judge. We have no first grade judge. But I found the chiefs were sending the cases on to her. That is not our system so I stopped them. She just looks at you and says: "you're guilty"; "the cow is yours."⁴⁸⁴

The commissioner's opposition to her was based on her lack of statutory authority and her lack of incorporation in the central government's prescribed local justice system. The 2005 Comprehensive Peace Agreement between the SPLA and GOS had formed the new GOSS. From the beginning, GOSS based its *de jure* authority on written, legal documents including a constitution but also legislation. The Judiciary Act 2008 had outlined a clear structure for the courts. Both the constitution and the statutory law

⁴⁸⁴ Interview with a former Commissioner, Mayendit, 2013 (in English).

upheld customary law and authority.⁴⁸⁵ However, it implied the government's power to determine the legitimate customary authorities. For the commissioner, Nyachol was clearly not such an authority and her claims over the law were an affront to the government system itself. The Commissioner also described Nyachol's apparent ability to establish the facts of the case by detecting *nueer* as an affront to modern human rights.

At the time, the government court structures the Commissioner described as being proper were not present amongst the Haak Nuer. There was a lack of professional lawyers and judges, and a lack of political will to prioritise their pay. In response to the potential vacuum of justice, and despite contrasting statutory laws, the commissioner himself was also hearing cases of appeal from the Chiefs' Courts.

While Nyachol was seen as upholding the customary law, local youth described the Commissioner as meddling with justice. Amongst the youth, the commissioner had acquired a reputation for enforcing the full, rapid payment of compensation by youth in cases of elopement or violence. He collected and enforced the payment of fines that were often considered inequitable.

The commissioner eventually attempted to restrain the situation by issuing an order prohibiting chiefs from referring difficult cases on to Nyachol for judgment. The commissioner also appointed a long-standing, government chief to oversee county appeals. Yet, even this chief still went to visit Nyachol.

Many of the referrals to Nyachol were cases where the facts were disputed. The commissioner also questioned the way that Nyachol determined the facts of the case.

Nyachol and The Art of Making Government Accountable

Nyachol was not only competing with government's ability to provide the sanctions behind the law. Despite the long history of government impunity before the law, Nyachol was attempting to make government accountable through the application of

⁴⁸⁵ Government of South Sudan, Local Government Act, ch.10, 98(2) (2009)

Nuer customary law. Nyachol challenged the government's claim that Nuer government officials had a distinct identity before the law that allowed them to claim immunity for their acts of government. The following is an account of one example of how she was refuting these claims in her daily dealings with justice.

A Lack of Immunity For Police On Duty

In July 2013, I had heard that Nyachol had suddenly moved to another *luak* near Ler. She had dreamt of a Dinka raid from the west and so hoped to move to a safer place deeper inside Nuer settlements. I wondered how her perceived need to flee was challenging her assertions of control over the landscape.

My research assistant (Gatluak) and I started our journey to visit her. We were deep into the wet season months. The flood plains were coated in deep water that had overflowed from the Nile and the Bilynang River System. Locally built dykes were sketched across the landscape as a means to control the flooding and to also provide walkable routes between settlements. We walked along in single file, jumping over the holes in the dike where the mudded pile had deteriorated. The water flowed through unthreatened by human attempts to contain it.

On our arrival, some of Nyachol's youth came out to greet us. We were welcomed. Yet, they had come out to meet us to warn Gatluak that he should not come any closer to the *luak*. He was 'polluted' and, therefore, could not come close to Nyachol without deadly consequences. He explained that his 'pollution' would likely cause his death if he approached Nyachol.

Gatluak's paternal cousin had killed a man near Bentiu a few days before. Gatluak's cousin was a policeman and had been sent by his commanding officer with other policemen to arrest a man. When the man saw the police approaching, he hid inside his mud walled *tukal*. From there, he fired a gun out of the hut towards the policemen. He failed to hit any of the policemen. Gatluak's cousin returned fire in the direction of the *tukal*. He could not see the man but the shots inflicted a fatal injury. So far, Gatluak's cousin, Gatluak himself nor his family had paid compensation for the dead man nor sacrificed a bull to ease the pollution.

Nyachol sent message to Gatluak that he and his family could not approach her *luak* until compensation had been paid (through the customary courts or herself) and until a sacrifice had been made to end the *nueer* 'pollution'. The messenger made it clear to Gatluak that Nyachol had nothing personal against him, but that *Maani* could not tolerate this pollution and that she wanted Gatluak to be safe until his family had met their obligations under the customary law.

The instruction to Gatluak was presented as if it was the instruction of a public authority / king, but the ruling was based on Nuer law and Nyachol did not claim an authority above this law.

By demanding compensation from Gatluak's family, Nyachol was making it clear that his cousin's act, even when the act was an act of the government (as it was done when he was on duty and obeying commands) was still bound by the Nuer customary law. For Nyachol, the cousin's membership of government was immaterial. She was erasing the distinction between government and non-government, and demanding equal expectations of Nuer, whether they were acting on behalf of the government or not. Nyachol bound government employees to the same legal obligations as private individuals and entrenched the same spiritual consequences.

As a Nuer prophet, Nyachol was able to challenge government distinctness and impunity by re-asserting the power of divinity behind the law, and therefore no longer needing the power of government.

In western Nuer experience of lethal violence, the government was not a neutral arbiter and protector of a predictable legal and normative order. Instead, it was the government violence itself that was amongst the most feared, lethal violence. Therefore, law only gained any authority when it could also capture government officials and make them subject to the same legal norms.

Gatluak's cousin and his family were challenging in the Chief's Courts the necessity for the family to pay compensation. However, Gatluak did not hesitate to obey Nyachol's instructions that day, compelled by the threat of her spiritual authority.

By erasing the government/non-government distinction, Nyachol helped people to make memories of pre-government days that reimagined a continuity of law and a lack of Nuer immunity from spiritual sanction. The customary law remade this hypothetical past as an absolute and converted it to reality in the governing of people based on these laws. In the midst of uncertain government violence, this remaking of the 'old' laws and government accountability had massive popular appeal.

Bringing Bulls to Nyachol and A Government Peace Maker

It was August 2013. As usual, I walked to the market in the early morning to sit inside one of the tea huts and drink a strong, morning coffee. That morning the tea huts were fuller and conversation was more animated. The evening before, the commissioner had literally been chased out of Mayendit County by the youth. Many young men, including close followers of Nyachol, had finally had enough of the commissioner's disclosure of their movements and planned raids to the Dinka commissioner to the east. They hoped for a commissioner to help their internal security and not to side with the perceived enemy. The previous evening they had gone to the county headquarters and demanded that the commissioner leave. At gunpoint they had physically chased him the night's walk from the county headquarters to the northern border of the county. The commissioner had been a personal friend of the then Governor Taban Deng and had his support. Yet, this friendship offered him no protection in this moment of local anger.

A few weeks later a new, locally popular commissioner was appointed. Despite the impossibility of accessing his county by car, he opted to walk from Bentiu to his county to take on his new posting immediately.

I was staying in Rubkuany, one of the most northerly villages in Mayendit. It would be here that he was officially welcomed into the county. The market streets were lined with people celebrating the coming of the new commissioner. He had been a commander in the area in the 1990s and was trusted for his experience in security provision and for his willingness to prioritise local security.

The evening after his arrival he welcomed me to join him for dinner. It was dark but we found our way to this makeshift camp on the edge of the village. He sat on a white plastic chair at the end of a long table. His supporters sat around feasting on a

bull that had been slaughtered earlier that day. People came up in an almost constant flow to greet him and congratulate him. We talked a little as he had spent some time since the CPA learning English in Uganda, and he was eager to practise. He encouraged me to drink soda and eat the feast. The next morning, at dawn, they would walk to visit Nyachol. I was invited to join them. He had prioritised seeing Nyachol before he even completed the journey to the county headquarters.

The next morning, I was quickly reminded that, unlike me, the new commissioner had decades of experience of marching through the sticky, muddy soils of the western Nuer. His soldiers also seemed well practised in the art. I was not a soldier and quickly fell to the back of the large movement of people and soldiers towards Nyachol. Every soldier who overtook me smiled with a knowing but welcoming smile of greeting.

By the time I reached Nyachol's *luak*, the commissioner was already inside with her and deep in conversation. Outside, the commissioner's soldiers were celebrating with the youth that followed Nyachol. The drum was beating. Four large bulls were tethered to posts in the midst of the crowd. They were gifts to Nyachol from the commissioner. Nyachol had already pledged to sacrifice one of her bulls to *Maani* to bless the commissioner's appointment. The new era of local government promised a different relationship with Nyachol, yet it did not lessen Nyachol's attempts to recreate *nueer* or to remake the dangers of *nueer* even for government officials.

Four months later, the national war erupted in Juba. In an instant Nyachol's long held fear of the Dinka-dominated government and absence of legal or moral restraints on lethal government violence became a national concern. In 2014 and 2015, the Juba government would carry out horrendous acts of violence against the Haak Nuer that would challenge all sense of certainty, dignity and humanity.⁴⁸⁶ Nyachol quickly became associated with the SPLA-IO as she supported an armed opposition against the Juba government. She remained a significant figure of authority.

However, the national civil war has, again, fragmented the western Nuer. As in the 1990s, Nuer have killed Nuer as they find themselves fighting on the side of the IO

⁴⁸⁶ Human Rights Watch, '*They Burned It All*': Destruction of Villages, Killings, and Sexual Violence in Unity State South Sudan, July 2015.

or government or Taban Deng. Even in this blurred moral landscape, Nyachol has continued to attempt to assert the existence of *nueer* when a Nuer kills a Nuer, even if it is in the name of government. She has also continued to assert that there is a legal and spiritual solution. Her ongoing authority allowed her, in the 2016 dry season, to even trick government and SPLA-IO commissioners into a meeting. She demanded that they both perform *bier* and start the process of reconciliation. She continues to claim the moral and legal authority to remake peace and reunite the legal community amongst the western Nuer.

6. Dinka Chiefs, Legal Authority and Materiality of the Law

The previous chapter looked at Nyachol's contest to be the dominant custodian of Nuer customary law. This chapter moves on to look at the contrasting governance of customary law amongst the western Dinka. The chapter acts as an introduction to the Chiefs' Courts in the western Dinka, especially around the area of Gogrial. In this introduction to these Chiefs' Courts amongst the western Dinka of Gogrial, the chapter argues that there is a more intimate enmeshing of government authority in the Dinka customary law and a more embedded secularisation of the law. The chapter ends by raising the question of the continued materiality of the Dinka customary law through the continued importance of the cattle in the Dinka courts. The article discusses how this has resulted in the embodiment of both law and government in the cattle of the *toc*. At the same time, it highlights the continued capture by the law of religious idioms. Yet, in the end, the law of the western Dinka and even the *toc* is not far from government but these cattle of pastoralists are intimately linked to ideas of government and even the state.

If you cross the bridge over the Jur River to the east of Wau, where the hippos hide, and turn north away from the road to Juba, after ten minutes you reach a small settlement called *Panwire* (the homeland of the wire). *Panwire*'s distinguishing feature is the overhead wires and cables. By 2010, from here you could head northeast on a red murram road that ran almost straight to the town of Lietnhom – the administrative centre of Gogrial East County. When the murram road was new and just levelled by large machines, it took little more than two hours to travel by car from *Panwire* to Lietnhom. Beyond Lietnhom, you meet the River Jur again. The river curves back around in a large meander as it heads northwest to leave the ironstone plateau and meet the Bahr el-Ghazal River. If you could look from above, you would see the road bisecting the river's curve. Beyond the River Jur, is the *toc* (grazing lands)⁴⁸⁷ that serves many of the northern western Dinka and their cattle. Locally it is known as the Apuk *toc*. The River Jur at Lietnhom marks a boundary between the sandier soils and the muddier, black cotton soils of the *toc* lands.

As discussed by Cormack and echoed in the first article of this PhD, recent decades have remade the landscape of the *toc* into a place of danger.⁴⁸⁸ SPLA commanders and their herds have made the *toc* into a place of national political significance. Herders from across Warrap State, including from areas of Kuac, Awan, Aguok and Apuk Dinka, have long herded their cattle to these rich grazing lands of the *toc*. In the 1980s, some of these cattle owners progressed in their military careers and entered the leadership of the SPLA, including Salva Kiir. These military leaders still graze some of their cattle in this *toc* and so have entangled the *toc* in their own personal wealth and status. Therefore, it was not just rural residents but also political elites in Juba who were concerned with the safety of the cattle in the *toc*. Commanders at the top of the SPLA's hierarchies would even provide *titweng* with ammunition to guard their cattle in the *toc*, or would at least never question the sale of cattle to supply ammunition.⁴⁸⁹ Local government authorities constructed their political and military credentials in front of elites and the local population by ensuring the safe protection of these elite cattle.

⁴⁸⁷ The lands known as '*toic*' in Nuer are known as '*toc*' in Dinka.

⁴⁸⁸ Cormack, *The Making and Remaking of Gogrial*.

⁴⁸⁹ Interviews with *titweng* and chiefs, Lietnhom, May 2011 after the 8th May 2011 raid into Apuk Dinka *toc*.

The 2005 CPA and 2006 Juba Declaration brought some peace across South Sudan, but disgruntled former members of the South Sudan Defence Force did not sit easily in the national government with the SPLA having been arch, violent rivals for decades. In the post-CPA era, Peter Gadet's 2011 Mayom Declaration started a new, armed rebellion based out of Mayom – a Nuer area adjacent to this *toc* that was the homeland of Peter Gadet and his base during the wars of the 1980s and 1990s. This made this *toc* beyond Lietnhom even more precarious and of renewed political concern again. The Mayom Declaration outlined the corruption of GOSS as a key reason for rebellion. The large herds of the military elites that were grazing in the Apuk *toc* were a physical manifestation of this elite wealth and a potentially obvious target for rebel aggression.

However, in late 2012, many of my friends had still decided to send their cattle to the Apuk *toc* to graze. The alternative pastures towards Wau were not free of political tension. Yet, for my friends, more prominent were fears of diseases in the grazing lands near Wau. Herds had died in large numbers near Wau the year before and so the *toc* seemed less risky.

It was December 2012. With a little persuasion and financial promise, I managed to borrow a small Toyota pick-up truck to make a journey to the *toc*. I was primarily concerned with continuing to observe the Dinka Chiefs' Courts. Yet, for much of the driest months, the highest customary court in the county followed the cattle to the *toc*. This highest customary court of the county formally sat in the county headquarters in Lietnhom. However, during these dry season months, the paramount chief followed the cattle and moved his court to Thiek Thou – a small settlement on an island of higher land closer to the grazing lands and cattle camps. As so many of his cases involved an exchange of cattle, and because of the law's material expression in the cattle (as discussed below), the proximity of the court to the cattle made justice and legal application swifter and more tangible.

If you journey from Lietnhom to Thiek Thou in the dry season, your path crosses a network of dried river beds that confront you with thick layers of golden, parched sand. The sand is a rich golden colour, baked and warm from days and days of pounding by an unobscured sun. For cars, the riverbed is almost an impassable conundrum, for the tyres of cars only slide into the sands and struggle to gain traction. I

had previously listened to local drivers discuss the tactics of passing through the sand without getting stuck. Some thought you should go fast and hard, others that you should start slow and not accelerate, hoping to skim and glide over the sands. The drivers' theories varied widely but were all justified with a plethora of examples. That day, we made it through the first riverbed of the Jur. Yet, another twenty minutes' drive further on, at a smaller riverbed, our car was almost immediately stuck. The sand covered the wheel hubs and the route was clearly impassable. The sand seemed to have a new malevolent character and held fast my car. There were no homesteads or villages in sight – nor even a tree for shade. My translator and I had no hope of shifting the vehicle.

As we waited and attempted to shuffle a little sand to preserve some hope of progress, a group of *titweng* (armed cattle keepers) appeared on the horizon. They were moving from a visit to the local government County Commissioner in Lietnhom back to their cattle camp near Thiek Thou. The previous month had seen large raids into the cattle camps from Mayom and the *titweng* continued a regular communication with the local government to ensure a coordinated security effort. The county was littered with rumours of an imminent attack from Gadet's forces. The local government and the *titweng* both shared a desire for security of the cattle and villages in the county, and had a mutual need for each other's contribution. Their close relationship and coordination stood in visibly stark contrast at the time to the relations between the County Commissioner and the armed youth in Mayendit County.

When the *titweng* saw us stuck in the sands, our need was quite obvious and they offered to help in exchange for a lift to Thiek Thou. The six of them simply picked up our car and lifted it out of the riverbed. They were happy with the reward of a lift on the back of our truck. I was happy with the promise of a strong work force to rescue us if we got stuck again.

When we arrived in Thiek Thou, the court was a dominant feature at the heart of the settlement. Dozens of litigants had already crowded under the shade of a large tree and sat on the floor in a dozen, semi-circular rows. In front of the semi-circle, five chiefs sat in front of a table. To their left, the Paramount Chief sat in a larger chair strung with dried goatskin.

A pick-up truck mounted with a gun was parked at the edge of the shade of the tree. Mou Ngot, the Paramount Chief, had travelled up to the court in Thiek Thou from his house in Lietnhom for the day in this truck. He was commuting daily to the court. As I watched through the day, he instructed the policemen as if they were his own. Most of the policemen who had travelled with the pick-up now casually roamed around the tree and market. One policeman remained next to the gun apparently to ensure no children clambered on to this equipment. While the pick-up was parked next to the court in an imposing fashion, this militarised security was described by the Paramount Chief as a way to protect himself in case of raiding as opposed to explicitly interfering with the workings of the court. None of the soldiers appeared to be engaged with the cases being discussed and seemed more interested in watching the cattle. Yet, the gun remained a material display of the government's might that backed up the power of the Paramount Chief.

A steady flow of people passed the court and they listened as they approached. People moved to and fro to come to the small market stalls selling tea, salt, sugar and lollipops. The court was physically in the middle of daily life, and the chiefs of the court had no objection to passers-by listening to proceedings or even contributing to the discussion in the court. *Titweng* were amongst those who milled around the court and participated in proceedings. They were part of the community who were watching the court. The court was spatially entangled with the daily spaces of the *titweng* and their grazing cattle.

Adjacent to the shops were some small, dilapidated government brick buildings constructed during the Condominium era. To me, those buildings were a testimony to the logistical accomplishments of the Condominium government seventy years before. Neither the contemporary government nor NGOs were even contemplating construction in these more swampy areas. The procedures and workings of the court beneath the tree were also a testimony to the long legacy of the same government. The historical legacy of a deeply penetrating government that dated back over a hundred years merged the physical presence of the cattle as well as the contemporary symbols of lethal violence and legal order. Material products and legal ideas from around the world were visible as the chiefs sought to peacefully resolve certain cases and shape ideas of legitimate and legal violence.

The Paramount Chief's comfort with the proximity and material displays of government contrasted sharply with Nyachol's attempts to carve out an isolated landscape and her own public authority that she built on an explicit distinction from the contemporary South Sudanese government. Instead of relying on distinction from the state, this Dinka Chiefs' Courts appeared to entrench its power through sitting in front of material displays of the brute force of the state.

The County Commissioner had given his explicit backing to Mou Ngot. At a public meeting of chiefs in March 2012, the Gogrial East County Commissioner had been eager to point out that it was he who had appointed Mou Ngot to the position of Paramount Chief. He also referred to Mou Ngot as a 2nd Grade Judge. The Commissioner had issued Mou Ngot with a written document stating that Mou Ngot was Paramount Chief and the 2nd Grade Judge. The Commissioner also made it clear that his continued position as Paramount Chief was reliant on his continued support.

In that meeting the Commissioner described chiefs as 'the grass roots' and 'a real tool of the government' because the chiefs often knew first about incidents that happened. Yet, the commissioner had been explicit that the government would hold the chiefs accountable. 'The governor will ask who the chief is in that area if there is insecurity,' the Commissioner explained. He criticised chiefs for delaying cases through apathy and corruption that often resulted in eruption of self-help justice and violence.

In Santschi's research amongst Malual Dinka in Northern Bahr el Ghazal, she also documents local government supervision of the Chiefs' Courts.⁴⁹⁰ The supervisory role of the local government is mentioned in the Local Government Act 2009 and the local government, not the judiciary, was the main element of state government supervising the customary courts in the post-CPA era.⁴⁹¹ The legacy of the Condominium District Commissioners, who had combined executive powers with judicial supervision, appeared to be longer lasting.⁴⁹² Earlier governments had attempted to separate out judicial and executive functions of local government.

⁴⁹⁰ Santschi, *Encountering and capturing hakuma*, p.246.

⁴⁹¹ Leonardi et al, *Local Justice*.

⁴⁹² Leonardi et al, *Local Justice*, p.19.

However, this had not succeeded.⁴⁹³ In Bahr el Ghazal, this had left a legacy of regional courts that did not have executive duties. However, executive chiefs still had their own courts and the Commissioners also acted in executive and judicial roles. In the post-CPA legislation, the local County Commissioner regained a formal mandate to supervise the courts. During my research in the western Dinka, it was common to find aggrieved parties waiting outside the Commissioner's office hoping to appeal to him to overturn the decisions of the Chiefs' Courts.

The commissioner went on to discuss Chiefs' Courts around the world, reimagining the chiefs of his county as part of the contemporary global order. He demanded *his* chiefs 'sit up straight' and give priority to solving cases as was demanded by international standards. The commissioner also warned against the chiefs' favouring their own families in the courts. He said that some of the cases where girls had eloped were not settled because the man involved was related to the chief. At the time the commissioner privately was accused of eloping with girls without paying adequate bride wealth but no one dared to question the commissioner's statement. Yet, importantly, the commissioner was reimagining for the chiefs not an isolated, traditional order, but a global sense of justice and correct conduct with which the chiefs were demanded to comply.

The Chiefs' Courts were a dominant expression and point of contact with government at the time. Plus, in these courts, the power of government and chiefs was entangled. However, it was far from the case that the government in reality simply bestowed power on the Chiefs' Courts. The chiefs had an independent authority of their own which the government at all levels was often eager to capture.

Mou Ngot himself had made his own authority from his family history of leadership and his own longevity of service, as well as the contemporary government's backing. Giir Thiik had been the first Paramount Chief of the Apuk Dinka appointed by the Anglo-Egyptian government. He was the son of a *bäny bith*. Current accounts amongst the Apuk Dinka point out that Giir Thiik gained his reputation for inaugurating a local welfare system. He had a large number of cattle and he allowed the very poorest

⁴⁹³ Leonardi et al, *Local Justice*, p.19.

to drink from his herd in exchange for their labour in looking after his herd.⁴⁹⁴ This gained him local respect and brought him to the attention of the government. Giir Thiik was a powerful chief under the Condominium administration and was also a key informant to Lienhardt.⁴⁹⁵

Ngot Riny and then Ngot's son, Mou Ngot, succeeded Giir Thiik. Mou Ngot remembered his father, from his earliest childhood, taking him to his court to slowly learn to understand the cases. Over time, Ngot Riny invited his son to be actively involved and judge on more and more cases.⁴⁹⁶ He had learned the law through an extended pupillage with his father. Eventually, after his father's death, his stepbrother claimed to be the rightful Paramount Chief and this resulted in five years of competition. The County Commissioner had eventually solved this dispute in 2010 by instating Mou Ngot as the paramount chief.

Mou's claims to authority relied on his family's long relationship with governments. His family's link was continuous, although the national governments and the government officials were often transient. Government's transience and unpredictability only made the continuity of these chiefly families more important to new governments as they provided a local knowledge and authority that they often individually lacked. For the public, the continuity of the chiefs also offered a stability of public authority and government that was absent in the higher levels of governance.

A Short History of the Government and the Chief's Courts in Gogrial

The Sudan government did not achieve the same level of control through indirect rule and customary courts as Mamdani describes elsewhere in Africa.⁴⁹⁷ Yet, compared to the government's presence in the western Nuer, the government amongst the western Dinka in Gogrial eventually became a significant authority and was better able to remake government power (as opposed to spiritual power) as the ultimate sanction behind the law.

⁴⁹⁴ An interview by Cormack alternatively suggests that Giir Thiik's authority was based on showing bravery in the face of government (Cormack, *The Making and Remaking of Gogrial*, p.134). These accounts are not necessarily mutually exclusive.

⁴⁹⁵ Cormack, *The Making and Remaking of Gogrial*, p.134.

⁴⁹⁶ Interview with Mou Ngot, May 2011, Liethom.

⁴⁹⁷ See discussion by Leonardi, *Dealing with Government*, p.63. Cormack also mentions this in her thesis on Gogrial. Cormack, *The Making and Remaking of Gogrial*.

It was not until the 1920s that the government established a permanent presence in Gogrial. This followed the government defeat of 'Ariathdit'.⁴⁹⁸ 'Ariathdit' had been possessed by a Divinity a few years before and had managed to rapidly build authority that extended across much of Bahr al-Ghazal.⁴⁹⁹ Governments saw him as a threat and his defeat as a key milestone in the government's capture of power. Major Titherington had led the patrols to pacify Gogrial and became the region's first Condominium government administrator in 1922.⁵⁰⁰

As Deng discusses, early British officials in the Sudan government in Gogrial believed that slave attacks had destroyed local authority structures. According to District Commissioner Titherington, 'no one acknowledged any authority or gave obedience to anyone, save so far as he could be scared into it by fear of magic or violence.'⁵⁰¹ Titherington's perception was that any pre-existing order had been swept away by the violence of Northern slavers.⁵⁰² According to Titherington, this had abolished almost all order and security, leaving only 'traces of a system of rules' and chiefs with impermanent, overlapping offices.⁵⁰³ Therefore, he thought that the chiefs needed the coercion provided by backing from the government to recreate law and order.

When writing for Sudan Notes and Records in 1927, Titherington did note that occasionally decisions were not collective if they were made by 'magic'.⁵⁰⁴ He noted that the limited public authority present was based on fear of violence or 'magic'.⁵⁰⁵ According to Titherington, after the breakdown of the system because of slavery, 'here and there men had arisen who commanded a shadowy authority over the wolf-pack, either in virtue of some powerful magic, success [such] as rain-makers, or merely as the breeders of large numbers of truculent sons.'⁵⁰⁶ Titherington's approach to religious

⁴⁹⁸ Cormack, Cormack, *The Making and Remaking of Gogrial*; Santschi, *Encountering and Capturing Hakuma*, pp.48-50.

⁴⁹⁹ Cormack, *The Making and Remaking of Gogrial*, p.67.

⁵⁰⁰ Sudan Intelligence Report of April 1922 as discussed by Cormack. Cormack, *The Making and Remaking of Gogrial*, p.69.

⁵⁰¹ As quote by Francis Deng, *Customary Law in the Modern World: The crossfire of Sudan's war of identities*, (Abingdon, 2010), p.xxxiii.

⁵⁰² G. W. Titherington, 'The Riak Dinka of Bahe El Ghazal Province', *Sudan Notes and Records* 10 (1927), pp.159-209, p.160.

⁵⁰³ Titherington, 'The Riak Dinka', p.164.

⁵⁰⁴ Titherington, 'The Riak Dinka', p.164.

⁵⁰⁵ Titherington, 'The Riak Dinka', p.165.

⁵⁰⁶ Titherington, 'The Riak Dinka', p.165.

authority and ‘magic’ appeared to be strongly reshaped by his experience with ‘Ariathdit’.

At the same time, by the advent of administration in Gogrial, the Sudan government was increasingly committed to a policy of indirect rule because of their ideological fears about educated and urbanized Southerners after the 1923, Dinka-led, White Flag League rebellion. These policies made it necessary to ‘recognise’ pre-existing authorities and bring them into government structures. It was important for these authorities to be powerful enough to not only control their home areas but to also demand that Southerners involved with the government, towns and education also be subject to the laws and customs of their home villages.

Titherington had tried to appoint chiefs amongst the Riek based on ancestral claims to respect.⁵⁰⁷ However, these ancestral claims were often not discrete from the clans of the *bäny bith* (Masters of the Fishing Spear). The government found that the dominant public authorities that upheld the normative order were spiritual authorities, such as the *bäny bith*, who provided threat of sanction to enforce the normative order. Many British officials were suspicious of the anti-government leanings of the *bäny bith*.⁵⁰⁸

Titherington himself even explicitly compared them to the prophets of the North.⁵⁰⁹ This echoed officials’ assumptions about the Nuer prophets. Titherington saw as a sign of Dinka ignorance their inability to distinguish spirit or Nature, and to live in dread of having neglected either.⁵¹⁰ He even compared this understanding to Druidism and the iron age in England. This illustrates how some officials in the Sudan government upheld these ideas of the Dinka being at an early stage of development in law and thinking.

However, in practice, chiefs who were *bäny biths* or were part of the clans of the *bäny biths*, were able to conjure more authority and were, therefore, more useful to government. In Gogrial, many of the first chiefs appointed by government were either close relatives of the *bäny bith* or were the *bäny bith* themselves. This was in contrast

⁵⁰⁷ Titherington, ‘The Riak Dinka’, p.165.

⁵⁰⁸ Cormack, *The Making and Remaking of Gogrial*, p.74.

⁵⁰⁹ Titherington, ‘The Riak Dinka’, p.167.

⁵¹⁰ Titherington, ‘The Riak Dinka’, p.170.

to the selection of government chiefs elsewhere in the western Dinka.⁵¹¹ Therefore, the government captured authority based on spiritual power through incorporating authority associated with the *bäny bith* into the chieftaincy system and the Chiefs' Courts.

In Gogrial, the government achieved a more complete capture of the customary authorities than elsewhere in the Dinkalands or Nuerlands. Elsewhere, the government had often alienated spiritual leaders from government positions of authority, and sometimes actively purged them. However, this government opposition often left these other public authority figures with local popularity and continued spiritual strength. It was in co-opting these spiritual leaders into the government that the government managed to undermine much of the continuing competition from divine sanction. Divine insight through reference to the *bäny bith* was still sometimes needed to establish the facts of the case. However, the government co-opted this divine power by allowing this evidence to be used in its government courts. As the government gave permission to the *bäny bith*, the spiritual power was brought into the sphere of government power. This weakened the spiritual powers of the *bäny bith* as they now became dependent on the government. No spiritual authority in the western Dinka remained apart from government to challenge the government's power as the ultimate sanction for legal transgression.

Whether or not the orders of power during slavery had withered spiritual authority to the extent Titherington believed, the new government power behind the chiefs did diminish divine power.⁵¹² Elsewhere, Johnson and Leonardi have highlighted how proximity to government power can wither spiritual powers.⁵¹³

At the same time, the cohabitation of government and spiritual authority through the chiefs' associations with the *bäny bith* did leave a legacy that empowered the Chiefs' Courts and the customary law. The customary law appeared to include divinely sanctioned authority as well as the authority built on a brutal monopoly of lethal violence.

⁵¹¹ Cormack, *The Making and Remaking of Gogrial*, pp.70 – 75.

⁵¹² Deng, *Customary Law in the Modern World*, pp. xxxvi – xxxvii.

⁵¹³ Johnson, *Nuer Prophets*.

For British officials in the Sudan government, it was the threat of government sanction, when there had previously been no threat of sanction, which made the Dinka customary law ‘law’. Titherington highlighted that the weakness of the Dinka judicial system before government was the lack of effective compulsion behind the decisions.⁵¹⁴ Amongst the Dinka themselves, *luk* in Dinka had meant ‘to secure a free agreement’. Between the 1880s and 1940s the word also started to be used to mean judicial decisions⁵¹⁵. Titherington underestimated the sanction provided by spiritual authorities; he even confessed that the high moral conformity amongst the Dinka was unusual considering the lack of sanction.⁵¹⁶

While government power was now the power behind the sanction of the western Dinka law, the law was not just the command of the sovereign.⁵¹⁷ The law was also interwoven with social praxes and rights. In the Dinka, for example, this included ideas of collective responsibility.⁵¹⁸ Yet, these social praxes were interwoven with the material world and a material world that was deeply entwined with cattle (as discussed below). Major Titherington claimed early on that the traditional Dinka judicial system was founded on ‘equality before the law, and the possession of cattle by all’.⁵¹⁹

The government’s oversight of the customary law did not only change the configurations of power behind the law. It also changed the breadth and substantive content of the law. The customary law claimed authority because of its link to tradition. Yet, from the earliest days, government officials were involved in reshaping the substantive content and interpreting what custom was. For example, at an annual chiefs’ meeting in 1926, Major Titherington (then District Commissioner) had ruled that a father would obtain his children after a divorce if he paid cattle. A District Commissioner’s meeting twelve years later criticised and overturned Titherington’s decision claiming Titherington had not known Dinka custom. Government officials were concerned that this was increasing divorce rates.⁵²⁰ Yet, both government decisions highlight the active role of government in making the details of the law.

⁵¹⁴ Titherington, ‘The Riak Dinka’, p.167.

⁵¹⁵ Lienhardt, Letter, 5th August 1949, SAD.767/9/100.

⁵¹⁶ Titherington, ‘The Riak Dinka’, p.167.

⁵¹⁷ Deng, *Customary Law in the Modern World*, p.xxxiv.

⁵¹⁸ Jeffery L. Deal, ‘Torture by *Cieng*: Ethical Theory Meets Social Practice among the Dinka Agaar of South Sudan’, *American Anthropologist* 112, 4 (2010), pp.563-575.

⁵¹⁹ Titherington, ‘The Riak Dinka’, p.167.

⁵²⁰ Tonj District Annual Chief Meeting 1938, SAD.764/13/15-17.

Interestingly, it was Titherington's decision to favour the father that was still assumed as the Dinka customary law in Gogrial eighty years later.

The Chiefs' Courts started to be recorded in the 1920s, using boys who had gained basic literacy at the Italian Catholic Missionary School in Kuajok.⁵²¹ The government introduced Chiefs' Police to enforce rulings. Titherington noted that oaths played a considerable role in the courts, and meant that the facts of the case were often not disputed.⁵²² This again suggests a significant fear of the divine forces behind the oaths.

The Dinka Customary Laws of Wathalel

By the 1940s, the government was starting to push for faster modernisation. There was a growing demand for a more comprehensive, advanced governance of the western Dinka as a way to demonstrate the benefits of Condominium governance.

In the 1940s, the government attempted to standardise western Dinka customary law. Nationally in Sudan, there were significant shifts forward in the development of the political institutions of the Sudan to a more European model. Many British officials in the Sudan government feared that Southerners especially were far from ready and that they did not have the political maturity to secure a voice in any such new institutions in Sudan.

The Governor of Upper Nile (B.A. Lewis) at the time hoped he could use the harmonization of the customary laws to make a Nuer-wide confederation and political identity, securing the Nuer a louder voice in Sudanese politics. Privately he thought this new initiative would be a way to keep the Nuer occupied to divert them from fighting.⁵²³ Speaking at a meeting of District Commissioners and chiefs in 1947, Governor Lewis said: 'I told you two years ago at Fangak that it was necessary for the Nuer to work together and speak with one voice. Since then there has been much talk in Khartoum about starting one Council for the whole Sudan. The Nuer must be represented in any such Council.'⁵²⁴

⁵²¹ Titherington, 'The Riak Dinka', p.169.

⁵²² Titherington, 'The Riak Dinka', p.169.

⁵²³ Johnson, 'Judicial Regulation', p.76.

⁵²⁴ Nuer District Commissioners and Chiefs Meeting, 1st - ? July 1947, SAD.767/6/3.

Unifying the court system in the Nuerlands and creating a common Nuer customary law was seen as the efficient, affordable ‘machinery’ for forming this confederation.⁵²⁵ District Commissioners did not agree on whether ‘pockets of variant law’ should be allowed to remain.⁵²⁶ It was concluded that standardisation should not be enforced⁵²⁷ but that there should be a standardization of general principles.⁵²⁸ Standardisation of Nuer customary law also provided opportunity for government review and change of the law based on its own ideas of equity⁵²⁹, despite the ongoing rhetoric of preservation of tradition.

As with the Nuer laws of Fangak, Wathalel was presented as a static, bound body of law that hoped to conjure a new imaginary of a common Dinka moral and legal community, and to increase conflict resolution between groups. The laws reflected a common government sentiment at the time that each ethnic group should be subject to its own laws. As one District Commissioner explained in 1946, ‘The most important thing about any new warrant is that it should give legal recognition to the universal Dinka feeling that Dinka law, though liable to minor local variations, is essentially one and that as a corollary a Dinka judge’s opinion is legally valid anywhere in Dinkaland and not only in his own court area.’⁵³⁰ Dinka judges had the ability to sit on different courts in different Dinka districts due to the commonality of the law, emphasising the common legal standards and moral community of the Dinka. Yet, Wathalel was never ‘simply a set of rules and sanctions, but a contextually defined process, involving flexibility, negotiation and reinterpretation of a dynamic body of knowledge.’⁵³¹

Local memory attributes Wathalel to a specific incident of government pressure for conflict resolution. Elopement between the Dinka of Tonj and Dinka of Agar had prompted violent conflict. Variance in compensation between these groups prevented ease of judicial redress for elopement. Wathalel constructed a common code and levels of compensation between these groups. In the context of chiefs’ meetings in the 1940s, the content of the common Dinka law was constructed in a dialogue between the government and the home communities through the interlocutor of the chiefs.

⁵²⁵ Howell, 1943, SAD.68/4/1-36.

⁵²⁶ Howell, 1943, SAD.68/4/1-36.

⁵²⁷ Memorandum of Nuer Laws and Customary Payments Discussed by Chiefs, SAD.767/2/31.

⁵²⁸ Howell, *Manual of Nuer Law*, p.1.

⁵²⁹ Memorandum of Nuer Laws and Customary Payments Discussed by Chiefs, SAD.767/2/31.

⁵³⁰ A Court Warrant, Feb 1946, SAD.767/8/45.

⁵³¹ Leonardi et al, *Local Justice*, p.5

In the 1970s and 1980s, Southern Sudanese scholars used Wathalel to imagine a common Dinka belonging during a season of wartime uncertainty. 'The Re-Statement Of Bahr El Ghazal Region Customary Law (Amendment) Act 1984' was a codified expression of Wathalel that sought to preserve the customary law in the context of Sharia and that was the dominant legal provision in SPLA areas of the western Dinka.⁵³² This followed an earlier written statement of the law in 1975.⁵³³

Across the western Dinka, chiefs still cite Wathalel as the basis of their court decisions.⁵³⁴ Statutory courts also reference customary laws.⁵³⁵ One official in the Warrap State Ministry of Justice explained, 'Wathalel is our customary law and it is fixed. John Makec wrote it down. This is the law and it cannot be changed and we rule based on this.'⁵³⁶ The wider western Dinka population also cite Wathalel as the source of the customary law. Broad cross-sections of the population can still cite many of the laws. In 2012, the educated were the main section of the population accused of being less familiar with this law due to their absence from the community to achieve education.⁵³⁷

Wathalel promotes a common notion of belonging to the western Dinka. A common substantive law eases judicial redress of grievances, deterring relationships of violence. Wathalel also provides a common foundation and assumption of shared norms that creates a belief in a common belonging to a moral and legal community. As Wathalel is remembered as made and remade in negotiation with governments and the SPLA over time, the Wathalel laws also tie in western Dinka identity with a relationship to the government.

Yet, despite making reference to a common code, the law's substance is not consistent across the western Dinka. Customary law in South Sudan is 'based on the

⁵³² Monyluak Alor Kuol, *Administration of Justice in the (SPLA/M) Liberated Areas: Court Cases in War-Torn Southern Sudan*, (Oxford, 1997), p.8.

⁵³³ Leonardi et al, *Local Justice*, p.75

⁵³⁴ Focus group discussion with members of the *Akutdhiëc* /payam-level Customary Court, May 2012, Greater Gogrial (in Dinka); Discourse at Chiefs Meeting, Lietnhom, June 2012 (in Dinka).

⁵³⁵ Santschi, Encountering and 'Capturing' *Hakuma*.

⁵³⁶ Discussion with official in the Warrap State Ministry of Justice, Kuajok (Warrap State), January 2013 (in English).

⁵³⁷ Focus group discussion with members of the *Akutdhiëc* /payam-level Customary Court, May 2012, Greater Gogrial (in Dinka).

flexible negotiation of laws and principles in the individual context of each case.⁵³⁸

Customary laws have often been remade at a more local level. SPLA commanders during the war and politicians since the CPA have altered certain provisions of Wathalel in their own territories, creating variety in the substantive law. For example, in the early post-CPA years in only Lakes State, the governor increased compensation for homicide from thirty one to fifty one head of cattle. Common customary laws are still subject to diverse interpretations by chiefs.

The following case was discussed in Kuajok (the administrative capital of Warrap State) in 2012. It highlights the complexity of cases that prompt a disputed interpretation of Wathalel:

During the SPLA war, a trader and a tea lady eloped together to Khartoum. Another man had already paid a bride price of fifty cattle for the tea lady. This gave him, according to Wathalel, the right to the woman and any children she had. Yet, the destination of the eloping couple was unknown and so the man who had paid the bride price could not reclaim the woman. While in Khartoum the eloped couple had four children. The woman later died and the man gave the children to his own uncle to look after. At the end of the war, the uncle returned to South Sudan with the four children. For the first time, this alerted the tea lady's family to the existence of these four children. As the children's father had never paid a bride price, the woman's family claimed the children based on Wathalel. Chiefs in the initial case awarded the children to the woman's family. Her family then passed the children on to the family of the man who had paid the bride price.

Other chiefs contested the case's outcome, also using Wathalel. One chief argued that for the bride price to carry legal meaning, it should have been enforced years before. As it had not been enforced, the bride price should have been returned, especially as no biological children had ever come from the marriage. Therefore, the man who paid the bride price had no legal claim over the children. The chief offered this alternative interpretation of Wathalel in the context of pressure from an NGO to find a ruling that would take into account children's rights.⁵³⁹ The chief carefully avoided using any notion of rights as an appropriate basis of law, but remade the

⁵³⁸ Leonardi et al, *Local Justice*, p.76

⁵³⁹ Discourse at an NGO-organized workshop, Warrap State, January 2013 (in Dinka and English).

Wathalel laws to provide an outcome that satisfied those advocating for the children's protection.

Yet, other chiefs did not universally accept this interpretation, considering it too much of a distortion from the usual meaning of Wathalel. Another chief appealed that the fifty cows not being reclaimed may have been the act of an old man in support of a poorer family and, therefore, his act of generosity should be honoured. A ministry official argued that the elopement was a crime and that the family should not be allowed to keep the children, as they would then benefit from this crime.

Even the ontology of Wathalel varies. Some Rek Dinka courts describe Wathalel as being applied in all cases as the underlying legal foundation. In contrast, amongst some Agar Dinka courts, Wathalel is described as a legal option. For example, Wathalel includes a minimal cattle payment post-elopement in order for the marriage to go ahead. Amongst some rural courts in the Agar Dinka, the parties chose not to apply Wathalel but to alternatively agree a higher bride price. If the parties cannot agree a payment amicably, the court will enforce Wathalel. In Rek Dinka courts, there is still the option for higher cattle payments inside or outside the courts. Yet, the chiefs described Wathalel as always being applied, whether or not the minimum is enforced by the court or a higher number agreed. So, while amongst the Agar it is a specific legal option, amongst the Rek, Wathalel includes all legally permissible options.

At the heart of Wathalel is not the substantive content of the law but the law's entangled relationship with government and the government's force to demand compliance with the law. Wathalel was an expression of the government's prohibition of people taking justice into their own hands. One chief described Wathalel as follows:

‘All these rules have an opposite: If your cows are stolen, don't go to steal someone's cows or you will be killed. Come to the government to bring out your cows. If the sister elopes, don't run to the husband, run to the Chief. And if your brother is killed, you come to the government. And don't go to see the person who killed someone there, because you will become part of the problem. Revenge will keep going. If you kill, you will be killed also. If someone spoils your things, you should not go to revenge it. You should ask the government to

do it. If you revenge it, it will cause conflict amongst people and it can spoil the government’.

Therefore, the customary laws of Wathalel were heavily entangled with the power of government. Redress for justice was now sought through government and not primarily through appeal to divine notions of justice, reconciliation and atonement.

The Years of the SPLA – GoS Wars and the SPLA Government of South Sudan

Most of the rural homelands of the Apuk Dinka were quickly ‘liberated’ by the SPLA in the 1980s. While there had been Dinka-Dinka wars relating to Kerubino Kuanyin Bol’s defection from Garang’s SPLA, this had not brought the extent of penetrating division experienced in the western Nuer civil wars of the 1990s. Therefore, the SPLA had been a more consistent and dominant governing authority in the lands of the western Dinka and especially the Apuk Dinka. The Apuk Dinka had not faced the chaotic slicing up of loyalties that the western Nuer had experienced during the long Nuer civil war of the 1990s. Plus, the SPLA as the governing power was entrenched further by the peace agreements of the CPA and the formation of the new Government of South Sudan. Therefore, while government could still be unpredictable and violent, it had had a similar face and character amongst the Apuk Dinka for decades, in times of both war and peace. Many of the chiefs remained consistent after the CPA was signed and the new Government of South Sudan inaugurated.

The SPLA relied heavily in practice on the Chiefs’ Courts and the customary law to ensure order. In the early years of the SPLA, there had been an ideological aspiration to move away from the colonial legacy of indirect rule and the government reliance on Chief’s Courts. However, the SPLA’s lack of reach and the constant demands of the war with GoS quickly meant that they again relied on the penetrative and cheap abilities of the Chiefs’ Courts. The SPLA commanders provided little offer of brute force on a daily basis to back up the Chiefs’ Courts but their theoretical support did entangle the courts with the SPLA regime. Therefore, customary law has been ‘the

principal source of social order and stability within the region and during the war and still remains the predominant source of law'.⁵⁴⁰

By the end of the wars of the SPLA, there was no significant public authority to challenge the government and chiefs' authority over the customary law. This contrasts with the post-CPA rise and proliferation of prophets amongst the western Nuer. The *bäny biths* spiritual authority had been clipped by their incorporation into government administration since the Condominium era. The SPLA never formally incorporated the *bäny biths* although individual commanders sometimes sought their blessing.⁵⁴¹ Their power was seriously weakened when their attempts to limit military might were thwarted. Cormack provides two examples of *bäny biths* who approached Kerubino Kuanyin in the 1990s to try to stop the rebellion and spare their people. Kerubino refused to stop.⁵⁴² The experiences of the war years appear to have weakened the *bäny biths*'s claims to spiritual authority. Without such claims, they cannot provide sanctions or divine integrity to the law.

After the 2005 CPA, the SPLA's military governments of their 'liberated' areas transitioned to being a new Government of South Sudan, backed by international recognition through the documents of the CPA. The SPLA/M in its new role as GOSS continued to make use of the Chiefs' Courts and proclaimed customary law as the ideological foundation of the legal system of South Sudan. As Deng explained, 'Customary law is projected not only as a central element of the Southern identity that the people fought for, but also as an important source of legislation, constitutionalism, and the rule of law for the government of Southern Sudan.'⁵⁴³ The constitution of South Sudan entrenched customary law in the new justice system of South Sudan⁵⁴⁴ and made the 'customs and traditions of the people' a source of legislation.⁵⁴⁵ The Local Government Act 2009 recognized customary law courts to decide cases within their jurisdiction based on, 'the customs, traditions, norms and ethics of the communities.'⁵⁴⁶ This promotion of customary law chimed with a renewed international consensus in

⁵⁴⁰ Chantal Van Cutsem and Renaud Galand, *Equal Access to Justice in Southern Sudan: Assessment Report* (Brussels, 2007).

⁵⁴¹ Cormack, *The Making and Remaking of Gogrial*, p.255.

⁵⁴² Cormack, *The Making and Remaking of Gogrial*, p.255.

⁵⁴³ Deng, *Customary Law and the Modern World*, p.285.

⁵⁴⁴ S. 130, 171 and 180, Interim Constitution of Southern Sudan; s. 128, 166 and 170, Transitional Constitution of South Sudan; The Judiciary Act 2008.

⁵⁴⁵ Part 1.5.(b), Transitional Constitution of South Sudan.

⁵⁴⁶ Local Government Act 2009, Art. 98(1)).

favour of customary law in Africa after its postcolonial decline in popularity in the 1960s and 70s.⁵⁴⁷⁵⁴⁸

In practice, recognition was not just about entrenching the customary laws but also about the new, central state government trying to capture some of the ongoing legitimacy and authority found in the customary law courts. As the SPLA had found in the 1980s, the nascent GOSS in practice still needed to rely on the customary courts to preserve law and order across most of the country. Yet, statutory provisions limited the jurisdiction of the customary courts and created the legal opportunity new, statutory courts to capture some of the cases from the customary law courts. In the post CPA era, chiefs have competed with statutory courts.⁵⁴⁹ Sometimes the competition has purely been simply over the number of cases in the courts, and the fines and fees that each case brings to the court members. In Gogrial, for example, there was some competition between the statutory High Court in Kuajok and the chiefs over who should hear which cases. Chiefs used creative methods of interpretation to keep cases in their courts.

The Warrap State government tried to capture the authority of the Chiefs' Courts in Gogrial in 2013 through an active interpretation of the Judiciary Act 2008. According to Section 16 of the GOSS Judiciary Act 2008, 'The President of the Supreme Court shall by warrants establish County and Payam Courts.' This was being interpreted by the Supreme Court to insist that no court lawfully existed unless the Supreme Court had bestowed upon it a warrant of establishment. The pre-existing,

⁵⁴⁷ Despite the initial post-independence skepticism of customary law in Africa, there is now a growing appreciation of this as a policy option (Boone 2007; Branch et al 2005; Isser 2011; Mennen 2007). Judicial reforms away from customary law have failed (Isser et al 2009; Isser 2011; Mennen 2010). There is also a growing recognition of the continuation of legal pluralism irrespective of state policy (Burton 2011; UN Women). Formal recognition of the customary laws and legal plurality is now seen as the state's best hope of gaining some control over this system. For international policy setters, this control is desired in order to ensure the local justice system is consistent with international norms (UN Women: 7). Plus, apparent state failure has meant that local justice systems are seen as better option for conflict resolution (Clark 2008). Its popularity also means that engaging with the customary law becomes method of legitimizing the state's own power.

⁵⁴⁸ It was presented as an apolitical embracing of socio-cultural diversity (Kyed 2009:88), with state recognition of customary law presented as simply benign. This assumed a distinct 'otherness' to African, not dissimilar to Maine's 19th Century sentiment (This distinct African nature was either created by a common African nature or a common experience of colonialism). It also ignored state recognition as a means to state intervention in the customary law (Kyed 2009), as was seen in the Sudans since the Condominium era.

⁵⁴⁹ 'Statutory' has been used here as 'statutory' is used in the 2011 Transitional Constitution of South Sudan as law that contrasts with customary law. Literature has often discussed customary law as informal law and statutory law as formal law, yet this masks government's formal entrenching of customary law in the governing mechanisms of South Sudan. However, 'statutory' does not mean that customary law is not also included in statutory provisions in South Sudan.

long-serving customary government courts were included in this fictional non-existence unless they had a warrant. The Supreme Court had asked state governments to provide a list of the courts they hoped to ‘establish’ for the Supreme Court to approve or question. Some states’ proposals had been denied and questioned by the Supreme Court. The Warrap State proposals had been accepted in their entirety. Yet, the Warrap State government’s list had not been written to resemble the current Chiefs’ Courts in the state. Instead, it was an opportunity for the state government of the day to rearrange the courts and increase the judges. They could secure the most local, political control through their appointment of favoured chiefs.

However, the locally made authority of long-serving chiefs allowed them to reinterpret government reconfigurations. For example, the long-serving Executive Chief of Boyar had inherited the role of chief from his father. His long leadership history meant he had some direct connections with SPLA commanders in Juba who he had helped during the war. The state governor created a new chief in the Boyar area. Although the governor had presented the new chief as equal to the older chief, the older chief interpreted his position as senior and assumed the new appointee as a deputy to tackle some of the more tiresome cases and difficulties.

Cattle and the Material Heart of the Law

In the courts of the western Dinka, government might and not divine sanction had increasingly provided the powerful backing to the law. This final discussion argues that the Dinka customary law is not just the command of the government of the day. Instead the law is materially entwined, especially in the cattle herds of the western Dinka. Many Dinka customary law rulings were carried out through and embodied in these living ‘things’. Their materiality offers a means for local public authorities, including the chiefs of the courts, to provide continuity through the law and resist commands of the elite.

Scholars studying property law have started to turn back from a focus only on representation, culture and discourse, and to take into account the world of things.⁵⁵⁰ In Blomley’s study of social change in early modern England, he highlights how private

⁵⁵⁰ Blomley, ‘Making Private Property’.

property in England was not just about reimagining but also ‘requires that bodies behave and move in a particular way.’⁵⁵¹ He gives the example of how people created enclosures by planting hedges and building fences. These material makings of enclosures reshaped how property was imagined and pre-dated representations of these enclosures by mapping on paper.⁵⁵² The hedges themselves were an important part of the remaking of property.

Discussion of property and ‘land’ have led the way in exploring how law might relate to material things. Yet, the Dinka customary law clearly shows that other areas of law can be embedded materially. Therefore, there are many questions to ask more broadly about law and its material relationship.

For the western Dinka over the last hundred years, despite the growing secularisation of the customary law, there has been significant continuity in the substantive content of the law and the centrality of cattle to the law. For example, cattle compensation has continued to provide justice and redress of grievances for wrongs including even, potentially, redress for lethal killing. The last century has involved incredible change for the western Dinka. So, this continuity in the means to appease the consequences of death needs explanation. I argue that this continuity is attributable to law being more than just a discourse, but that material things – especially cattle – also matter to legal rights and idioms.

The material turn in the humanities has restored a scholarly awareness that the relationship between humans and animals is rooted in historical orderings and not analytical necessity. This has made the field newly open to question what a thing is and what an object is.⁵⁵³ The Chief’s Courts have reshaped the human-cattle relationship, often by actively preserving idioms that governed this relationship and the significance of cattle to humans.

In Dinka religion, cattle have long played a key role in mediating the relationship between man and god. Hutchinson, in 1996, highlighted that the oneness of cattle and people amongst the Nuer provide an opportunity to ‘transcend some of the

⁵⁵¹ Blomley, ‘Making Private Property’, p.4.

⁵⁵² Blomley, ‘Making Private Property’, p.4.

⁵⁵³ The material turn in legal scholarship remains nascent. Examples include: Johnson, ‘Medieval Law and Materiality’.

profoundest of human frailties and thereby achieve a greater sense of mastery over their world.⁵⁵⁴ Dinka also used cattle to confront the spiritual, social and material challenges of their world. Lienhardt described cattle's value as being based on the fact that men can assimilate themselves with them, making the cattle inter-changeable with human life in certain situations.⁵⁵⁵ This allows cattle to be killed in place of man as a sacrifice to the divinity for wrongs done. When law and peace were enforced with the threat of divine sanction, cattle were used as a means to appease and reconfigure the consequences of wrongs such as lethal killing.

As discussed above, the western Dinka law has become increasingly secularised. However, the law has entrenched the association between cattle, law and peace. Governments, through the customary law, have continued to allow and assert that cattle can remake the consequences of death and of broken relationships.

Since the inception of the Chiefs' Courts in the western Dinka, cattle have been a central part of the rulings that the courts make and a dominant part of the discussions of the court. British Sudan government officials did debate whether cattle should be replaced with money in fines and fees as a way to engineer the monetarisation of the economy. However, the government recognised the dominance of cattle exchange in forms of justice and compensation. Government officials often noted the complex cattle discussions of the courts.⁵⁵⁶ Therefore, the government, through the laws used in the Chiefs' Courts, entrenched the use of cattle to resolve feuds and right wrongs.

In the post-CPA era, nearly a century later, courts were still linked to cattle. Other courts, as well as that of the Paramount Chief, were mobile so that they could follow the cattle. After the CPA the Governor of Warrap State had set up a Special Court for the state. It was a hybrid court that had chiefs as judges but with a professional lawyer to advise them on the statutory law with the expectation that they would rule using both customary and statutory law. The court had a base in the State capital of Kuajok. However, most of its cases were heard at different locations around the state. In 2012, they had spent some time in the dry season in the Apuk *toc*.

⁵⁵⁴ Hutchinson, *Nuer Dilemmas*, p.60.

⁵⁵⁵ Lienhardt, *Divinity and Experience*, p.27.

⁵⁵⁶ Titherington, 'The Riak Dinka', p.167.

As well as a mounted pick-up truck often being parked next to the Paramount Chiefs' Court, adjacent to the court the parties had also tethered to pegs an eclectic collection of cattle. The cattle stood at the edge of the tree's shade, just beyond the crowd of litigants. They occasionally mooed loudly but generally rested relatively passive, occasionally searching around in hope of grass. These cattle were part of the court cases that were waiting to be heard. Parties had brought the cattle concerned to court as was often expected in the Chiefs' Courts. The Chiefs' Court embodied in the materiality of the cattle the rulings that they made. Customary law rulings were not just discourse but had effects in the real world often through the movement of cattle. Law does not end with the discourse and declaration, but has effects in the real world. Therefore, law is a quality that can inhabit physical stuff.⁵⁵⁷ And so, as the material world is also intimately connected with the social and political worlds, law cannot be studied apart from the social and political world. These cattle waiting at the sides of the trees were an intimate part of the social world and the legal rulings of the day would inhabit these physical animals.

Leonardi notes that, by the 2000s in Rumbek, the idea was prevalent in the courts that having a written record brought lasting guarantees of rights.⁵⁵⁸ However, many courts remained without court books. This was the case in the Chiefs' Courts of Gogrial. Cattle offered an alternative material enactment of the court rulings that would proceed through future generations of the families involved and create a lasting record of the rights the court dictated.

A key way that the Chiefs' Courts and law was embodied in the cattle was through the construction of the material categories of cattle. Chiefs' Courts would reallocate cattle between families and in so doing attach to the cattle new roles in their new herd. However, this was not just a descriptive representation of the cattle. These new categories remade the cattle as they shaped how the family could use them and where the family would be moved. Some cattle were reserved for use in sacrifice. Others could not be used in bride wealth or were expected to be used as a posthumous bride wealth for the deceased (as in the case of revenge, as discussed in the following chapter). Cattle were moved according to these legal rulings. In this movement, they acted out the law and made it possible for people to imagine these legal idioms.

⁵⁵⁷ Johnson, 'Medieval Law and Materiality', p.410.

⁵⁵⁸ Leonardi, *Dealing with Government*, p.208.

Meetings such as Wathalel sought to harmonise the law and, therefore, reduce into a code the legal norms of the courts. By stating set compensation amounts in units of cattle, Wathalel reconfigured cattle as standard units of equal value that were interchangeable. Rates of compensation of cattle were listed based on the number of cattle and did not specify what cattle were considered adequate. Yet, in practice, the Dinka courts recognised that cattle were not equal and that this needed to be reflected in judgments if judgments were to be accepted.

Today still, having made an order based on the standardised numbers of cattle, the Chiefs' Courts then take time to list individually the cattle that will be part of the exchange. The party responsible for paying the cattle will usually list the cattle they intend to give and the claimant will question those individual cattle that he is not content with. This negotiation often takes longer than the findings of the case.

When I observed the courts in the *toc* in 2012 and 2013, the cattle were so important to the Dinka Chiefs' Courts that cases were often delayed so that the parties could bring the cattle in question to the court to be directly observed. Whole herds were not expected to attend, but the chiefs might demand to see specific cattle or they might go to visit the herd in question. When a decision is made in the courts, this decision is usually materially enacted by the movement of cattle between camps and the new configurations of cattle ownership.

In the Dinka courts I watched in 2012 and 2013, the chiefs often represented the cattle by small sticks. The Courts determined which material features of the cattle were deemed material to the case. Their material characteristics as constructed by the courts in 2012 and 2013 included their colour, their horns, any history of their fertility and illness, and their sex.⁵⁵⁹ In doing this, law was stitched into the fabric of the Dinka cattle and the way that Dinka used and distributed resources. In this way, law was a quality of physical stuff. As the chiefs named the colours of the cattle they made them legally real. They became specific pieces of property that could be used to pay fines, forge marriage or be paid as compensation to respond to lethal violence.

⁵⁵⁹ Alan Pottage famously discusses the materialist nature of Roman law.

Yet, the repetitive reliance of the court on the ability of the law to inhabit the cattle limited the power of the court. The cattle needed good pasture and water, protection from sickness and protection from raids. Responding to the cattle's material vulnerabilities and needs to seek pasture, the court would move with the cattle to be nearer the dry season grazing land. This allowed the things the court discussed – dominantly cattle – to be present in the court. It also allowed the legal rulings to be enacted promptly. When cattle were far away, they were discussed in court in the abstract but they were not immediately enacted materially as the cattle were not nearby. The chiefs got frustrated at having to rule without the cattle nearby, as the law appeared to be meaningless unless it could be materially enacted. The Chiefs' Courts followed the cattle.

However, the chiefs could not reimagine the material demands of the cattle. The cattle needed to graze and, in the dry season, hardly any grazing was available in the *pathuon* (the drier lands to the west of the *toc* used for wet season farming and herding). So, the courts of the *pathuon* lost their might in the dry season, and the highest courts migrated to the *toc* behind the cattle. During the dry season, courts that remained in the *pathuon* faced the constant excuse from litigants that they had to delay the exchange of cattle as per the courts' instructions while the cattle were away in the *toc*. The parties were then dogged with delay and uncertainty until cattle were accessible again and court rulings could be carried out. When the courts were unable to see their legal rulings lived out in material reality, the meaning and power of the law was lost and rulings often created as much confusion as certainty. Therefore, courts moved towards the *toc* from where they could more easily command the cattle and their movement between herds based on their judgments in the courts.

Cattle's material features also change as they give birth, grow old or grow ill. Sometimes rulings would be made long before they were carried out. Or legal arrangements, such as marriage, were only brought to the courts when they failed years later. Therefore the chiefs faced decisions about whether a cow a few years before was equivalent to a cow at the time of the hearing. Was the calf also part of the cow and, therefore, part of what should be exchanged?

It is in the cattle that the interests of chiefs, *titweng* and the elites of government intersect. The chiefs rest much of their authority over the law on their ability to govern

the cattle because the cattle are so central to the law. This has been made explicit during a public debate between chiefs and the government in Lakes State in 2013. The chiefs in Lakes State asserted their need to oversee blood compensation as they also oversee the cattle camps and can, therefore, enforce the exchange of cattle.⁵⁶⁰ At the heart of the chiefs' ability to satisfy demands for justice and reconstruct social relations is their ability to use cattle to challenge death or whatever wrong was brought before them. Cattle were a material necessity for the functioning of the courts.

After the CPA, a positive legislative framework emerged at the centre of the state, written by a small, literate elite. The real power lay in the translation of this and the rules of the day into valued, verified possessions belonging to specific people and the movement of material things as a result. Cattle and legal rights were made not by distant musings but by the participation of the chiefs' rulings over the legal process. As the cattle were so much the continued glue of relationships, these legal rulings also remade relationships and configurations of power.

Therefore, law was assimilated by the chiefs into the fabric of the world in which the *titweng* and the elites lived and the cattle that they valued. Obligations and property were inextricably linked to the objects that they found, used, exchanged and sold. It was through the cattle that the Dinka courts also maintained a link to an order of authority that transcended the government.

This highlights the complexity of pastoralist relationships with law and government. The cattle and their keepers were not far from the government or the emblems of the government, such as the law. This resonates with a growing literature on pastoralism.⁵⁶¹ Pastoralists in Gogrial were a key part of how the law was embodied.

There is still much more to understand about the relationship between customary law in South Sudan and the materiality of the cattle that are central to many of these

⁵⁶⁰ Notes from UNDP workshop.

⁵⁶¹ African Union's Policy Framework for Pastoralism in Africa (2010), <<http://rea.au.int/en/sites/default/files/Policy%20Framework%20for%20Pastoralism.pdf>> as viewed September 2015.; A. Catley, J. Lind, I. and Scoones (2013), *Pastoralism and Development in Africa: Dynamic Change at the Margins* (Abbingdon: Routledge); Pastoralism and Climate Change: Enabling Adaptive Capacity Synthesis Paper, Humanitarian Policy Group. Overseas Development Institute, London (2009).

legal regimes. This discussion highlights how these enquires are crucial to understanding law and how power operates through the law.

7. ‘The Dead Are Just To Drink From’: Recycling ideas of revenge amongst the western Dinka.

In this Chapter, the thesis moves on to look at the Dinka customary law's ideas of revenge and compensation after lethal killing. This chapter builds on the previous chapter's assertion that government regimes have prioritised secularised, normative and legal boundaries to lethal violence. This article explores how violent revenge amongst the western Dinka is best understood, not as revealing the absence of institutions of government in rural South Sudan, but as a consequence of the projection of power from governments over the details of local, normative regimes.

This chapter has been accepted for publication in *Africa*.

Abstract

Governments in South Sudan have long built their authority on their ability to fashion changing regimes of revenge and compensation, war and peace. Governments' capture of these regimes have resulted in the secularisation compensation despite the ongoing spiritual consequences of lethal violence. This article explores these issues by focusing on the western Dinka of Greater Gogrial. In recent years, they have been closely linked to the highest levels of government through familial networks and comradeship. Violent revenge amongst the western Dinka is best understood not as revealing the absence of institutions of government, but as a consequence of the projection of governments' powers over the details of local, normative codes and sanctions. In this age of post-state violence with automatic weapons, oil-wealthy elites and ambiguous rights, government authority and intention has often been erratic. As government authority now backs up these regimes of compensation and revenge, governments' shifting nature has reshaped their meaning. In the last decade, the declining political space for peace and the disruption of the cattle economy has undermined the current value of compensation and its ability to appease the spiritual and moral demands for revenge. It has even distorted regimes to the extent that children become legitimate targets for revenge. The article is informed by archival sources and based on ethnographic research amongst the western Dinka (South Sudan) between 2010 and 2013, and further research in South Sudan until 2015.

It was May 2012 and my journey to the dry season grazing lands (*toc*) in the flood plain of the western Dinka in northern South Sudan passed the homestead of Chief Madhol⁵⁶². He was one of the longest serving chiefs in Greater Gogrial. The SPLA's control of the Government of Southern Sudan since 2005 had brought sons of Greater Gogrial to the very heart of government leadership. Even President Salva Kiir himself was known to graze his cattle in the nearby *toc*. As I reached the chief's homestead, I stopped to greet him. As we sat and drank tea, Chief Madhol's son brought out his camera to show me photos of men who had recently been killed. The photos showed them lying where they had fallen in the *toc*. The vivid images of their violent deaths were now immortalised and propagated on the small screen of his digital camera. The chief's son, in his twenties, presented these to me as part of his explanation of the need for 'revenge' (*guor*). As we talked, the chief agreed with his son's demand for revenge but he was visibly disheartened by his inability to provide an adequate, peaceful alternative. For centuries, local authorities amongst the western Dinka have used cattle compensation (*puk*) as a socio-legal tool to peacefully satisfy people's spiritual and moral demands after being aggrieved by lethal violence against their family. In so doing, these authorities asserted their own normative authority over lethal violence and conduct in warfare. Yet, Chief Madhol claimed that compensation now lacked the necessary spiritual and legal significance. According to Madhol, the cattle of compensation have become of only material benefit for milk, making the dead nothing more than a vessel to drink from. Now, of the dead, people say –

‘*Yin abī ruēth ajjēp*’.

‘We will use them as a gourd of milk’. (Chief Madhol)

For Chief Madhol and other western Dinka, the heart of the dilemma was whether *puk* could still recreate life after death. *Puk* could potentially do this by providing cattle for the marriage of a posthumous wife and legal children for the deceased.⁵⁶³ Therefore, cattle could act as a substitute for a man⁵⁶⁴ and, as Hutchinson described in relation to a similar practice amongst the Nuer, cattle enabled the dead to have a second chance at ‘life’.⁵⁶⁵ Such a reversal of death cools the demand for revenge from the deceased's

⁵⁶² An alternative name has been used for this chief to preserve his anonymity.

⁵⁶³ Deng, *Customary Law in the Modern World*, p.131; Lienhardt, *Divinity and Experience*, pp.25-26.

⁵⁶⁴ Lienhardt, *Divinity and Experience*, p.25.

⁵⁶⁵ Sharon Hutchinson, ‘The Cattle of Money and the Cattle of girls among the Nuer, 1930-83’, *American Ethnologist* 19, 2 (1992), pp.294-316.

family and the deceased's ghost, creating peace at the very epicentres of violence.⁵⁶⁶ A *bäny bith* (master of the fishing spear) would then have finally enacted the peace by hosting the peace-making sacrifice.⁵⁶⁷ The feuding families then claimed a specific half of the sacrificed ox. Each family divided the animal between them based on their relationship to the deceased. When they ate their share of the meat, some people would even talk of eating the dead relative.⁵⁶⁸⁵⁶⁹

Therefore, when the dead are eaten, peace is made. Yet, as Chief Madhol highlighted, by 2012, the dead were just to drink from. The cattle of compensation were inadequate to acquire a posthumous wife, to satisfy the demands for revenge and for an ox to be slaughtered and shared to mark peace. Compensation no longer resulted in any peace making or eating, but only the immediate benefit of the cattle's milk.

The remaking of regimes of compensation and revenge has consequences for local feuding and lethal fights, but also for the national, 'government wars' in South Sudan. Amongst the western Dinka, there are no necessary, clear boundaries between the social meanings of lethal violence in incidents of homicide as compared to the deaths during times of war. As discussed below, governments in South Sudan have long tried to draw a distinction between the moral consequences of lethal violence if the government carries out the violence.⁵⁷⁰ SPLA commanders drew on these idioms in the 1980s in attempts to make a division between the 'government wars' and the feuding between home communities.⁵⁷¹ Yet, if a division was ever established, recent years of warfare have erased any dividing line and entwined together patterns and idioms of feuding with the motives and modes of 'government wars'. Killing a man has long had consequences not just for the individuals involved but also for extended networks of the slayer and slain. These ideas have long been co-opted and manipulated by warring government elites. Therefore, regimes of revenge reshaped in local feuds have implications that reverberate in national conflicts and vice versa.

⁵⁶⁶ Norstrom locates the beginning of peace at the epicentre of violence and notes the 'profound creativity average people employ in surviving war and forging peace'. Norstrom, *Shadows of War*, p.51.

⁵⁶⁷ Lienhardt, *Divinity and Experience*, pp.286-288.

⁵⁶⁸ Not all families will immediately eat together after peace is made because of the fears of the deadly contamination. See: Howell, *Manual of Nuer Law*, p.276.

⁵⁶⁹ Akec in Deng, *Customary Law in the Modern World*, p.180.

⁵⁷⁰ Hutchinson, 'Death, Memory and the Politics of Legitimation'.

⁵⁷¹ Hutchinson, 'Death, Memory and the Politics of Legitimation'.

Since the early 20th Century, western Dinka regimes of compensation and revenge have been progressively secularised and bound up with government authority through the Chiefs' Courts. Regimes of revenge, compensation and lethal violence are not static but socio-legal processes entangled with relationships of power and legitimacy. Peace making practices have been detached from their original meanings. In Africa, revenge and a lack of subsequent peace has often been a consequence of state government involvement interrupting previous cyclicities of lethal violence and peacemaking.⁵⁷² Therefore, revenge is often not indicative of the absence of government but the presence of government. This tallies with a broader literature on public authorities in rural Africa that has noticed the presence of government power despite initial appearances that it is absent.⁵⁷³

This article will explore how governments amongst the western Dinka since the early 20th Century have been progressively intrusive actors in the reshaping of these local, institutional, normative regimes of revenge and compensation, war and peace. Hutchinson documented similar changes amongst the Nuer.⁵⁷⁴ Governments have competed to capture control over revenge and compensation, diminishing the authority of religious leaders to govern these regimes. Governments have secularised and politicised the regimes of compensation and revenge. This has resulted in the stripping of the divine sanctions behind these regimes and their replacement with the erratic will and capabilities of governments. Government involvement has brought these regimes closer to national politics and global flows of money. This has left the laws of compensation on shaky ground and has often left compensation unable to appease the ongoing the ongoing spiritual demands for revenge after someone's death.

'Revenge' in conceptual debates

Revenge is often portrayed as a phenomenon that explains conflict in itself.⁵⁷⁵ Revenge becomes about ancient rivalries,⁵⁷⁶ 'mindless' mass action,⁵⁷⁷ and a Hobbesian

⁵⁷² Stewart and Strathern, *Violence: Theory and Ethnography*.

⁵⁷³ Boone, 'Land Regimes'; Leonardi, 'Dealing with Governemnt'; Lund, 'Twilight Institutions'.

⁵⁷⁴ Hutchinson, *Nuer Dilemmas*.

⁵⁷⁵ Ban Ki Moon, *Report to the Security Council on South Sudan* (2015); K. Migiyo, 'Aid groups raise fears of escalating violence in South Sudan' (2015).

⁵⁷⁶ Mary Kaldor, 'In Defense of "New Wars"', *Stability* 2, 1 (2013): 1 – 16, p.4.

⁵⁷⁷ Richards, *No War No Peace*, p.3.

propensity to violence in the absence of the state. Outbursts of revenge in the post-Cold War era are explained by the lack of international intervention by super-power states.⁵⁷⁸

Admittedly, an account of 'revenge' must recognise the high passions involved⁵⁷⁹ and revenge can serve a psychological function.⁵⁸⁰ Western Dinka speak of the pain of the heart until revenge is achieved. As a man in his twenties described, 'If you see the killer of your brother, you feel as if you want to kill him'.⁵⁸¹

Yet, 'new barbarism' is not an inadequate explanation of 'new wars'.⁵⁸² 'Revenge' cannot simply be reduced to 'murder running rampant'.⁵⁸³ Anthropologists, often with reference studies of the Nuer and Dinka of Sudan, have long claimed that institutionalised revenge has regulatory functions that provide order in the absence of the state.⁵⁸⁴ Feuds become evidence of moral order not chaos.⁵⁸⁵ Plus, peace apparently exists within the feud⁵⁸⁶ and the division between law, peace and feud is artificial.⁵⁸⁷ Recent interviews amongst the western Dinka echo this idea:

If you do not avenge the death of your relatives or anything bad done to you, it is a sign of weakness. Then anyone can challenge you anytime. By revenging, groups are kept in balance. Anyone tempted to do something bad will think of the reprisals they will face from the other side. In this way, anti-social acts are kept at bay because of this fear of revenge.⁵⁸⁸

Commentators on South Sudan have argued that revenge provides order and protection because of the current absence of the state.⁵⁸⁹ However, Johnson argues that these ideas of structural feuding misrepresent the historical record amongst the Nuer and Dinka and

⁵⁷⁸ R. D. Kaplan, 'The Coming Anarchy: how scarcity, crime, overpopulation, tribalism, and disease are rapidly destroying the social fabric of our planet', *The Atlantic Monthly* (1994).

⁵⁷⁹ Stewart and Strathern, *Violence: Theory and Ethnography*.

⁵⁸⁰ David Keen, *Complex Emergencies* (Cambridge, 2007), p.87.

⁵⁸¹ Interview with Dinka man in his 20s, Greater Rumbek Cattle Camp, May 2012 (in Dinka).

⁵⁸² Mark Duffield, 'Globalization, transborder trade, and war economies'. In Malone, D. and Berdal, M. R. (Eds.) *Greed and Grievance: economic agendas in civil wars* (Ottawa, 2000); Richards, *No War No Peace*, p.9.

⁵⁸³ Boehm, *Blood Revenge*, p.xi.

⁵⁸⁴ Boehm, *Blood Revenge*; Gluckman, 'The Peace in the Feud'.

⁵⁸⁵ Boehm, *Blood Revenge*, p.xii.

⁵⁸⁶ Gluckman, 'The Peace in the Feud'.

⁵⁸⁷ S. Carroll, *Blood and Violence in Early Modern France* (Oxford, 2006).

⁵⁸⁸ Interview with educated Dinka elder, Lakes State, November 2014 (in English).

⁵⁸⁹ Copnall, *A Poisonous Thorn in Our Hearts*, p.169; Lauren Hutton, *South Sudan: Fragility at Independence to a Crisis of Sovereignty* (Hague, 2014), p.18; R. Willems and D. Deng, *Justice and conflict in South Sudan: Observations from a pilot study* (2015), p.7.

ignore the history of government's power becoming entangled with these normative regimes.⁵⁹⁰⁵⁹¹

Alternatively, Strathern and Stewart claim that endless wars of feuding are a result of the presence, not absence, of the state. Feuding and revenge are in transformation through dialectic interaction with political circumstances. 'We are dealing with old ideas recycled through new political circumstances and themselves changing rapidly as a result, often becoming heightened rather than disappearing'.⁵⁹² In contemporary contexts of the modern state, state structures interrupt the realisation of earlier historical ritual processes that allowed violence to switch to peace making.⁵⁹³ 'It is, in effect, the result of the existence of state structures and the mutual impingement of local and national processes that feuding systems cannot realise their own larger cyclicities of violence and peace-making'.⁵⁹⁴ Once killings have escalated beyond a certain point, all controls are lost and compensation and reconciliation can no longer operate.⁵⁹⁵ Then revenge appears to be endless.

Governments have long interfered with the process of revenge as they struggle to claim a monopoly on legitimate violence. Historians have documented how monarchs in Europe after the middle ages constructed the illegitimacy of 'revenge' and private violence in order to build their own authority.⁵⁹⁶ Governments in South Sudan for a century have also tried to construct their authority through their control of normative regimes of revenge and compensation, war and peace. Therefore, the regimes of 'revenge' are partly a product of governments. They are also a product of local responses to government.

Is revenge and recent war in South Sudan inherently 'bad'?

Since December 2013, the people of South Sudan have again been confronted with a national war that has added to the multiple government wars in the Sudans in the last century. Armed with evermore-elaborate weapons, contemporary armies have

⁵⁹⁰ Thomas notes that in the 19th Century, foreign governments even used these ideas to justify slavery. Thomas, *South Sudan*, p.74.

⁵⁹¹ Johnson, 'The Fighting Nuer'.

⁵⁹² Stewart and Strathern, *Violence: Theory and Ethnography*, p.12.

⁵⁹³ P. J. Stewart and A. J. Strathern, *Peace-Making and the Imagination: Papua New Guinea perspectives* (Queensland, 2011); Stewart and Strathern, *Violence: Theory and Ethnography*, p.13.

⁵⁹⁴ Stewart and Strathern, *Violence: Theory and Ethnography*, p.13.

⁵⁹⁵ Stewart and Strathern, *Violence: Theory and Ethnography*, p.13.

⁵⁹⁶ Carroll, *Blood and Violence in Early Modern France*.

stripped people of their homes, livelihoods, livestock and lives.⁵⁹⁷ The international community, including the USA, Europe and China, has been quick to dismiss recent violence as illegitimate. During the 1980s and 1990s, the Sudan People's Liberation Army (SPLA) waged a war against the Government of Sudan (GoS). By the mid-1990s, this war neatly fitted into the new European and American meta-narrative against strong Islamic governments, with these Western governments seeing the SPLA's violence as justifiable to counter a strong, centralised, Islamic state.⁵⁹⁸ Yet, since 2011, South Sudan has been an independent country. In this context, European and American politicians have found the contemporary violence inexplicable and inherently 'senseless',⁵⁹⁹ especially when the violence is explained in terms of revenge. For western governments, the apparently private violence of revenge undermines their neo-liberal ideas of the state's monopoly on violence. Until 2013, European and American governments supported a state building agenda in South Sudan that hoped, in part, to counter the proliferation of revenge.

Therefore, South Sudan has become a situation in which western governments try to set up in Africa "a dichotomy between war as some kind of inherent 'bad' (the world ruled by instincts and base desires), and peace as an ideal 'good' (the world ruled by principle and law).⁶⁰⁰ In this situation, revenge becomes necessarily illegitimate. Wars in Africa have been described as disease-like and a 'common threat' that needs to be countered through the imposition of a liberal peace.⁶⁰¹

South Sudanese who have again been trapped in this context of violence are also desperate for it to end. Yet, many South Sudanese have perceived aspects of the lethal violence as legitimate. International government's perception in the inherent 'badness' of this non-state violence has neither left room to understand the violence nor to differentiate between the just and unjust causes and conduct of the war. Instead, since the December 2013 outbreak of violence, international commentators have been eager to equally apportion culpability to both sides. By assuming that all non-government

⁵⁹⁷ Within the first month of the violence, an estimated 10,000 people had been killed. The International Crisis Group (ICG) later in 2014 suggested that at least 50,000 had now been killed but criticized the UN for not counting. Casie (ICG) argued that the lack of record of the dead was dehumanising the South Sudanese.

⁵⁹⁸ A. De Waal, *Sudan Expert: International community enabled South Sudanese corruption*, (2015); Peter Woodward, *US Foreign Policy and the Horn of Africa* (Abingdon, 2013).

⁵⁹⁹ The White House, 'Statement by the President on South Sudan' (2013).

⁶⁰⁰ Richards, *No War No Peace*, p.3.

⁶⁰¹ Richards, *No War No Peace*, p.3.

violence is wrong or ‘criminal’, there is less space for South Sudanese to protest against the violence of their government. There is also less space to understand how South Sudanese themselves understand, articulate and reshape the moral and legal boundaries of the violence they experience and execute.

War is best understood not in terms of momentary causes but instead in relation to evolving patterns of violence already embedded in society.⁶⁰² The political economy and competition between elites in late 2013 undoubtedly helped to cause the conflict that erupted.⁶⁰³ Yet, we also need to understand the impact of longer-term changes in regimes of lethal violence that allowed South Sudanese to perceive some of the post-December 2013 violence as legitimate. Institutional regimes of lethal violence, such as the laws governing compensation and revenge, play a part in these understandings. These ideas are contested and refashioned over time, in periods of war and peace, through violent conflict, but also through law and government. Western Dinka government elites are also entangled with regimes of revenge not just through momentary discourse or fluid networks of patronage but also through the long term reshaping of institutional regimes. Over time, the growing government sanction behind these regimes secularised compensation and made it vulnerable to the fluidity of government. As a result, western Dinka have found it increasingly problematic to find permanent and peaceful resolutions that satisfy spiritual obligations in cases of lethal violence through the payment of blood-wealth cattle compensation.

As documented by Hutchinson, military leaders in South Sudan in the 1990s tried to draw a distinction between the moral and spiritual consequences of lethal killings during times of ‘government wars’. In the 1980s, Dr Riek Machar (then a Commander for the SPLA and currently former Vice President of South Sudan and leader of the armed Opposition) argued that violent deaths during ‘government wars’ were devoid of the spiritual risks of pollution associated with acts of homicide and local feuding.⁶⁰⁴ This built on long term attempts by governments in South Sudan to make government acts of lethal violence morally distinct.⁶⁰⁵ Dinka have also long drawn distinctions between different types of fighting and its scale depending on whether

⁶⁰² Richards, *No War No Peace*, p.11.

⁶⁰³ De Waal, ‘When Kleptocracy’; Douglas, ‘Briefing’.

⁶⁰⁴ Hutchinson, *Nuer Dilemmas*; Hutchinson, ‘Death, Memory and the Politics of Legitimation.’

⁶⁰⁵ Hutchinson, ‘Death, Memory and the Politics of Legitimation.’

sticks and clubs or spears were used.⁶⁰⁶ However, Dinka still faced the same spiritual consequences for lethal killing irrespective of the type of fighting. The distinction just changed the likelihood of peaceful arbitration and reconciliation.⁶⁰⁷

The western Dinka, as other South Sudanese, have never wholly accepted the government's clear distinction between the lethal violence of 'government wars' and the lethal violence of the most local feuding. Over the last decade, the changing character of government, government's ideologies and the powerful weapons they have employed in shocking levels of inter-communal and government violence have further dissolved any dichotomy that had been drawn between 'government war' and 'local feud'. This has had tragic consequences for South Sudanese men, women and children.

As elsewhere, wartime elites do use discourse of revenge to mobilise immediate support.⁶⁰⁸ Lethal violence during times of war has also reshaped understandings of the consequences of death. For the western Dinka, there is no clear dichotomy between the moral boundaries of lethal violence in times of war and peace.

The article focuses on the western Dinka in Greater Gogrial. In recent decades, the western Dinka have been caught up in extended episodes of the civil wars fought between the Government of Sudan, the Sudan People's Liberation Army (SPLA) and other armed Southern groups. They have experienced first hand the brute force of government and have been politically divided by competing political agendas. For example, Commander Kerubino Kuanyin Bol's defection from John Garang's SPLA in the early 1990s splintered communities and families. In recent politics, these lands of Gogrial have been the homelands of President Salva Kiir and many of his senior allies in the government and army of South Sudan.

The article is based on ethnographic research amongst the western Dinka in Gogrial East between 2009 and 2013, as well as further research in South Sudan until early 2015. The article focuses on evolving ideas of revenge and compensation since the peace agreements around the turn of the millennium that ended the wars of the

⁶⁰⁶ P. P. Howell, 'Notes on the Ngork Dinka', *Sudan Notes and Records* 32 (1951), pp.239-293, p.263.

⁶⁰⁷ Howell, 'Notes on the Ngork Dinka', p.263.

⁶⁰⁸ Kaldor, 'In Defense of "New Wars"', p.6.

1980s and 1990s. The article is also informed by archival research in the South Sudan National Archive (Juba, South Sudan) and the Sudan Archive at Durham (UK).

First, I will discuss government capture of regimes of compensation and the subsequent secularisation of these regimes. I will also highlight how this has left revenge vulnerable to the changing politics and economic conditions of government. Therefore, the occurrence of revenge has often been as much a sign of government presence as its absence. I will then move on to discuss the consequences of this in the era since the end of the SPLA war with the Government of Sudan. Secondly, I will discuss how politicians have distorted the local cattle economy resulting in blood-wealth being no longer sufficient to marry a valuable posthumous wife for the deceased. Thirdly, I will argue that recurrent wars and government divisions have restricted the negotiating space for local government Dinka chiefs to resolve local feuds and homicide cases peacefully and permanently.

1) Governments' Capture of Compensation

In 1922, the Anglo-Egyptian Condominium Government finally established a permanent administrative post in Gogrial after its defeat of the religious leader Ariathdit.⁶⁰⁹ By this time, throughout the Sudan, the government was using a system of Chiefs' Courts.⁶¹⁰ The courts promoted the legal fiction that the substantive content of the law was based on previous customs, while the system merged pre-existing social norms with government laws and procedures.⁶¹¹⁶¹² South Sudanese quickly started regularly using these courts.⁶¹³

Government officials incorporated compensation into the customary law as an alternative to revenge and, therefore, entrenched compensation in law. The courts also entrenched the norm that killing had collective consequences as the government conceded to compensation being extracted collectively.⁶¹⁴ Government officials also

⁶⁰⁹ Cormack, *The Making and Remaking of Gogrial*, pp.64-70.

⁶¹⁰ Johnson, *Nuer Prophets*; Howell, *A Manual of Nuer Laws*.

⁶¹¹ See, for example, a Dinka Ngok elder's discussion of whether *puk* should be paid even if the person injured fully recovers before later dying. D. B. Mijak, *The Traditional Systems of Justice and Peace in Abyei* (2002), p.30.

⁶¹² Leonardi et al, *Local Justice*, p.19.

⁶¹³ Leonardi et al, *Local Justice*.

⁶¹⁴ Johnson, 'Judicial Regulation', p.64.

tried to make intentional killing an act against the government itself.⁶¹⁵ The Chiefs' Courts started issuing imprisonment and fines, as well as compensation.⁶¹⁶ These government claims to control regimes of compensation and revenge challenged the powers of other public authorities.

Previously, *bäny biths* had presided over the exchange of compensation as a pre-condition to the peace-making sacrifice of an ox to end feuds and their spiritual consequences. Compensation was necessary as it provided cattle for the marriage of a posthumous wife for the deceased. Through the biological paternity of a close relative, the deceased could acquire legal children. These children carried his name into posterity⁶¹⁷ and provided the whole lineage with restoration.⁶¹⁸ If the deceased's brothers failed to fulfill their duty to acquire him a posthumous wife, they risked the curse of the dead man.⁶¹⁹ It is through this posterity that the deceased gained his immortality and challenged the consequences of death.⁶²⁰ Therefore, cattle acted as a substitute for a man⁶²¹ and, as amongst the Nuer, provided him with a second chance at 'life'.⁶²² With this second chance at life, righteous anger was cooled and the *bäny bith* could oversee the peace-ceremony.

The cattle of compensation are not necessarily immediately used for marriage, and may be delayed so that cattle can multiply before the negotiations.⁶²³ However, the relatives who receive them are expected to contribute to the posthumous marriage.⁶²⁴ Blood-wealth is paid even for those who already have children as death still reduces procreative capacity.⁶²⁵ In the early 20th Century, those who were killed who already had children were even often compensated with fewer cattle.⁶²⁶

⁶¹⁵ R. H. Owen, *Letters Home*, July 1927, SAD.4/4/16; T. R. H. Wilson, *Letter to My Dearest Mother*, 18th March 1927, SAD.4/4/18.

⁶¹⁶ District Commissioner of Western Nuer, 24th March 1937, SSNA.UNP.41.A.61; 29th March 1938, SSNA.UNP.41.A.6; 'Pro Forma of Culpable Homicide Cases' for period 1/1/1946 – 31/12/1946, WND, SSNA.UNP.41.A.6; F. D. McJanet, 'Pro Forma of Culpable Homicide Cases' for period 1/1/1948 – 31/12/1948, WND, SSNA.UNP.41.A.6.

⁶¹⁷ Deng, *Customary Law in the Modern World*, p.131; Lienhardt 1961:25-26

⁶¹⁸ F. M. Deng, *Tradition and Modernization: A challenge for law among the Dinka of Sudan* (New Haven, 1971; Deng, *Customary Law in the Modern World*; Madut 2013

⁶¹⁹ Deng, *Customary Law in the Modern World*, p.131.

⁶²⁰ Howell, 'Notes on the Ngork Dinka'.

⁶²¹ Lienhardt, *Divinity and Experience*, p.25.

⁶²² Hutchinson, 'The Cattle of Money.

⁶²³ Howell, 'Notes on the Ngork Dinka', p.276.

⁶²⁴ Deng, *Customary Law in the Modern World*.

⁶²⁵ Deng, *Customary Law in the Modern World*, p.131.

⁶²⁶ Titherington, 'The Riak Dinka'.

As well as the exchange of compensation, the end of the feud needed the *bäny bith* to oversee the sacrifice of a young ox (*muor adɔɔr* – ‘ox of peace’ or *muor de yuom* – ‘the ox of splitting’ or, literally, ‘the ox of the bone’) in the presence of the warring families. The *bäny bith* makes invocations over the *muor adɔɔr* before a member of each family throws the *muor adɔɔr* to the floor and spears it to death. The animal is then cut into equal halves and shared between the families. The entrails are thrown over the families. The *bäny bith* places the spears in the ground amongst the remains of the entrails. Representatives of each family bite the spears. The *bäny bith* ends the ceremony by sprinkling ash on their knees. The splitting of the right leg of the *muor adɔɔr* takes place during this process.⁶²⁷ Spiritual sanctions would be threatened against those who reopened the feud.

With the government incorporation of compensation into the customary law of the Chiefs’ Courts, the government claimed for itself authority over compensation, feuding and peacemaking. Yet, compensation was not immediately secularised. In Gogrial many of the first chiefs appointed by government were either close relatives of the *bäny bith* or were the *bäny bith* themselves.⁶²⁸ For example, Giir Thiik, the first government-appointed paramount chief of the Apuk Dinka in eastern Gogrial was the son of a *bäny bith*. As late as the 1940s, while Lienhardt was researching amongst the Dinka, despite over a decade of government involvement, a Dinka elder described compensation and the ability to reconcile as under the authority of the ancestors.⁶²⁹

However, the government’s creation of association between the *bäny bith* and the government chiefs subordinated the spiritual powers of the *bäny bith* to the powers of government. Proximity to government had also withered spiritual powers amongst the Nuer.⁶³⁰ When describing the situation amongst the Nuer, Johnson argued that there was “a progressive secularisation of Nuer leadership and justice” that left “a legal system very much dependent on government force as its main support”.⁶³¹

⁶²⁷ Lienhardt, *Divinity and Experience*, pp.287–288.

⁶²⁸ Cormack, *The Making and Remaking of Gogrial*, pp.70-75.

⁶²⁹ Lienhardt, *Divinity and Experience*, p.286.

⁶³⁰ Johnson, *Nuer Prophets*.

⁶³¹ Johnson, ‘Judicial Regulation’, p.68.

Through the courts, governments sought to both restrict the legality of lethal, non-government violence and claim the government's power to kill with impunity.⁶³² Refusal to accept compensation, and to instead seek revenge, became as illicit as the initial act of killing.

From the 1940s, over a series of government-initiated chiefs' meetings, the government encouraged the standardisation of the western Dinka compensation rates that would become known as the Wathalel. This initiative followed a conflict between people from Tonj and Rumbek.⁶³³ Western Dinka Chiefs do not only understand these laws of Wathalel as a common code, but also as a governmental insistence on judicial redress as opposed to self-help justice. As one Executive Chief in Greater Gogrial explained:

If you give your cow to someone and he does not want to pay it back, then you go to *toc* and take another of his cows by force. Then that person will fight you. If you then go to court, you will pay a fine also. The fine will be because you went to take a cow by force. Instead, you should have first come to the court. Wathalel says that the person who takes the cow by force causes conflict.⁶³⁴

Government officials denied that previous authorities (such as the *bäny bith*) had been capable of enforcing compensation. They claimed that previously people had only agreed to compensation because of expediency.⁶³⁵ Officials thought that religious leaders did not have executive authority⁶³⁶ or that slave raids had been disrupted their powers.⁶³⁷ Officials claimed that government allowed the evolution of Dinka law as the government created a new central authority capable of demanding compensation.⁶³⁸

⁶³² Hutchinson, 'Death, Memory and the Politics of Legitimation'.

⁶³³ Interview with senior Dinka Chief and elders, Maper, June 2013 (in Dinka).

⁶³⁴ Interview with Executive Chief, Greater Gogrial, July 2010 (in Dinka).

⁶³⁵ Howell, 'Notes on the Ngork Dinka', p.275.

⁶³⁶ Howell, 'Notes on the Ngork Dinka', p.275.

⁶³⁷ Titherington, 'The Riak Dinka', p.160.

⁶³⁸ Maine's 19th century jurisprudence influenced policies in the empire in favour of the slow evolution of laws. In Maitland's history of English law, individual criminal culpability for homicide emerged is presented as a replacement for revenge in more developed legal systems.

This ignored the previously active role of religious leaders such as the *bäny bith* in enforcing *puk* between sections.⁶³⁹

At the same time, the government did not enforce the designation of *muor adoor* nor insist on a cow for the *bäny bith*'s services in mediation. The lack of a *muor adoor* detached compensation from the spiritual power that enforced reconciliation. Instead, now, the 31st cow paid of the 31 cattle compensation was given to the government.⁶⁴⁰ Plus, additional cattle may have been demanded for government as fines and fees. The government's taking of this payment reflected its assumed role as peacemaker.

Therefore, despite being legally bound to pay or accept compensation, a family might not still be willing to split the bone and seek reconciliation. This meant that compensation payments were no longer guaranteed to meet the spiritual demands needed for peace. Receipt of compensation often only delayed revenge for a generation. The children of the deceased (including via a posthumous wife acquired with the compensation) would have the duty of revenge. This can make matters even worse because children become reimagined as future avengers of their parents' deaths and themselves legitimate targets of lethal violence.

Plus, compensation became reliant on the government's political will and capacity. As Nuer chiefs explained in relation to Nuer – Dinka border courts: 'When the government is together [not politically or militarily divided], then the chiefs of the Nuer and Dinka can talk and there can be compensation. Yet, the border chiefs can only meet in the context of Nuer – Dinka peace, when there is government peace'.⁶⁴¹

At certain points, governments did promote Dinka-Dinka and Dinka-Nuer compensation and peace. By the 1940s in the western Dinka and Nuer, the Sudan government had formalised various cross-ethnic border courts and annual chiefs' meetings.⁶⁴² Similar policies in Upper Nile allowed Nuer to start to speak of their relationship with the Dinka as only an intermittent '*ter*' (feud) as oppose to a '*kar*'

⁶³⁹ An example amongst the Nuer is given by Johnson of the Nuer prophet Ngundeng who forced compensation payments between groups in the Lou, and the Lou and Gaajok. Johnson, *Nuer Prophets*, p.105.

⁶⁴⁰ Mijak, *The Traditional Systems*, p.29.

⁶⁴¹ Interview with Chiefs of the Panyijar Court, Ganyiel, October 2014 (in Nuer).

⁶⁴² Johnson, 'Judicial Regulation'; Interview with man in this twenties, Greater Rumbek, May 2012 (in Dinka); Interview with Town Chief, Panyijar, May 2012 (in Nuer).

(war).⁶⁴³ Yet, others in government had a growing concern that peace through government compensation did not end feuds. By the 1940s, there was Dinka frustration at the speed in which courts reached decisions, often long before people were willing to reconcile.⁶⁴⁴

The government alleged their legitimacy to kill with impunity (Hutchinson 1998). As Hutchinson documents amongst the Nuer, this meant that Nuer government officials were to be devoid of the moral and spiritual consequences that usually resulted from Nuer-Nuer violence.⁶⁴⁵ Dinka chiefs and government officials faced the same conundrum. However, the government's power to kill with impunity has never been universally accepted. The government itself could be the legitimate target of revenge. In recent years, one Dinka elder explained that only if killed by *Nhialic* (God), through lightning or illness, is there not an obligation to demand revenge because 'we don't know where *Nhialic* lives'.

Government compensation after Sudan's independence

After Sudan's independence in 1956, governments continued to demand a lack of self-help justice and their authority to kill with impunity. In the 1960s, an armed, Southern rebellion fought against the Government in Khartoum leaving the government with limited ability to enforce Nuer-Dinka compensation. It was only in the peace of the 1970s that there was political will to re-establish compensation between these communities.⁶⁴⁶ This highlighted the vulnerability of Nuer-Dinka to the inclinations and capacities of government.

In 1982, the Anya-nya II movement rebelled against the Sudan Government and, in 1983, the SPLA started their armed opposition. Southerners feared that Khartoum would neglect Southern voices, normative regimes and values, including by imposing Sharia law at the cost of Southern customary laws. Southern intellectuals defended the value of the customary laws, visualising customary laws as expressions of being South Sudanese. Makec and Deng wrote accounts of the customary laws to show their consistency with modern values.⁶⁴⁷

⁶⁴³ Johnson, *Root Causes*, p.17.

⁶⁴⁴ Johnson, 'Judicial Regulation', p.74.

⁶⁴⁵ Hutchinson, 'Death, Memory and the Politics of Legitimation'.

⁶⁴⁶ Rec Ater, Wunlit Peace Meeting, 1999.

⁶⁴⁷ Deng, *Tradition and Modernization*; Makec 1988

As the SPLA gained more territorial control, the SPLA became the quasi-government in many Southern regions. Chiefs' Courts in the western Dinka continued to settle cases of lethal killings in their jurisdictions by demanding compensation.⁶⁴⁸ As previous governments, the SPLA claimed the right to use lethal violence with impunity.⁶⁴⁹ They also claimed moral authority over the boundaries of legitimate violence. Hutchinson has documented how Riek Machar – SPLA Zonal Commander of the western Nuer – spearheaded an ideological revolution that classified killings during the war as acts of government detaching these killings from their usual spiritual dangers.⁶⁵⁰

The western Dinka were also confronted with the new scale of deaths brought by the civil war. Families were left with inadequate cattle to provide wives for all those killed. Plus, there was no political space to hold courts or demand compensation. The increased use of the guns for killing also prompted ambiguity about whether death by shooting had the same spiritual consequences.⁶⁵¹ Therefore, compensation no longer seemed possible and so did not have the power to combat death. So, could compensation still be a guiding legal tool if compensation's power was declining? However, western Dinka continued to hold firm to a belief in spiritual consequences of lethal violence.

The Christian church in parts of Sudan has also challenged the meta-ethical foundations of compensation and revenge. However, the Catholic Church has been the dominant Christian influence amongst the western Dinka near Gogrial. In practice in Gogrial, the Catholic Church has been tolerant of continuing custom, minimalising its challenge to these norms. Fear of God and the spiritual consequences of fatal contamination that can arise after lethal killing are still prevalent in the western Dinka.⁶⁵²

Since the 2005 Comprehensive Peace Agreement (CPA) between the SPLA and GoS, people and courts in the western Dinka have actively tried to reassert the life-

⁶⁴⁸ Deng, *Customary Law in the Modern World*, p.137.

⁶⁴⁹ Hutchinson, 'Death, Memory and the Politics of Legitimation'.

⁶⁵⁰ Hutchinson, 'Death, Memory and the Politics of Legitimation'.

⁶⁵¹ Hutchinson, 'Death, Memory and the Politics of Legitimation', p.63.

⁶⁵² Mijak, *The Traditional Systems*, pp.55-56.

giving power of posthumous wives for the dead. For example, the husband and five sons of woman had all been killed during the SPLA wars. In 2011 she had invested in a young wife to provide new sons for her deceased husband. When the new wife ran away with another male relative, the Chiefs' Court enforced the widow's legal rights to claim the wife's children as the legal children of the widow's deceased husband.

2. Compensation and Revenge Since 2005: elite interference with the cattle economy and Dinka-Dinka peace.

One significant change made by government officials to compensation since the 1930s, as mentioned above, was the attempted standardisation of compensation payments that were enforced by the Chiefs' Courts.⁶⁵³ Standardisation was hoped to ease the exchange of compensation and promote the peaceful redress of grievances. Deng and Makec's writing of these common Dinka laws in the 1970s and the 1980s further entrenched the standardisation of compensation.

The western Dinka had never agreed compensation based only on bride price. Rates varied based on the moral outrage caused by the killing. Accidental killings had long resulted in reduced compensation.⁶⁵⁴ *Dheng piny* (death after a surprise attack) had been contrasted with *weec* (including negligent and accidental killing).

Yet, government-imposed standard rates of compensation detached compensation rates from fluid bride prices.⁶⁵⁵ Previously, the main purpose of *puk* was for a bride price for a posthumous wife.⁶⁵⁶ Standard compensation rates disconnected compensation from the certainty that death would be challenged through marriage and posthumous procreation.⁶⁵⁷ Over time, compensation rates were amended but not with the fluidity of bride prices.⁶⁵⁸

Customary law under the government did differentiated compensation rates based on the form of the homicide. For example, in the 1940s, government officials

⁶⁵³ Leonardi et al, *Local Justice*.

⁶⁵⁴ Deng, *Tradition and Modernization*; Deng, *Customary Law in the Modern World*, pp.132-135.

⁶⁵⁵ Howell, 'Notes on the Ngork Dinka'.

⁶⁵⁶ Howell, 'Notes on the Ngork Dinka', p.275.

⁶⁵⁷ Deng, *Tradition and Modernization*; Deng, *Customary Law in the Modern World*.

⁶⁵⁸ For example, amongst the Ngok Dinka, compensation has changed from twenty to thirty one head of cattle (Mijak, *The Traditional Systems*. Deng Biong (2002).

prescribed different rates for accidental killing and culpable homicide.⁶⁵⁹ In addition, blood-wealth did evolve over time. For example, amongst the Ngok Dinka, it evolved from 20 cattle in the 1950s to 31 cattle by the 2000s.⁶⁶⁰ Yet, compensation rates did not vary with bride price. For example, in 1951, Howell noted that Ngok Dinka blood-wealth was fixed at twenty head of cattle while bride wealth had risen to about thirty cattle. At other times, blood-wealth exceeded bride price.⁶⁶¹ Therefore, there was no longer certainty that compensation would satisfy the spiritual demands after killing.

In 1951, Howell posited that the disparity between bride wealth and blood-wealth might be overcome as the family of the deceased often kept the cattle a few years before marriage so that the herd could multiply.⁶⁶² However, since the wars of the 1980s, growing insecurity and conflict in the grazing lands have decreased the safety of herds and any confidence that waiting will result in a larger herd.

In recent years, some Dinka chiefs have been proactive in their creative application of the law to make compensation capable of ending a feud irrespective of governments' reshaping of compensation. For example, in 2012, a state governor created a special customary court headed by a western Dinka paramount chief to oversee cases after a series of lethal clan clashes. The court's mandate was limited to unintentional killings. If there had been intention, the court had to adhere to the governor's interpretation of the penal code, and refer the cases to the statutory High Court. The High Court at the time favoured the death sentence over the payment of compensation. The paramount chief perceived that such a death sentence would only add to the dead and create further demand for revenge, as opposed to offering a spiritual and moral solution. Therefore, the paramount chief employed a very narrow interpretation of 'intention'. If people warned before they attacked, even if they shot and intended to kill during that attack, the chief interpreted this as a lack of intention to kill; the principal intention had been to raid cattle and not cause death. This allowed the chief to keep these cases in his court and demand compensation. The paramount chief thought this more likely to absolve the demand for revenge and keep the peace.

⁶⁵⁹ J. M. Stubbs, 'Note on the customary laws of Aweil District Dinkas', 10.8.1945. In F. D. McJannet, 'Official Papers', SAD.781/11/1-15.

⁶⁶⁰ Howell, 'Notes on the Ngork Dinka'; Mijak, *The Traditional Systems*.

⁶⁶¹ Deng, *Customary Law in the Modern World*, p.153.

⁶⁶² Howell, 'Notes on the Ngork Dinka', p.276.

However, since 2005, elite interference with the cattle economy has made it increasingly impossible for even the most proactive Dinka chiefs to interpret the law in a way that makes compensation adequate. One of the most direct ways the Dinka see the powers of global money is through the restructuring of cattle ownership and the elite acquisition of large herds of cattle.

In 2005, the Sudan–SPLA civil war was formally ended with the CPA. This CPA also created the nascent Government of South Sudan (GOSS) and funded it with half of the Sudan’s oil revenue. Politico-military elites circulated the majority of this revenue amongst themselves.⁶⁶³ This ‘new aristocracy’ spent money on large houses and cars in Juba and internationally.⁶⁶⁴ Yet, this opulent wealth was invisible to most South Sudanese who never travelled to Juba.⁶⁶⁵ Instead, the western Dinka most clearly saw the elite’s oil wealth through their acquisition of thousands of cattle in their own grazing lands. Elites armed their kinsmen to defend their herds. Cattle herders believed there was an implicit expectation on them to raid to ensure each herd remained large. The elite leadership used these herds to build relationships, patronage and secure wealthy futures.

These shifts in the cattle economy impact compensation’s relevance. When compensation is owed from such large herds, for the kinsmen of the deceased the set rate of thirty-one cattle is minimal and meaningless; the loss of these cattle brings no real suffering to the kinsmen of the killer.

The elites’ cattle wealth has also inflated bride prices.⁶⁶⁶ From their vast herds, the elite seek wives to construct their status in the community, extend their personal networks of socio-political power and construct a posterity through which their name will survive their death. At the time of writing, cattle alone still legally confer paternity and are adequate for bride wealth amongst western Dinka.⁶⁶⁷ This inflation in bride

⁶⁶³ De Waal, ‘When Kleptocracy’; Pinaud, ‘South Sudan’.

⁶⁶⁴ De Waal, ‘When Kleptocracy’; Pinaud, ‘South Sudan’.

⁶⁶⁵ Occasionally elites invested in construction projects in their homelands. For example, on the edge of Kuajok, stands a large, elaborate hotel that has never been quite finished. These glimpses of wealth prompted some local resentment, yet most local people lack knowledge of the cost of such construction, mitigating their frustration.

⁶⁶⁶ M. Sommers and S. Schwartz, ‘Dowry and Division: youth and state building in South Sudan’, *Special Report* 295 (2011).

⁶⁶⁷ The bride’s family now sometimes also expects other gifts such as mattresses and umbrellas. Yet, the Chiefs’ Courts near Gogrial have opted to uphold the necessity and sufficiency of cattle exchange.

price means that the static *puk* rates are now far below the contemporary bride price for a valuable wife. For example, in 2013, government leaders in Gogrial were paying bride prices of as much as four hundred cattle. Members in the Diaspora were purchasing brides with two hundred cattle. It was routine for bride prices to be between fifty and one hundred cattle. Compensation for homicide at the time was just thirty-one cattle. The compensation is therefore neither able to resource a wife for the deceased nor to reduce the spiritual and social consequences of his death. As described in the introduction, this has reduced cattle of compensation to nothing more than material benefit for the milk they give. Therefore, the dead are just for their family to drink from, and compensation does not appease the need for revenge.

In 2013, after the death of his daughter, a chief described his ongoing demand for revenge:

Compensation is not important now as it does not teach people a lesson. My own daughter was shot during a pupil demonstration. A soldier shot her. He was told to pay compensation, but I would prefer him to be killed. My daughter was educated and beautiful, and would get many cows for marriage. Now I am stranded as my daughter is not there. I have been given cows as compensation from the soldier, but they are so few. People will be finished soon. People will keep killing. Compensation means nothing now.

Politicians since the CPA have also used the excuse of ‘tradition’ to demand contributions to compensation from poor kinsmen irrespective of their involvement in the violence. This is even if killing was caused during ambitious and aggressive attempts by the more wealthy to expand their herds. This egalitarian obligation ignores the disparity in wealth and responsibility for violence. Poorer kinsmen are often reluctant to pay for the spiritual consequences of the militarised actions of their elite relatives. The hesitancy to pay can further agitate the family to whom the compensation is owed.

Elites have snubbed the spiritual and moral basis of compensation, and taken advantage of its minimal, static rates under the law. As a result, bitter Dinka-Dinka feuds have arisen.

3. Compensation and Revenge Since 2005: The lack of political space for Nuer-Dinka compensation.

In relation to Nuer–Dinka revenge, further obstacles have arisen to the restoring of peace through compensation. As discussed above, since the early 20th Century, governments have undercut the spiritual elements of homicide and blood-wealth, making compensation increasingly dependent on government will and sanction. During some periods, governments showed political will in favour of compensation. However, over the last two decades, western Dinka have found it politically difficult to exchange compensation with certain groups, especially with the western Nuer.

In 1991, Riek Machar (from the western Nuer) defected from John Garang's SPLA. These warring commanders militarised ethnic relationships to mobilise support for their government wars.⁶⁶⁸ Commanders encouraged revenge against the ethnically identified 'other'. These politicians built on previous splits between the Bul Nuer and SPLA controlled areas dating back to the early 1980s. The violence between the Nuer-Dinka made their borderlands into a no-man's land and prevented peaceful meetings and inter-ethnic courts.⁶⁶⁹

From 1997, the western Nuer erupted into an intra-Nuer civil war, following the military rivalry of Riek Machar and Paulino Matip.⁶⁷⁰ Western Nuer sought refuge amongst the western Dinka creating a new appetite for Nuer–Dinka peace. The famous 1999 Wunlit Peace Meeting has become renowned as a local leaders' initiative.⁶⁷¹ However, the meeting was not a court.⁶⁷² Neither was it a time to revisit specific grievances nor exchange compensation. When, for example, Chief Rec Ater Biar suggested at the meeting that cattle compensation be exchanged to uphold a 1978 peace agreement, his suggestion was dismissed. The large number of the deaths made payment unrealistic⁶⁷³. A white bull was sacrificed at the opening of Wunlit to

⁶⁶⁸ Jok and Hutchinson, 'Sudan's Prolonged'; Hutchinson, 'Nuer Ethnicity Militarized'.

⁶⁶⁹ See Chapter Two.

⁶⁷⁰ Johnson, *The Root Causes*.

⁶⁷¹ M. Bradbury, J. Ryle, M. Medley and K. Sansculotte-Greenidge, *Local Peace Processes in Sudan* (London, 2006); Santschi, *Encountering and 'Capturing' Hakuma*.

⁶⁷² Awut Deng, Wunlit Peace Meeting, 1999.

⁶⁷³ Interview with male elder, Greater Rumbek, May 2012 (in Dinka); Interview with man in his twenties, Greater Rumbek, July 2012 (in Dinka).

symbolically cool hearts.⁶⁷⁴ However, no *puk*, not even of a symbolic nature, was exchanged.

As Wunlit excluded compensation, chiefs missed the opportunity to refashion compensation to tackle the new patterns of lethal violence. For example, new patterns of violence had included polarised ethnicities and created new, larger political groupings. This gave rise to the question of whether a whole ethnic group was liable for compensation? If not, which size of group was responsible? As Chief Gardial Abot Majak explained at Wunlit:

There was something that our brothers said yesterday that reminds me of the story about the bat and the birds. These creatures held a court case concerning a murder that had been committed by the birds. Together the birds decided to pay blood money. They called on the bat to contribute toward the compensation because, they said, he was one of them and therefore bears responsibility.

As we were coming here several days ago a section of the Nuer attacked our area and raided cattle. This action, when we claim now that we are reconciling, are we actually including those sections that have attacked us so recently? We are all here today, all the way across, from West to East. Have you called on those Nuer raiders, as we have brought representatives of our people? Why is it that us Dinka have brought ourselves, but yet not all of your Nuer are represented here?

Chief Gardial used the story of the birds and the bat to illustrate the ambiguity over who was responsible for the lethal violence of the 1990s, and who should now have the responsibility of blood-wealth. For this chief, the question related to the Nuer and whether they were collectively responsible and politically aligned.

There was also the question of the responsibility of military leaders to pay compensation. The chiefs that raised this at Wunlit touched a much more politically fragile question, implying the SPLA's responsibility for the killings. At the public Wunlit meeting, the dominant discourse was of Nuer-Dinka violence, with only occasional voices about the negative role of the SPLA and formal forces.⁶⁷⁵

⁶⁷⁴ Kuong, Wunit Peace Meeting, 1999.

⁶⁷⁵ The Wunlit Peace meeting is often lauded for the chiefs' ability to express the elite's role in fuelling the violence. Much of this honest discussion took place before the formal, public meeting itself. While some displeasure with the formal, military forces was explicitly stated at Wunlit, some of these comments were also cut short.

Crucially, with no compensation exchanged, western Dinka found it increasingly impossible to imagine the exchange of compensation with the Nuer. This impossibility of compensation made it harder to imagine the end of revenge and violence.

Nevertheless, the discussion at Wunlit recognised the need for a future legal space for exchange of compensation.⁶⁷⁶ Chiefs highlighted how, historically, compensation had been exchanged between Dinka and Nuer. As Chief Gaijal Dor explained:

Long ago when we were young men of Mayenethuc, and Awal Wol and Majak Ruai, and Mathil Anyuon, our land was united as one. If we quarreled in the *toc*, there was a severe punishment. If a Nuer were killed, 50 head of cattle were to be paid in compensation. This is known to Malwal Wun [a senior Nuer chief].

Yet, since Wunlit, the border courts between the western Dinka and Nuer have not been recreated as a regular judicial mechanism. Chiefs blame this on a lack of political will at the Juba-level. Some chiefs have attempted to create *ad hoc* Nuer – Dinka courts. For example, in 2010, the western Nuer gave thirty-one cattle compensation to the family of a Dinka fisherman. The fisherman was from Duk (to the east of the Nile) and the cattle travelled by boat. The family of the deceased and the chief of Duk had travelled to Ganyliel to threaten revenge if there was no compensation.⁶⁷⁷ Yet, the national political allegiances between Duk Dinka and Nuer have been closer in recent years than with Dinka to the west and, therefore, there was more political space for compensation.

Other peace meetings since Wunlit have also failed to reinstate a relationship of compensation. The Condominium government used local meetings, including inter-tribal peace meetings, as the enactment of local government and government justice, making these meetings the ‘negotiation tables’ of state-society relations.⁶⁷⁸ Recent peace meetings have often happened on an *ad hoc* basis, at the whim of NGOs and

⁶⁷⁶ Chief Mabior Chuot, Wunlit Peace Meeting, 1999.

⁶⁷⁷ Interview with Nuer Chiefs, Ganyliel, October 2014 (in Nuer).

⁶⁷⁸ CherryLeonardi, ‘Points of order? Local government meetings as the negotiation table in South Sudanese history’, *Journal of Eastern African Studies* 9, 4 (2015), pp.650-668.

government, and not on a regular, institutionalised basis. The absence of compensation in these meetings has prevented hope of justice and has made it harder to imagine peace.

Political leaders from the western Dinka and Nuer have been divided at the highest levels in the post CPA government. As one Dinka chief described, ‘There is no good government to make peace between us’.⁶⁷⁹ Local leaders, including chiefs and spiritual leaders, felt they had little space to act without higher-level government consent. ‘People are afraid to call for an important elders meeting because of fear of repression from the authorities’.⁶⁸⁰

The unwillingness to restore non-violent justice and compensation is indicative of a lack of common government as experienced in the daily lives of South Sudanese since the CPA. While the government in Juba appeared to be unified until December 2013, local South Sudanese experienced their ongoing reluctance to reconstruct enduring inter-ethnic relations. ‘The problem is from Juba’.⁶⁸¹

On the 15th December 2013, fighting erupted in an SPLA barracks in Juba. The soldiers’ lethal violence was at the spatial and political heart of the South Sudan Government. Yet, South Sudanese knew that there was little hope of compensation or peaceful redress for the grievances that would confront them. Self-help justice through lethal, violent revenge was a remaining option. The demand for revenge shaped the violence of those in and out of uniforms. This echoed western Nuer and Dinka violence in since the 2005 CPA.

Shifting patterns of revenge in the rural homes of the western Nuer and Dinka are directly linked to the national conflicts. For example, during western Nuer–Dinka fighting in 1997, an old Dinka man was killed. His son was already in the army and progressing rapidly through the ranks. Two decades later, this old man’s son took a senior role in coordinating the pro-government SPLA violence in Juba in December 2013. Nuer civilians were targeted.⁶⁸² In private, this senior government commander

⁶⁷⁹ Interview with Executive Chief, Greater Gogrial, July 2012 (in Dinka).

⁶⁸⁰ Interview with Chief, Western Nuer, December 2014 (in Nuer).

⁶⁸¹ Interview with former Border Chief, Ganyiel, October 2014 (in Nuer).

⁶⁸² Crisis Group International, *South Sudan: A Civil War By Any Other Name* (2014); Human Rights Watch, ‘South Sudan’s New War’.

cited the raids that killed his father in 1997 and the need for revenge as justification for the violence against Nuer in Juba in 2013.⁶⁸³ Many of those who were involved in the violence in December 2013 that targeted Nuer used this national, political conflict to further private demands for revenge. The political leadership also used narratives of revenge.⁶⁸⁴ There has been a ‘politicization of private lives’ but there is also a ‘privatization of political violence’⁶⁸⁵ as South Sudanese take advantage of the national conflict for their own private wars. Therefore, the wars since December 2013 are not a disjuncture but a continuation of shifting patterns of violence.

However, some local leaders have taken risks to try to reclaim the power of compensation to forge peace. For example, in 2014, a group of men from the western Dinka were hunting near the western Nuer. A group of Nuer young men happened upon them, attacked them and killed one of the group. Both groups then fled. At the time, this blurred border between the lands of the Nuer and Dinka was also the boundary between the SPLA-IO and Juba-government in the ongoing South Sudanese civil war. There was no *de facto* common government between the group of the killed and the killer. The warring parties not only did not insist on compensation but instead prohibited peacemaking.

As it happened, the man who was killed had maternal family amongst the Nuer. His parents’ marriage had come at a time of Nuer–Dinka peace and cooperation. Upon the son’s death in 2014, his family did not want to end this relationship despite the macro politics and demands for division along Nuer–Dinka lines. Therefore, they opted to make the potential hazardous journey to the Nuerlands to seek compensation and avoid revenge. The killer’s family initially refused compensation, suggesting that the context of war ended any obligation. Yet, the killer’s family bought the case to a Chiefs’ Court.

On reaching the Chiefs’ Courts, the SPLA-IO local government was informed. At the time the SPLA-IO leadership was not willing to host a court case with people from government-held areas. The local government leader made it clear that he did not want to be part of the case, nor would he let the SPLA-IO authorities rule on the case.

⁶⁸³ In public, no commander has admitted culpability or an ethnically driven motivation.

⁶⁸⁴ African Union, ‘Final Report’, p.239.

⁶⁸⁵ Stathis. N. Kalyvas, *The Logic of Violence in Civil Wars* (Cambridge, 2006).

The chiefs interpreted this as permission to hold the case out of sight of the local government, and moved the hearing to a secret location away from the usual court tree adjacent to the local government office.

The Chiefs' Court found in favour of the family of the deceased and insisted that *puk* should be paid to the petitioning Dinka family. A relationship of compensation and reconciliation could be reconstructed irrespective of the wars of the government.

Despite no common government and the ongoing war, the family and chiefs reconstructed a relationship of peace. In doing this they took the risk of crossing frontlines. The grieving family and chiefs used compensation to dilute people's everyday experience of government and its blunt, relentless pounding of violence. Therefore, compensation has the power to appease the moral and spiritual consequences of death even in contradiction to the power of governments.

Conclusion

South Sudanese politico-military elites have spent decades cycling in and out of declarations of war and agreements of peace. Yet, much more serious for the people of South Sudan are the changing patterns of lethal violence that continue through times of national wars and peace, and that reshape the consequences of lethal violence. Amongst the western Dinka the presence of revenge has not been indicative of the absence of government, but has instead been symptomatic of increasingly intrusive interference in regimes of lethal violence by centralised and militarised national governments.

This echoes findings by Strathern and Stewart that link revenge to the presence of government.⁶⁸⁶ Governments amongst the western Dinka over the last century have progressively captured regimes of compensation and revenge, reshaping the legal and normative boundaries that limit lethal killings. At times, governments have used compensation to bring peace. However, secularisation of compensation and government power behind the peace have left compensation subordinate to the will and capacity of government. Compensation no longer necessarily carries the security that it will appease the spiritual demands for revenge. This has meant that in recent years the

⁶⁸⁶ Stewart and Strathern, *Violence: Theory and Ethnography*.

politics around the oil wealth of government elites has seeped into Dinka-Dinka compensation, making its payment less valued. In addition, political divisions between government elites have eroded the government will to permit Nuer–Dinka compensation and closed the political space for its exchange. Western Dinka have retained a belief in the spiritual consequences of death and that the consequences of death can be challenged through posthumous marriage and legal children. Yet, government-backed compensation in the current political climate has failed to provide compensation that guarantees to meet these spiritual demands.

When compensation is delinked from reconciliation and the appeasement of revenge, at best, compensation is delayed until the next generation. This can make matters even worse if this extension of the feud into the next generation implies that children are also actors in the feud and, therefore, legitimate targets for killing. Since 2013, children have been intentionally killed and their bodies mutilated including removing their genitals.⁶⁸⁷ The dead are left without anyone to restore their life.

In light of these conclusions, as scholars continue to study the relationship between conflict, government and public authorities, it is essential that research does not only focus on immediate acts of mobilisation by government actors. Instead, there is a need for a much broader, historical understanding of how governments and other public authorities reshaped regimes of lethal violence in times of war and peace. Plus, there is still much demand to better understand the consequence of the secularisation of compensation in contexts where lethal violence has maintained spiritual consequences.

⁶⁸⁷ African Union, 'Final Report'.

PART III: CAPTURING THE YOUTH OF GOVERNMENT

8. Law, materiality and the *titweng*: the struggle for marriage and the legal gatekeepers of the safety of the *baai*

Chapter Eight turns the attention of the thesis to young men who have become part of the armed forces of government, including through their recruitment into the SPLA. I argue that chiefs' capture of control of the regimes of marriage have helped the Chiefs' Courts and customary laws maintain control over armed combatants even when they are part of government.

This chapter implicitly relates to normative regimes of lethal violence by discussing public authorities that have control over some of the main implementers of violence in South Sudan. First this chapter will use a case of arson to explore the link between *titweng* (the Dinka armed cattle guard), security, the *baai* (the 'home') and procreational immortality to illustrate the safety offered by marriage for young, western Dinka men. Secondly, the chapter will discuss the potential dangers of marriage if marriage allows elite capture. The chapter will conclude with illustrations of how the Chiefs' Courts have preserved the necessity of cattle for legal marriage and, through this, preserved their hock of authority over this regime and the young men it governs. The chapter mentions the institutional legacy of the Chiefs' Courts that were designed from their inception in the early 20th Century to ensure that South Sudanese who were part of government were still controlled by the legal order of the Chiefs' Courts of their home community.

The Case of Arson

It was January 2012 and another warm afternoon in the crowded court of the Paramount Chief in Thiek Thou. Parties who had waited for hours became increasingly fidgety. Then, suddenly, a new cohort of people approached the court and went straight to the chief. Two men dressed in police uniform were amongst the crowd. This new huddle that swarmed the chief were animated and angry. The chief eventually persuaded this mob to take a seat, but their case would be immediately heard. Other cases would be suspended for the day.

This new case was between two brothers. The younger brother was dressed in the common, purple ‘uniform’ of the Apuk *titweng* (the armed cattle guard).⁶⁸⁸

The case of arson –

The older brother brought the case against his younger brother. The older brother accused his younger brother of burning his homestead the night before. At dusk, the accused was said to have set fire to the roof of his older brother’s home, driving his new wife and child out of their *tukal*. The older brother’s first wife and children had been in a nearby *tukal* at the time and had also had to flee the fire. Neighbours helped put out the fire, but the new wife’s *tukal* and all the contents were completely destroyed. No one was hurt.

The accused younger brother did not deny the facts of the case. The chief asked for an explanation of the reasons for his actions. The younger brother admitted that he had started the fire in anger at his brother, but he claimed his anger was justified. He and his brother were the only sons of his father. His father had died the previous year, leaving them his herd. As the elder brother, the claimant had assumed that he had legitimate authority to control the herd. He had used this new authority to take for himself a second wife. The accused younger brother had been left with no wife. His older brother’s choice to marry a second wife had used the family’s cattle, leaving the younger brother no cattle for marriage and denying him the chance to take a first wife in the near future.

⁶⁸⁸ For further discussion of the *titweng* and their history, see the following chapter (Chapter Nine).

However, the accused claimed that there was more harm than usual in his brother's selfish marriage. He claimed that his brother's second marriage was tantamount to a death sentence for him. He argued that the dry season grazing lands of the *toc* had become so violent that he would surely soon die in the *toc*. Being unable to marry meant that he had to remain in the *toc* with the cattle and had no way to return to the *baai* to build his own homestead and have a wife to look after it.⁶⁸⁹ Even if he did die in the *toc*, his brother's marriage meant he also now had no hope of posthumous children. His older brother had no cattle left to marry him a wife after his death to give birth to his legal children. The younger brother claimed his older brother had risked his life and even his posthumous mortality by marrying. Therefore, he did not regret risking his elder brother's life and sense of safety in the fire.

Marriage is a deeply political issue, and is intimately entangled with ideas of personhood, citizenship, state, society and public authority.⁶⁹⁰ For the western Dinka, a large part of the importance of marriage is because marriage is the gateway or 'frontier' to the *baai*.⁶⁹¹ The *baai* offers safety and a shift in defensive responsibilities. Marriage also offers security through 'procreational immortality'.⁶⁹² Therefore, marriage is intimately linked to the politics of responsibility, security and protection. In Sudan and South Sudan, governments have long penetrated into marriage regimes, and have entangled marriage with power, politics and conflicts.⁶⁹³ Yet, western Dinka Chiefs' Courts have been able to remake themselves as the gatekeepers to marriage and, therefore, the *baai*. A key part of their struggle for authority has been through their preservation of the necessity of cattle for marriage. *Titweng*, soldiers, commanders and other combatants' demands for socially and legally respected marriages has allowed Chiefs' Courts to retain some leverage over those who wield the brute power of the gun.

⁶⁸⁹ *Baai* in short refers to the domestic village area where homesteads are built. Cormack discusses the meaning of *baai* in more details. Cormack, *The Making and Remaking of Gogrial*.

⁶⁹⁰ For a recent discussion, see Geoffrey Hughes, 'Infrastructures of legitimacy: The political lives of marriage contracts in Jordan', *American Ethnologist* 42, 2 (2015).

⁶⁹¹ Cormack, *The Making and Remaking of Gogrial*.

⁶⁹² Deng, 'Customary Law', p.15.

⁶⁹³ Pinaud, 'South Sudan'.

The Value and Safety of a Legal Marriage

During my fieldwork it became clear that, for young men, marriage offered a legitimate way to leave the duties of the cattle camps in the *toc* and to move to the new material world of the *baai*. In the case of arson, the younger brother craved the safety of the *baai* through marriage to avoid the perceived dangers of the *toc*.

Other literature has highlighted how those who have been refugees in South Sudan have sought marriage to access the safety from other dangers such as social isolation. Grabska's research amongst western Nuer refugees who had fled to Kenya in the 1980s and 1990s has highlighted how marriage was used to rebuild home on 'return'.⁶⁹⁴ 'For young returnee men unable to get married in Kakuma [Kenyan refugee camp], marriage was an important element of passage to manhood, forging community bonds and enabling them to find their own place within it.'⁶⁹⁵

More broadly, other wartime experiences of migration also prompted men to use marriage to keep a link to the safety of home. When men joined the SPLA or moved to urban centres, marriage liberated them to move more freely knowing that they have a homestead in the *baai* to return to. Wives and children preserved the men's land and belongings, even if they are far away.

However, the *titweng* by their very role did not move away from the home communities during the war years or the more recent years of peace. They were the home guard and the guard of the cattle of their home communities. The safety they sought instead was not the safety of a link to the home communities but instead the safety of shedding the social obligations of community defence that were primarily the responsibilities of unmarried men in the *toc*.

Secondly, men also sought security in marriage through what Deng called 'procreational immortality'.⁶⁹⁶ Western Dinka still commonly held the belief that through their sons, men gain procreational immortality. This muted the power and fear of death.⁶⁹⁷ Even if a man died before he was married, his family's cattle could be

⁶⁹⁴ Cormack, *The Making and Remaking of Gogrial*, p.184; Grabska, *Gender, Home and Identity*.

⁶⁹⁵ Grabska, *Gender, Home and Identity*, p.168.

⁶⁹⁶ Deng, *Customary Law*.

⁶⁹⁷ Francis Deng, *The Dinka of the Sudan* (Holt, Rinehart and Winston, 1972), p.9 and p.11; Hutchinson, *Nuer Dilemmas*, pp.60–61.

used to acquire him a posthumous wife.⁶⁹⁸ The long years of lethal violence through episodes of civil war have challenged families' ability to always marry for the dead. However, as discussed in the previous chapter, this hope in procreational immortality had been remade despite years of brutal and lethal warfare. Therefore, the younger brother in the arson case was not only angry because of his lack of cattle to marry now, but his brother had no cattle available any longer to marry for him a wife posthumously, if he was killed. By marrying, the elder brother had not only left his younger brother in danger of death but he had also snubbed the dangers in death and had left no means to preserve his younger brother's name.

Chiefs' Courts, including the court in Thiek Thou, were actively preserving the Dinka law that legal children were only possible through legal marriage. In the post-CPA years, child custody cases were not uncommon and rested on discussion about the number of cattle that had been exchanged between the families of the child's mother and father. During discussions with chiefs in Kuajok in 2013, there was a growing sentiment that cases about children should comply with international norms about child protection. Yet this was not impacting the overarching decisions of the courts, even if it was changing their reasoning or the nuances of the judgments made.

Therefore, the younger brother could only gain procreational immortality through a legal marriage carried out through the exchange of cattle. The younger brother had needed his brother's consent to use the cattle to make the marriage legally binding.⁶⁹⁹

Over the last ten years, many young couples have eloped in these western Dinka villages. Yet, elopement was not necessarily in opposition to marriage norms but instead a method of winning the competition for the bride.⁷⁰⁰ When young men eloped and had significant cattle arranged to marry, families of the bride and groom will both likely accept the marriage willingly. Chiefs' Courts even often tolerated the elopement of a first wife, especially if the bride wealth could be paid. Yet, when a man eloped with a second wife, her relatives would likely respond with violence and the court had little sympathy. One chief described how to elope with a girl when you were already married

⁶⁹⁸ This is also discussed in the previous chapter.

⁶⁹⁹ Leonardi, "'Liberation' or Capture", p.403.

⁷⁰⁰ Deng, *Customary Law*, p.63.

was like urinating in her father's gourd.⁷⁰¹ It was a serious insult to him. The chief explained that as a married man he is assumed to be more wealthy and, therefore, able to marry properly via negotiation. Elopement without cattle also had potentially grave consequences for the groom's family, prompting many young men to wait for legal marriage.⁷⁰²

Escaping the Dangers of Toc and Death

Amongst the western Dinka, it was not uncommon for the older brother to marry first and even take a second wife before the younger brother married.⁷⁰³ However, in the case of arson, the dangers of the *toc* had brought a new immediacy to the younger brother's demand for marriage.

Toc had not always been a place of danger, but the wars had remade the *toc* as dangerous.⁷⁰⁴ By the time of this case of arson in January 2012, Peter Gadet's new anti-government rebellion from neighbouring Mayom had increased the occurrence of lethal, armed violence in the *toc*. On the 11th April 2011, Peter Gadet had announced his defection from the SPLA. In the Mayom Declaration, Peter Gadet justified opposition because of the 'rampant corruption on the top echelon of GOSS', going on to describe GOSS as the enemy of the people.

In May 2011, armed men carried out a large attack from Mayom into the Apuk *toc*. Initially, a large, surprise attack at dawn on an Apuk cattle camp captured five thousand cattle and killed dozens of people (including children). In response, a joint

⁷⁰¹ Interview with chief in Gogrial East County, 24th February 2012.

⁷⁰² For example, in March 2012, a young man eloped with a girl. However, the young man's family had selected another bride for him and paid the bride price for her. The young man accepted their choice. As he had no cattle to marry the girl he eloped with, he turned down marriage to her. However, this angered the family of the girl. They brought the case to court. While in court, the girl's brother suddenly came into the hearing and hit the young man on the head. When the court was brought to order and the brother was persuaded to sit down, he justified his actions as follows: 'If you elope with a girl, and the man is hit on the head, it is enough to solve the *ateer* (feud). Why? It must be that the man has a problem in his head. Plus, it remains painful for a long time if you are knocked on the head. When you go to the toilet, it hurts. Then it will remind you that the parents of the girl are still hurting.' The brother believe it legitimate to hit the man who eloped his sister because it would bring a repetitive pain that would remind him of the long lasting wrong he had done to her family. The court considered the case to have increased in severity when the brother hit the eloper and so the case moved to a more senior court. However, the chief of this court was the uncle of the eloped girl and her brother. The accused young man felt justice was inaccessible because of this personal interest. The court case erupted into antagonistic discussion and the man beat the chief on the head. The court case then reached the regional court. Gunshots were fired to call the police. Yet, the accused escaped and was not found during my period of research.

⁷⁰³ Deng, *Customary Law*, p.61.

⁷⁰⁴ Cormack, *The Making and Remaking of Gogrial*.

Apuk-Agouk force ran ahead and created an ambush for the raiding forces. The five thousand cattle were recaptured, and many attackers killed. Others who were injured were later shot. UN personnel at the time reported that Peter Gadet's forces had moved a large number of trucks towards the *toc* from the east, suggesting that he was to transport a large number of raided cattle to Khartoum for sale to fund his nascent rebellion. Even in the local, rural markets at the time, cattle were selling for over 1000 SSP (this was then equivalent to 200 USD). The cattle he nearly captured would, therefore, have sold for more than one million USD. The possibility that some of the cattle stolen were cattle of the leading officials in GOSS is likely to have only inspired further the gains from raiding.

A *titweng* after the May 2011 attack asked me to take the following picture. I photographed him in the Lietnhom Primary Health Clinic where he had gone for his battle wound to be dressed.



He had received the injury during the counter ambush against the attacking forces. The *titweng* wore the hat of one of the soldiers killed during the attack into the Apuk *toc*. He wanted me to photograph this as proof that the attackers were Peter

Gadet's soldiers and not just local young men raiding cattle. For the *titweng*, the hat was part of an army uniform and evidence that the soldier had been in the SPLA. In the post CPA era, military fatigues moved fluidly between the civilian and military populations, just as people also moved fluidly between being active members of the armed forces or just staying at home.

The May 2011 attack had come at the end of the 2011 dry season. For the following months, flooding in the *toc* had acted as a physical barrier between the *titweng* and Gadet's forces. However, by the time of the court case about arson, in January 2012, the land was again drying out and the *titweng* knew that their herds needed to move east to access better grazing. There was fear that this would force them to confront the lethal violence again. The younger brother's arson attack came in the context of the imminent demand for the *titweng* to take the herd further into the dangerous *toc*.

In burning his brother's home, the younger brother in the arson case physically enacted his challenge to his brother's assumed safety in the *baai*. The younger brother turned upside down the assumed safety of the new wife's home and made it a place of danger, bringing to his brother's *baai* the very danger that confronted him in the *toc*.

In the court hearing in January 2012, the chief ruled against the accused younger brother. No one was surprised (including the accused). He had clearly violated notions of property and safety that were an affront to the community and his brother. No-one, including the accused himself, really wanted to challenge the norm of the safety of the *baai*.

However, despite this ruling, the chief only demanded that the accused rebuild his brother's house. They expressed sympathy for the younger brother. The older brother's actions were not illegal but they were unjust in the midst of these new dangers in the *toc*. The chief stopped short of interfering with the brother's decision over the family herd. Chiefs' Courts often seem intrusive, interfering in the law and moral violations of personal relationships and private friendships. This case showed a limit to the order and moral behavior that the courts were willing to impose.

The Potential Dangers of Marriage: Soldiers, Elites and Capture Through Patronage

If you travel to the far side of the market from the courts, and continue walking, you quickly find yourself pacing along a dusty road through scattered farms and houses. In the village beyond, one of the leading figures in Kiir's configuration of military authority has his first wife's homestead. To international NGOs, the family looked so materially poor that they were often included in the lists of vulnerable families so that they could gain access to NGO distributions of food, seeds and tools. Chiefs who wrote these lists obviously knew their political connections, but when Kenya NGO workers visited the homes nothing about their living conditions indicated that these families were anything other than vulnerable. It was only in 2013 that a yellow painted brick house started to emerge on the road to these homesteads. Initially, instead of investing in houses and consumer goods for his family, Kiir's close commander had instead invested in cattle in *toc*, as well as a brick house in Juba.

Recent literature by De Waal and Pinaud has highlighted not the safety of marriage but the dangers of marriage. Elites in the SPLA have used marriage's ability to forge social ties as a mechanism in their own patronage systems. Pinaud argues that the SPLA leadership used captured resources to pay for marriages that fostered the weaving of inter-ethnic kinship ties and inter-group alliances.⁷⁰⁵

Elites also invested money in cattle for marriage to transform their wealth into direct local political influence in the home areas to ensure a strong support base. A significant number of senior commanders in the SPLA have their *baai* amongst the western Dinka. During the wars, they spent long periods away from home on the battlefields. Since the CPA, they have found themselves based in Juba. By investing wealth from oil in many wives and cattle, commanders have been able to make visible their presence and authority in the home community despite their physical absence. They have also remained dominant local figures through their children and growing herds of cattle, making their voices more difficult to ignore and their demands for mobilisation more effective. They have not asserted the superiority of the SPLA to family.⁷⁰⁶ Instead, they have remade political alliances as family alliances.

⁷⁰⁵ Clémence Pinaud, 'Military Kinship Inc.: patronage, inter-ethnic marriages and social classes in South Sudan', *Review of African Political Economy* 43, 148 (2016), pp.243-259.

⁷⁰⁶ Leonardi, "'Liberation' or Capture".

Through marriages, elites can make lasting alliances. As Deng describes, ‘since continuity through procreation involves the whole lineage, marriage is not simply a union of a man and a woman, but an alliance between their respective bodies of kin. This transforms the personal desire for marriage into a social obligation’.⁷⁰⁷ This obligation is not just to his living family, but also to past and future generations of his family.

The practice of *arueth* amongst the western Dinka also extends the families’ shared interest. While the full payment of bride price ends cattle exchange between families in some parts of South Sudan, *arueth* amongst the western Dinka is an obligation on the bride’s family after they have received *hok ruai* (the bride wealth cattle) to pay cattle (from their own cattle – i.e. not from the *hok ruai*) to confirm and stabilise the mutual relationship between the families.⁷⁰⁸ *Arueth* is often paid over a long period of time. This ensures the longevity and multi-generational nature of the inter-family connection built through marriage. Biong describes *arueth* as a social obligation.⁷⁰⁹ Yet, it was also being enforced by the Chiefs’ Courts. In the 1930s, courts were already spending a large proportion of their time settling *arueth* cases.⁷¹⁰ This continued into recent years.

Plus, marriage does not only build relationship between the bride and groom’s families, but it creates a legal relationship between the family and friends of the groom himself. Family and friends contribute cattle to the bride price in exchange for which they gain a relationship to the marriage and the children born through the marriage. When the daughters of the marriage come to marry, the friends and family who contributed have a legally enforceable right to some of their bride wealth. For example, in Bol Dit’s court in Luonyaker on 18th April 2013, a man brought a case to court complaining that the defendant’s sisters had been married without his receiving any cattle. He claimed he had a right to be given cattle because he had contributed cattle to the marriage of the defendant’s mother and father. The defendant claimed he did not know of the man’s friendship to his father and the court ordered for older witnesses to

⁷⁰⁷ Deng, *Customary Law*, p.58.

⁷⁰⁸ Luka Biong Deng, ‘Social Capital and Civil War: the Dinka communities in Sudan’s civil war’, *African Affairs* 109, 435 (2010), p.27; Jok, ‘A study of customary law’, p.34.

⁷⁰⁹ Deng, ‘Social Capital’, p.27.

⁷¹⁰ This was discussed in Tonj where the DC hoped to end *arueth* because of the time it was taking up in the courts. D.C Tonj 29.10.37. P. P. Howell, ‘Notes on Dinka Social Structure and Laws’, Tonj File – 66.A, SAD.767/8/5.

the friendship to be called. The defendant's father had died and so could not be a witness himself. However, the legal point was not disputed and all parties accepted that if the claimant had given cattle to the marriage of the mother of the defendant and his sisters, that the man should now receive cattle from the bride wealth of these sisters. All accepted that this obligation was enforceable in the customary courts.

SPLA leaders and soldiers used Dinka idioms of marriage in a variety of ways. Some elite authority figures invested their newly found wealth in large-scale polygamy.⁷¹¹ For example, notoriously, Paul Malong has married as many as 88 wives by using resources acquired by his running of the war economy in Northern Bahr el Ghazal.⁷¹² Malong was said to have sent out his soldiers to collect women for him from across his home state. According to Pinaud, Malong apparently used the convention of not being able to fight the husband of your sister to create a tight, long-term grip over the Malual Dinka. This mimicked Chief Deng Mijak's earlier 'empire' over the Ngok Dinka of Abyei through his accumulation of up to four hundred wives.⁷¹³

Alternatively, Dr John Garang used the more subtle idiom of the authority of the maternal uncle to construct a close, elite politburo of 'Garang's boys', bound together not only by patronage, shared military experience⁷¹⁴ and ideology, but also through relations remade through marriage. Amongst western and eastern Dinka, the maternal uncle is held in particularly high regard. Young men will rely on their maternal uncle for protection, resources to marry and access to other opportunities. Their relationship is so close that if a man's father's community is at war with his maternal uncle's community, he is expected not to attack his maternal uncle's community and even to warn them of the likely attack. Therefore, Garang was able to offer close female relatives in marriage (including sisters and daughters) to the emerging leadership of the SPLA. By doing this, he made himself the maternal uncle of their children and a permanent figure of authority in the most intimate of family dynamics. These marriages were inter-ethnic and spanned vast distances, encouraging a new imagining of a common community under the SPLA. For example, Garang encouraged Salva Kiir to take Achol Philip as a second wife. She is now deceased, but she was from Bor

⁷¹¹ Pinaud, 'Military Kinship Inc.'.

⁷¹² Pinaud, 'Military Kinship Inc.', pp.245 - 246.

⁷¹³ Deng, *Customary Law*.

⁷¹⁴ The 'Garang boys' were drawn from the first three Shields of the SPLA in Ethiopia.

(Garang's home area) and would have allowed Garang to act in the role of maternal uncle to her children.⁷¹⁵

SPLA commanders did not only use marriage to extend authority over a political aristocracy. Commanders, by assisting in their soldiers' marriages, won their soldiers' loyalty and made these soldiers into a large family.⁷¹⁶ SPLA commanders used contributions to their soldiers' bride wealth to increase their soldiers' commitment to them, as well as increasing their soldiers' willingness to face potentially fatal combat.⁷¹⁷ Commanders also used influence over courts and fathers to secure acceptance of marriage on the promise of cattle.⁷¹⁸ Therefore, 'marriages were integrated into the SPLA's circuit of predation from the onset of the war.'⁷¹⁹ This effectively took power over marriage away from local elders and placed it in the hands of SPLA commanders who acted like fathers by contributing cattle to marriage.

SPLA commanders' use of marriage meant that the brotherly struggle over cattle had an echo in the very character and nature of the SPLA and at the very heart of national politics. The SPLA soldiers that the commanders gave cattle to had brothers who had remained in the home communities of the western Dinka. During the 1980s and 1990s, the SPLA forcibly recruited soldiers to their ranks. Chiefs were ordered to bring set numbers from their communities, and fathers were ordered to give to the liberation struggle from amongst their sons. Chiefs and fathers selected the less preferred or weaker sons to send to the SPLA. The strongest and most trusted were kept at home to guard the cattle and the *baai*. To this extent, the SPLA was largely made up of the unfavoured sons. The older, favoured sons who were intended to inherit were left behind in the Dinkalands and remained as local leaders in waiting. The sons that were sent found it easier to see the opportunities in breaking with tradition and obligations of current local, Dinka leadership. Soldiers were able to capture opportunities for

⁷¹⁵ Other similar marriages include the following. Gier Chuang married Adau Diing from Bor. Oyay Deng Ajak married Apajol Yac Dut who had been living with the family of John Garang. Pagan Amum married Suzie Deng of the Nyarweng (Dinka Bor). James Hoth (a Nuer from Eastern Upper Nile) married a Dinka Ngok wife from Abyei. Ping Deng (later Inspector-General of Police) married Awadhia Chol who was the sister of Rebecca Nyandeng. Obote Mamur (Lotuka) married a relative of John Garang.

⁷¹⁶ Pinaud, 'Military Kinship Inc.', p.246.

⁷¹⁷ Pinaud, 'Military Kinship Inc.', p.246.

⁷¹⁸ Pinaud, 'Military Kinship Inc.', p.247.

⁷¹⁹ Pinaud, 'Military Kinship Inc.', p.247.

marriage through patronage. Yet, for these soldiers, marriage brought danger as it was tied to loyalty to military leaders and their demands to wage power through the gun.

Obstacles of elite networks

Being connected to senior military figures did not consistently help with marriage as they tried to design networks of relationships for their own purposes.

Athiaan's mother's brother was one of the most senior military figures in South Sudan at the time. He had a long history of service and loyalty to President Salva Kiir. His uncle usually resided in Juba, but he managed his cows carefully from afar, through the nephews he trusted most. The uncle regularly travelled home to visit the cattle camps and would refer to written records of his cattle to check on their health.

For Athiaan, his maternal uncle was essential to his security and aspirations. Athiaan's uncle would contribute significantly to the cattle he needed for marriage. Yet, Athiaan's uncle's promise of assistance with cattle for marriage was not a blanket promise of material wealth without restraint. As marriage was a strategic tool for building political alliances, for unmarried nephews of senior men this meant that their hopes of marriage also had to fit into the political reasoning of their powerful uncles and the unions they thought suitable to form.

Athiaan had fallen in love with a tall, beautiful girl. It was the dry season and, at night, they would meet at the drum where they would talk. They had made promises to each other although both knew there was no certainty of being able to uphold them. Athiaan feared that his uncle would never approve of the marriage as the clan of the girl had a reputation for being arrogant. This dated to the Condominium government's appointment of their ancestor as chief. In the post-CPA era, people justified their accusations about this clan's arrogance based on the large bride prices they demanded for their daughters.

Suddenly, one day, Athiaan told me he could no longer meet the girl. His uncle had just announced that his oldest daughter had been promised in marriage. Her husband-to-be was the cousin of Athiaan's girlfriend. Against all his speculation about the antagonism between his uncle and this clan, his uncle had actually chosen to

construct friendship through the giving of his daughter. Two hundred cattle would be paid as a bride price.

Athiaan now thought his marriage to his girlfriend even less of a political possibility. For two marriages to take place between these clans in such quick succession would be to entrench a bold statement of strong, rare unity. He doubted his uncle was ready for such an unusual display of union.

Chiefs' Continued Power as Gatekeepers to Marriage and the *Baai*

Despite the use of marriage as a tool by military elites, Chiefs' Courts have continued to protect their powers as gatekeepers to marriage. They have been actively involved in defining the legal boundaries and conditions of marriage since the government's creation of Chiefs' Courts in the early 20th Century.

The Chiefs' Courts from their inception claimed to use custom as the basis of law. In becoming law, custom sometimes became more repressive if the norms had previously been only punished by social consequences and not physical punishment, such as by the powers of divinities. For example, Lienhardt recorded how young Dinka men had come to be imprisoned for elopement.⁷²⁰ This prompts Tuttle to highlight that government since the Condominium has used 'law' to create new ways for senior men to exercise power over junior men and women.⁷²¹ Literature has documented inter-generational tensions in Africa.⁷²² As Lienhardt described of the Western Dinka when writing in the 1960s, in hoping to start his own lineage, a man is in effect hoping for the day when he himself will be known as 'the father of so-and-so', rather than as 'the son of so-and-so'.⁷²³ It is through the rules of the game and the necessity of cattle that older men are still seen as viable competitors in the marriage market.

However, inter-generational tension has not always been paramount. Leonardi has shown that young men have often acted to support their families, not disregard them. Leonardi argues that even SPLA soldiers still measure their status in the values

⁷²⁰ Tuttle, *Life is prickly*, p.308. Tuttle quotes Buxton (1958) discussing Lienhardt – "That foreign influence has made custom repressive is substantiated by Dr. Lienhardt".

⁷²¹ Tuttle, *Life is prickly*, p.308.

⁷²² Justin Willis, "Beer Used to Belong to Older Men": Drink and authority among the Nyakyusa of Tanzania, *Africa* 71, 3 (2001), pp.373-390, p. 384.

⁷²³ Lienhardt, *Divinity and Experience*, p.43

and ideals of the home community.⁷²⁴ She argues that soldiers' forcible disregard of marriage norms during the war years only appears to have strengthened these norms by provoking and uniting moral opposition to the use of force.⁷²⁵

Men of the home communities also compete with men of government for access to marriage. Since their inception in the 1920s, the customary laws have been used to tether educated men and men of government to the moral obligations of the home communities. In the 1920s, the Dinka-led, anti-government White Flag League had prompted Sudan government concern about educated South Sudanese who became detached from their home communities and customary laws. 19th Century work of Maine and Luggard influenced 1920s British official thinking in the Sudan and encouraged the belief that it would be dangerous for Southerners if customary law was removed too quickly. Therefore, the Chiefs' Courts and customary law were designed to ensure that even educated Southerners who worked for government were still captured by the obligations of the Chiefs' Courts of their home areas. This included their compliance with the customary laws of marriage. The institutional relationship between the Chiefs' Courts and marriage of government men has had a long legacy. Even today, despite the military force of government, this has allowed the Chiefs' Courts to gain a foothold of control over the government elite. While Pinaud suggests that powerful commanders were generally not subject to customary bride wealth prices⁷²⁶, in the western Dinka at the heart of elite marriage was the desire to build social relations through socially and legally acceptable marriage. In addition to political benefits, men gained economically only if the marriage was legal and materially embedded in cattle. Bride price negotiations started with the price paid for the mother of the bride. Therefore, commanders could more easily negotiate high bride prices for their own daughters only if they themselves had paid a reasonable bride price for their mothers.

As commanders were wealthy, brides' families expected them to pay more not less. During the war years of the 1980s and 1990s, the courts and elders had empathy with requests for delayed cattle payments. Cattle had either been raided or they were far away for safety. Grooms' families promised to pay bride wealth after the war. This

⁷²⁴ Leonardi, "'Liberation' or Capture", p.403.

⁷²⁵ Leonardi, "'Liberation' or Capture", p.404.

⁷²⁶ Pinaud, 'Military Kinship Inc.', p.245.

sentiment was maintained through the war years despite its apparent fiction when no-one had confidence that the war would end. Yet, after the war years, the Chiefs' Courts started to enforce the debts of bride wealth.

In April 2013, a senior western Dinka chief described to me how many young men from his chiefdom who went as soldiers to Ethiopia in the 1980s and 1990s brought back wives from all over Southern Sudan. Girls from Dinka Rek were also taken as the wives of soldiers from Dinka Malual (now Northern Bahr el Ghazal). His son, for example, had brought back a wife from Akec. Although he was an influential chief with good connections in the SPLA, he still had to pay seventy cattle for his son's wife. He was unable to challenge this obligation. 'I had to pay seventy cattle; if not we would fight,' Bol explained. Bol described how wealthy military families paid the bride price to prevent bringing disrespect to their families.

Even poorer soldiers often still ended up subject to the laws of marriage, as the following account illuminates:

It was an evening in late 2011, a few months after South Sudan's independence. As the sun started to set, I took a common route through the market to my friend's home near the murrum road. I often wandered there in the evening to play with his children and his brother (Malual)'s son. They lived on a small plot of land at the edge of the market and adjacent to the WFP food stores. It was a relatively small plot on land that had been given by the local authorities, as opposed to being inherited from my friend's father. Uganda builders who were working in hourly paid labour in the area had a small house almost next door. My friend's father had died over a decade before. His death during the SPLA-GoS wars had left them particularly vulnerable. His widow had remained living with her husband's family in the *toc* until it was attacked in Nuer raids in the mid 1990s. Then his mother had chosen to migrate with her children back to her own family's home area, where she calculated they would be able to protect her better.

That evening in 2011, when I visited, I was confronted by the bold message that Malual, his wife and their son had left for Yei. 'They would return', I was told. There was no indication of when this might be. Malual returned a few weeks later without his wife and son. No-one knew when they would be able to come back. My friend's little

girl and the age-mate of her cousin looked lost and alone for many days at the disappearance of her playmate.

During the 1990s, Malual had joined the SPLA and moved from his home village near Gogrial to fight for the SPLA 'liberation' of Yei. He had been stationed in the Equatorias for much of his service in the SPLA. After the CPA, he returned to his mother's home and he brought with him his new, Equatorian wife. She lived alongside her husband's brother and his wife. She learnt Dinka, participated in the cooking and cultivation. She had a six-year-old son with Malual and he played daily with his cousins.

During the days of war, Malual had taken his wife without the exchange of cattle or money as a bride price. His wife's parents had accepted the promise of future payment. It was unclear if they had freely chosen to wait or if they had succumbed to pressure from the SPLA to allow one of their soldiers to marry. However, by 2010, the peace of the CPA was entrenched and, as a soldier, Malual theoretically had a government salary. His wife's family sent message to Malual and the local western Dinka chief demanding that Malual now come to properly negotiate and pay a bride price for his wife. Neither the chiefs nor Malual questioned the request. Amongst the western Dinka, the chiefs were busy reconstructing the necessity to pay bride price and they had no inclination to deny this seemingly lawful demand. Malual travelled to Yei. We later heard that when he was there, a price higher than he could immediately afford was agreed. Until he could afford the bride wealth, his wife was to be returned to Yei. He returned to Gogrial to fetch his wife and son and escort them to Yei. As of 2016, they still remained in Yei while Malual tried to collect the necessary bride price.

As well as commanders and foot soldiers, even the most senior SPLA figures in the post-CPA era were personally seeking to ensure that the marriages that they were involved in were legal according to the local Chiefs' Courts.

For example, in 2011, there was a case in the Chiefs' Courts of the Apuk Dinka concerning the marriage of a young man in the family of Salva Mathok. At the time, Salva Mathok was Deputy Minister of the Interior. Salva Mathok had commanded the

capture of Gogrial in 2000 and, because of his armed violence in the 1980s and 1990s, had an ambiguous relationship with local communities.⁷²⁷

The man who intended to marry had eloped with the girl for a brief period but was now in Juba with Salva Mathok. His family had started to arrange his marriage at home. The father of the girl asked for forty cows for the marriage. First twenty-one were given, and then a further five were given. At that time, a complaint arose that the girl and boy were related and, therefore, could not legally marry. According to Dinka law, marriage between relatives brings the danger of deadly pollution to the couple and their children. The girl's family, however, claimed that this family relationship was exaggerated as a way to avoid marriage.

In response, Salva Mathok collected people in his own car to bring them to Lietnhom for the case to be heard in the Paramount Chief's Court.⁷²⁸ The Chief found in favour of Salva Mathok's family. While the court this time did rule in favour of this military leader, the ruling was not inconsistent with Dinka customary law. There was not necessarily any persuasive undue influence from this military commander. Either way, it is clear that even Salva Mathok sought for the marriages of his family to be legally sanctioned and upheld by the customary courts. He invested resources in winning the case and did not ignore the Chiefs' Courts' prerogative.

The girl's family did not accept the ruling, and insisted that they wanted the cattle of the bride price and not the girl. Yet, the man's family came to collect all their cattle. At a further court case in January 2012, the uncle complained that they came to collect the cattle as if they were 'government'. In the end, the Paramount Chief ruled that the outcome would depend on whether the groom wanted to take her as a wife. The Paramount Chief ordered his family to travel to Wau so they could call him in Juba. At the time there was no phone reception in the village.

The Chiefs' Courts' ruling in January 2012 had clearly not accepted wholeheartedly the assertions of the family of Salva Mathok. The bride's family had continued to challenge his family's decision and the court was unable to ignore this. By suggesting that the case pivoted on the groom's opinion, the chief was stating that the

⁷²⁷ Cormack, *The Making and Remaking of Gogrial*, p.215.

⁷²⁸ Discussed in detail at Mou Ngot's court in January 2012 in Thiek Thou.

marriage could be legal and that Mathok's family had previously exaggerated the closeness of the bride and groom's familial relationship. The law restrained even the domestic affairs of this very senior commander.

As the father of the bride stated during the case,

'Don't be proud because you have a brother in town. I also have a brother in town. I have nothing to discuss with the man in town. Bring my cows.'

Here, the bride's father tells the groom's family that he also has a close relative 'in town', meaning that he also has a close relative who is in government and a position of authority. Therefore, government connections should not have any bearing on the Courts' outcome. The Chiefs' Court still had authority despite these elite connections.

Despite the groom's being in Juba, and despite both parties having a 'brother' in Juba, the case was still decided in the Chiefs' Courts in the village. Ever since their creation in the Condominium era, the Chiefs' Courts have actively tried to capture those who go to town and ensure that they are still subject to the laws of their *baai* – their home community. For British officials in the Sudan government, this reflected a fear of an educated elite detached from their tribal authorities.⁷²⁹ In these early years of the Chiefs' Courts, the capture of the affairs of men of the town by the Chiefs' Courts allowed the government to control the South Sudanese men of town. Now, it is allowing some control by rural chiefs over the affairs of the politico-military elite. There is a legacy of the Chiefs' Courts having a fragile, thin foothold, but a foothold nonetheless, which allows them to reach out to restrict the people of the town, including even the governing elite.

Ultimately, marriage is not simply about capturing men for service in the armies of government. Instead, it is about the authority of the *baai* and about having security of voice in one's homelands. Therefore, marriage does not always offer a simple tool for mobilisation. Instead, the logic of marriage amongst the western Dinka means that it is a way to legitimately demobilise and gain the social freedom not to be a combatant.

⁷²⁹ This is discussed in more depth in Chapter Five.

Maintaining the legal necessity of cattle for marriage and remaking authority through cattle

A key way that Chiefs' Courts have maintained authority over marriage is by maintaining the centrality of cattle in marriage. The physical distance of SPLA commanders from their cattle forces a relationship of trust to the *titweng* and chiefs who guard these herds. The cattle's vulnerability and physicality limits their commanders' autonomy to protect them.

Deng describes Dinka marriage as 'an endless process that involves a series of claims, counter-claims, obligations and transfers of cattle between groom's and bride's families and extended families – a wave of obligations that usually engulfs the entire lineage and communities.'⁷³⁰ The cattle are not just a symbol of appreciation. Instead, they are a material expression of the reciprocal exchange and compensation for the loss of the girl from her family. The cattle also cement inter-generational relationships of authority. As elders control the family herd, the necessity of cattle entrenches inter-generational power authority structures. Plus, between brothers, it gives priority to the oldest brother⁷³¹. Brothers commonly fall out over access to the family's cattle for marriage.⁷³² Yet also, through marriage, young men do not have to wait until their fathers' death and inheritance to gain the benefits of their fathers' wealth. This reduces the significance of death as wealthsharing is not dependent upon seeing death as an ending.

The cattle exchanged are a lasting material representation of the marriage. A wife will take pride in the cattle given for her, and her daughter's marriage negotiations will reference her own bride price. Young Dinka women talk of their pride in having the opportunity to repay their bride price through the cattle they gain for their families from their marriage.

These cattle again show that western Dinka law is not just a discourse, distinct from the real world, but it has effects in the material world.⁷³³ The Chiefs' Courts help to construct matter – they decide what material things are adequate for bride wealth and how many cattle are enough for use in bride wealth. Chiefs' Courts, for example, are

⁷³⁰ Deng, *Social Capital*.

⁷³¹ Leonardi, "'Liberation' or Capture", p.404.

⁷³² Leonardi, "'Liberation' or Capture", p.404.

⁷³³ Johnson, 'Medieval Law and Materiality', p.410. See Chapter Six for further discussion.

able to make raided cattle legal property while making locally stolen cattle illicit and impossible to exchange.⁷³⁴ In turn, the law has to be constituted in matter. The law, therefore, is limited by the materiality of the things it rules upon such as the vulnerability of the cattle and their absence during times of war. When cattle were raided in large numbers, the material reality limited the chiefs' agency and ability to remake the law. Yet, the courts have worked hard to preserve the necessity of bride prices in cattle. Elite politicians and commanders have been able to reshape the market in cattle and marriage.⁷³⁵ The materiality of cattle and their necessity in marriage, as well as the desire for the *baai* as experienced within a moral community, have set limits on the powers of the military elite.

Although not an elite, Dut's story highlights the reliance on *titweng* for marriage in cattle. Dut was a young man from Abyei and he fled to Greater Gogrial during the armed conflict in the Abyei Town. He fled with the girlfriend that he loved – Regina. They had married in church, made home together and had a young son. Yet, only with the exchange of these cattle could he appease his father-in-law's demands and be sure that he would not insist on the return of Regina to his family home in Aguok.

Fighting in Abyei in the 1990s had orphaned Dut and he had no access to a family herd. So, Dut worked for an NGO and through salaries and friendships managed to acquire the cattle for the bride wealth. To reach his father-in-law and satisfy the marriage demands, the cattle needed to be herded to Agok. The cattle's material vulnerability was a concern to Dut and a crucial part of what his full obligation entailed. The cattle needed to be directed hundreds of miles to the northwest, and en route avoid the dangers of disease and raiding, while also being kept in good condition with food and water. Dut could not herd the cattle himself as he had the commitments of an NGO job and had little experience of herding cattle over that terrain. Therefore, he hired *titweng* to herd his cattle.

⁷³⁴ Johnson, 'Medieval Law and Materiality'.

⁷³⁵ Pinaud, 'Military Kinship Inc..

Dut pictured with the titweng he hired to herd his cattle to Agok.



The necessity and sufficiency of cattle for the payment of bride wealth has not been uncontested. In Nilotic areas, bride wealth prices have long varied in response to famines, wars, epizootics and floods.⁷³⁶ Since the Condominium era, Chiefs' Courts have occasionally used written documents to record rulings, including those about marriage. However, written documentation, such as marriage certificates, has not become a necessary part of marriage. Written marriage agreements are still few and far between.

Missionaries set up the first schools in Southern Sudan and later the government expanded its own schools.⁷³⁷ Chiefs' scepticism of schooling did eventually wane, but this was not until the last decades of the Condominium.⁷³⁸ Therefore, the sons selected for school were initially often amongst the youngest and least favoured. They were the sons who would struggle to gain a claim on their family's herds to allow them to marry. When at school, these boys were introduced to new ideas of marriage and marriage laws that did not require cattle. Some of these boys went on to challenge the 'customary' marriage laws, and literate, South Sudanese government officials even appealed to the authorities.⁷³⁹ People took the opportunity of alternative, foreign authorities to challenge the pervading law and question whether bride wealth in the form of cattle was essential for a marriage to be legal. They had gained the opportunity to challenge the family system that did not favour them.

However, the Condominium era government courts were eager to preserve marriage through the exchange of cattle as they tried to 'preserve' custom and make the substantive laws static. Marriage laws were a way for the Condominium government to tie even educated South Sudanese to the laws of the Chiefs' Courts and the obligations of these customary laws. They hoped this would prevent them becoming a separate 'educated' class of Sudanese that was potentially a more dangerous threat to their government as shown by the White Flag League of the 1920s.⁷⁴⁰

The wars of the 1980s and 1990s brought the largest challenges to the preserve of cattle as bride wealth. The warring parties raided vast numbers of cattle. With a lack

⁷³⁶ Hutchinson, *Nuer Dilemmas*, pp.81–93, pp.100 – 102

⁷³⁷ D. J. Sconyers, *British policy and mission education in the Southern Sudan: 1928-1946*, (1978).

⁷³⁸ L. P. Sanderson and N. Sanderson, *Education, religion and politics in Southern Sudan, 1899-1964* (Evergreen Book Distribution, 1981).

⁷³⁹ Leonardi et al, *Local Justice*, p.26.

⁷⁴⁰ See Chapter Five for further discussion.

of available cattle, there was a need for new conditions of marriage if marriage was to remain possible. The Chiefs' Courts used the promise of future cattle as a solution to preserve the necessity of cattle for marriage while making marriage possible in the absence of cows. Across South Sudan this practice of accepting 'credit' became common.⁷⁴¹ For those who still had a few cattle, the bride price decreased.⁷⁴² According to Jok, this increased polygamy and divorce.⁷⁴³ The 1996 OLS Review suggested that this limited marriage to families that were trusted, limiting marriage options.⁷⁴⁴ The key point is that cattle themselves, and their material properties, were crucial for the law of marriage; the law's reality was based on its ability to be lived out in these livestock.

The war brought innumerable tough times and challenges. Yet, the uncertainties also brought opportunities.⁷⁴⁵ Some young men were able to take advantage of the acceptance of the promise of cattle for marriage without having to actually immediately produce the cattle. In Khartoum and Cairo, South Sudanese from non-cattle owning parts of the South also mingled with and fell in love with Nuer and Dinka. Even some of these cattle-less men were able to gain their in-laws' permission for marriage through the promise of these fictional future cattle.

Because of these debts of bride wealth, while the CPA brought peace, it also brought large demands on husbands to produce the cattle that they owed. Many young, married men in the post-CPA era were spending much time and concern making sure they could repay their in-laws the debt promised.

The Chiefs' Courts' enforcing of the necessity of cattle for marriage has not been consistent even amongst the western Dinka. During the 1980s, the Dinka Malual (of former Northern Bahr el Ghazal) experienced severe raiding from northern Sudanese pastoralists. Hundreds of people were taken as slaves and hundreds of thousands of

⁷⁴¹ Ataul Karim, Mark Duffield, Susanne Jaspars, Aldo Benini, Joanna Macrae, Mark Bradbury, Douglas H. Johnson and George Larbi, *OLS – Operation Lifeline Sudan: A Review* (UNICEF, New York City, 1996), p.73.

⁷⁴² Jok Madut Jok, 'Militarism, Gender and Reproductive Suffering: the case of abortion in western Dinka', *Africa* 69, 2 (1999), p.15. Pinaud questions whether we can be certain that this was always the case. The opposite appears to have happened in Nuer areas. Hutchinson describes how bride wealth prices increased as people speculated on what they would need in a peaceful future.

⁷⁴³ Jok, 'Militarism, Gender and Reproductive Suffering', p.15

⁷⁴⁴ Karim et al, *OLS*, p.173.

⁷⁴⁵ Elizabeth Cooper and David Pratten, *Ethnographies of Uncertainty in Africa (Anthropology, Change and Development)*, (Palgrave Macmillan, New York, 2015).

cattle were stolen.⁷⁴⁶ Many more thousands were displaced away from their homelands to avoid this rampant raiding. Dinka Malual were left with no cattle to exchange for marriage. People even found it hard to find food and food's scarcity meant that it became a highly valued asset – often the difference between life and death. Sacks of food became acceptable as bride price. This is a clear indicator of the desperation of the Dinka Malual at the time. Even in 2011, some of the poorest Dinka Malual were still accepting money and food, not cattle, as bride price.⁷⁴⁷

In the post-CPA era, some educated young people were using discourses borrowed from NGOs and human rights activists to push for changes in marriage terms and to undermine the necessity of cattle exchange. NGOs have challenged cattle exchange as constructing equivalence between the cattle and wife, and tying the wife into the marriage. Literature on bride price focused on questions of gender.⁷⁴⁸ Growing gender sensitivity through effective NGO programming, therefore, may have challenged the centrality of cattle in the marriage process. While bride wealth means that brides enter marriage with an obligation to their new families, women also talk of being grateful for being able to repay their parents through the bride price.

However, in Gogrial, Chiefs' Courts were actively upholding the necessity of cattle for marriage. The law projected a certain type of materiality, and these projections manifested in material things – the cattle.⁷⁴⁹ When cattle were exchanged in marriage, they were physically moved between camps and they also gained new legal limits to how these cattle could be used in the future.

For the *titweng*, there was a comparative advantage over their non-*titweng* brothers in preserving cattle as necessary for marriage as they have a better knowledge of the herd. Therefore, the necessity of cattle for marriage was not just imposed by the chiefs. The very materiality of cattle makes them vulnerable, and gave power to those who were able to protect them. This included those with long experience of cattle-keeping who can recognise illness, and make good judgments over grazing. It increasingly included those with access to guns and militarised might who could protect the cattle from armed raids. This vulnerability restricted the elites as they relied on

⁷⁴⁶ Jok, 'Militarism, Gender and Reproductive Suffering'.

⁷⁴⁷ Interviews in Northern Bahr el Ghazal (Aweil and Nyamlel), January 2011.

⁷⁴⁸ Human Rights Watch, *South Sudan: End Widespread Child Marriage* (Human Rights Watch, 2013).

⁷⁴⁹ Johnson, 'Medieval Law and Materiality'.

others to care for the cattle. The material demands for grazing meant they had to be herded and could not be limited to static pastures. Elites were forced to trust young men to look after their cattle, especially when they were at a physical distance in Juba.

New Markets and Other Material Demands – Keeping cattle as sufficient and necessary

In war, when western Dinka had access to fewer cattle, people used other goods as bride wealth payments, such as fishing nets, guns and food items.⁷⁵⁰ People's addition of these items to the bride price also reflected new market opportunities. Northern traders had been able to open 'peace markets' that allowed their safe presence in SPLA controlled areas in order to trade goods. As many of the towns were GoS controlled, garrison towns, these 'peace markets' opened in the more rural, SPLA controlled areas and brought new material goods closer to the rural population. Once the 2005 CPA was signed, further goods could be found in the market as roads became safer and infrastructure better. Plus, the western Dinka gained new access to money including through government and SPLA salaries. In this context, the brides' families started to expect not only cattle but also material goods purchased in the markets to decorate their bride wealth. Families brought chairs, mattresses, umbrellas, and mats for the bride's family. However, there was still ambiguity over whether these were simply an additional gift or whether they were a legally enforceable part of the bride wealth.

No court cases I witnessed included mention of any material items other than cattle as bride price. The chiefs claimed the bride price was still legally only in cattle. Amongst the Apuk Dinka, the chiefs were also active in quashing social pressures that were introducing other purchased material goods into the money market.

Banning imported beer

In February 2012, the chiefs of the Apuk Dinka had gathered in the county capital. The local government County Commissioner had called the chiefs to a workshop funded by an international veterinary organisation. One evening, after the workshop, the Apuk Dinka chiefs gathered together.

⁷⁵⁰ Pinaud, 'Military Kinship Inc.'.

A senior chief explained how over the last few days he had heard growing concern amongst the chiefs about the cost of weddings. He agreed with their concerns. Weddings had long been a time of celebration when animals would be slaughtered to appease the divinity but also to feast on. Sorghum would be saved and brewed into wine to oil the revelling. However, now families had growing access to bottled or canned beer that was imported or produced in Juba.⁷⁵¹ In recent years, shop owners in the markets had purchased fridges and stocked them with bottles of sweet, fizzy ‘sodas’ and a few cans or bottles of alcohol. Wedding-goers increasingly expected to drink bought and not just home-brewed alcohol. Canned and bottled beer had intruded into the domestic rituals of marriage and was remaking this institution. This was making weddings incredibly expensive and was a concern for chiefs. During the meeting, the chiefs banned from weddings all bought alcohol. All wine that was to be consumed was to be locally brewed.

In the Sudans, the control of alcohol has long been part of the state’s negotiation of its authority. For example, in the late 19th century, Mahdist armies in the north became notorious for brutally breaking all pots and jars of any house where alcohol was found. In post-CPA South Sudan some state governments were also asserting their authority through alcohol laws. Governors in Lakes State had tried to assert their authority by banning locally brewed alcohol. Elsewhere, locally brewed wine has been perceived as ‘dangerous’ because it was unregulated. Willis argues that in Tanzania although there had been a commoditisation of grain beer since the 1890s, beer was still playing a role in shaping discourses and behaviour that sustained elder men’s authority.⁷⁵² In that meeting, the chiefs’ opposition to the canned and bottled beer was nothing to do with the effect either beer or local wine had on the drinker. In rejecting canned and bottled alcohol, the chiefs were denouncing a modernity and commercialised intrusion into marriages that privileged monetary wealth and undermined a materiality based on cattle.

In April 2013, the questions of purchased beers and sodas still troubled the Chiefs’ Courts amongst the Dinka Apuk. In one case in the *Akut Ditch*, the groom’s uncles were reclaiming their cattle after the man and wife had divorced. The groom’s

⁷⁵¹ In 2009, SABMiller invested 50 million USD to open the first and only brewery in South Sudan. It closed in 2016.

⁷⁵² Willis, ‘Beer Used to Belong to Older Men’.

uncles had a piece of paper preserved in a plastic bag that confirmed that the court had cancelled the marriage. They had received back four of the ten cattle they had paid initially as bride price, and now they demanded the remaining six.

The bride's family said that they could not return all ten as one bull was slaughtered for the wedding party. One of the cows had been exchanged for two bulls, and one of the bulls then sold to provide beer and soda for the wedding party. Two cows had also been sold away to pay for the bride's brother's school fees in East Africa. This account highlights the high portion of the bride price spent on the wedding itself.

One of the uncles said that he should not have to cover the cost of the wedding party and that he should still receive a replacement for the bull that was sold. 'At the wedding, I did not drink beer. I said, 'If you buy beer, it is just for you. I don't drink beer. If it is for you, I cannot pay for it.' Plus, only two of us went from the groom's family to the bride's house, and we could not eat the meat of a whole bull or drink all the beers a bull could buy.'

The bride's family explained that they had also had another family visiting at the time to discuss another marriage and the meat and beer was to feed all visitors. Yet, they claimed these costs were still necessary.

The chief accepted that the bull had been slaughtered for the wedding, but that the man was still owed four cattle. It is worth noting that one of the main concerns was not the alcohol itself but that the monetary burden fell on the family of the bride. The chiefs joked that the bride price was now being spent on alcohol for the wedding and that this needed to stop. It was the bride's family that hosted the wedding party and it would be a contradiction to the reasons for exchange if the family then had to carry the monetary burden of the marriage. Their loss in the marriage was their daughter.

The Necessity of Cattle

Every few weeks, as a treat, I would hitch a lift in an NGO vehicle and travel the two hours to Wau. The NGOs would trek to Wau to procure supplies for their programmes or food for their compounds. I would go to buy apples or eat Ethiopian food in a small, Ethiopian hotel called the *Black Diamond*. However, on that trip in 2011, my return

journey was delayed. The NGO driver (Bak) could not take us back to the village that night. He had been arrested.

Bak had fallen in love with the daughter of a policeman from Tonj. This policeman now had a senior position in Wau. Bak and his beloved had eloped a few years ago, prompting Bak's quick arrest and a case in the courts. The father-in-law had been persuaded to accept fifty cows for his daughter's marriage. As Bak had an NGO job, it was agreed he could pay the cattle over time, as he earned money from his salary. Bak spent all his money on buying cows to give the father-in-law. He had little money left to support his new wife and their growing family. They had two children by that time. He also struggled to hold down his job, as he would periodically be arrested on trips to Wau when he had not met his deadlines for cattle payments.

Yet, that month, Bak was surprised by his arrest. The week before he had given 5000 SSP (then equivalent to approximately 1700 USD) to his father-in-law. Bak had believed this was his latest contribution to the owed bride wealth. However, the father-in-law now claimed that he was still expecting the payment of three cows as the money was not an adequate alternative to the cows owed.

Bak remained in prison and the case went to court. The court in the village ruled in the father-in-law's favour. They agreed that bride wealth must be paid in cattle. However, the 5000 SSP was not returned to Bak. The court also ruled that Bak must have known that the bride wealth could only be paid in cattle and that, therefore, the 5000 SSP was simply a generous gift of money to his father-in-law. Gifts to in-laws should be praised.

By enforcing this ruling, the Chiefs' Court was demanding that the bride price be paid in cattle. Even though all the parties knew that Bak would buy the cattle and that there was nothing stopping his father-in-law buying the cattle, for the exchange to be part of the marriage the exchange had to be in the material form of cattle. The materiality of the cattle themselves mattered.

Bak was released from prison and returned to work to continue to earn money to buy cows to pay the bride wealth and reduce occasions of arrest.

Conclusion

For young men of the western Dinka, especially soldiers and *titweng*, marriage is a potential gateway to the safety of the *baai* and a legitimate escape from the *toc*. Marriage brings the promise of a safe home even if their commanders demand they travel far away to fight. By marrying, men also gain the promise of procreational immortality. Chiefs' Courts have continued to guard their control over the legality of marriage through the need for marriages to be materially embodied in cattle. The courts have upheld cattle as the sufficient and necessary means of marriage and by doing so captured some normative control over soldiers and even elite commanders. Their ability to do this in part is the Chiefs' Courts' legacy of being designed in the early 20th Century to ensure that South Sudanese who were part of government were still controlled by the legal order of the Chiefs' Courts of their home community.

9. ‘They Are Now Community Police’: Negotiating the Boundaries and Nature of the Government in South Sudan through the Identity of Militarised Cattle-keepers

The final article of this thesis explores in greater depth some of the various relationships between western Dinka armed cattle keepers and the governing Sudan Peoples' Liberation Movement/Army over the last thirty years. The article highlights the blurred government/non-government boundary, as well as the ongoing contests to capture control of these *titweng*.

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Abstract

Armed, cattle-herding men in Africa are often assumed to be at a relational and spatial distance from the 'legitimate' armed forces of the government. The vision constructed of the South Sudanese government in 2005 by the Comprehensive Peace Agreement removed legitimacy from non-government armed groups including localised, armed, defense forces that protected communities and cattle. Yet, militarised cattle-herding men of South Sudan have had various relationships with the governing SPLM/A over the last thirty years, blurring the government – non government boundary. With tens of thousands killed since December 2013 in South Sudan, questions are being asked about options for justice especially for governing elites. A contextual understanding of the armed forces and their relationship to government over time is needed to understand the genesis and apparent legitimacy of this violence.

Introduction

On the 15 December 2013, violence erupted in Juba (South Sudan) among Nuer soldiers of the Presidential Guard. A force known colloquially as the *Dut ku Beny* participated in the armed reaction by the government the following day. This reaction in Juba was not limited to restraining rebelling Nuer soldiers, but included larger battles in other SPLA barracks and the targeting of Nuer civilians in their homes. The *Dut ku Beny* are a force stationed near Juba and comprised of militarised, former cattle-keeping Dinka men who had been recruited from the home community of the President to the west of the Nile in Greater Bahr el Ghazal. Previously the Sudan People's Liberation Army (SPLA) High Command had refused to either incorporate the *Dut ku Beny* into the SPLA or fund this force⁷⁵³ justifying this based on the *Dut ku Beny*'s apparent ethnic homogeneity, and their focus on protection of the president and not the state.⁷⁵⁴ The December 2013 violence changed the *Dut ku Beny*'s relationship to the SPLA, allowing them to be incorporated into the military operations and apparatus of government.⁷⁵⁵ The leaked draft report of the African Union Commission of Inquiry in March 2015 drew attention to the possible culpability for violence of this 'body of irregulars' from Bahr el Ghazal.⁷⁵⁶

Since 2006, the SPLA has been a complex hybrid of incorporated clusters of armed men. The wars of the 1980s and 1990s in South Sudan (re)created a diverse swarm of armed groups who defended communities against the militarised, arbitrary violence of the SPLA or the Government of Sudan (GoS). After the 2005 Comprehensive Peace Agreement (CPA) between the SPLA and GoS, these forces remained armed and prolific. In addition to the Khartoum-backed, wide reaching umbrella group of the South Sudan Defense Force (SSDF), there were also a prevalence of forces that had a more geographically local focus, such as the White Armies (associated with the Nuer), and the *titweng* and *gelweng* (associated with the Dinka, and on which this article focuses). Previous commentaries have focused on forces that

⁷⁵³ Majak D'Agot (former Deputy Minister of Defense), African Union, 'Final Report', p.13.

⁷⁵⁴ Interview with Civil Servant in the Ministry of Defense, December 2013.

⁷⁵⁵ To an extent this appears to parallel the incorporation of the White Armies into the formal opposition force (the SPLA-In Opposition (SPLA-IO)) in 2014. However, the White Armies have better maintained their own hierarchical structure

⁷⁵⁶ Repeatedly mentioned in the early stages of the report. See, for example, Majak, African Union, 'Final Report', p.13.

historically opposed the SPLA.⁷⁵⁷ Instead, this article offers a contrasting example by considering groups that historically supported the SPLA.

After the CPA was signed, the continued existence and popularity of other armed groups challenged the military superiority and legitimacy of the SPLA, contradicting the CPA's assumption that the SPLA, as the government army, would exercise a monopoly over the use of legitimate force⁷⁵⁸ and reassert the division between civilian and combatant.⁷⁵⁹ The CPA explicitly declared an end to armed groups in Southern Sudan other than the SPLA and GoS, with armed forces limited to the army, police, prisons and wildlife forces.⁷⁶⁰ Other armed groups were to either be incorporated into these organised forces or be reintegrated as civil institutions.⁷⁶¹

In 2005, Salva Kiir (as the new leader of the SPLA after the death of John Garang) initiated discussions with the largest, other armed group - the SSDF. In the new, post-Garang political landscape,⁷⁶² discussions culminated in the 2006 Juba Declaration that incorporated the SSDF into the SPLA.⁷⁶³ This undermined the power of Garangists⁷⁶⁴ to control the SPLA and appeared to reduce the threat of a Southern civil war that risked undermining the self-determination referendum promised for 2011.

The incorporation of the SSDF still left unanswered what would happen to other, non-government armed actors. Academic discourse usually makes a distinction between the state and non-state provision of security.⁷⁶⁵ In Dinka, the closest distinction

⁷⁵⁷ See, for example: J. Young, 'The White Army: An Introduction and Overview', Small Arms Survey, 2007; M. B. Arnold and C. Alden, 'This gun is our food': Disarming the White Army militias of South Sudan, *Conflict, Security and Development* 7, 3 (2007).

⁷⁵⁸ Weber's classic definition of the state includes the state having a monopoly of the use of force.

⁷⁵⁹ JIU units were also legitimate.

⁷⁶⁰ Comprehensive Peace Agreement 2005, p.100. The status of the National Intelligence and Security Service was undetermined.

⁷⁶¹ Comprehensive Peace Agreement 2005, p.100.

⁷⁶² Integration of the SSDF into the SPLA brought this large armed group formally under Salva's leadership and cemented his relationship with SSDF leader Paulino Matip.

⁷⁶³ Garang had opposed SSDF integration fearing it would "dilute" his leadership. Warner, L. A. 'Armed-Group Amnesty and Military Integration in South Sudan', 158/6, *RUSI Journal*, 2013, pp.40–47.

⁷⁶⁴ Garangists were leaders in the SPLA perceived as dependent on the patronage of John Garang (the leader of the SPLA from its inception in 1983 to his death in 2005). They were nicknamed 'orphans of Garang' after his death.

⁷⁶⁵ B. Baker, 'Linking State and Non-State Security and Justice', *Development Policy Review* 28, 5 (2010), pp. 597 – 616; A. Ebo, 'Non-State Actors, Peacebuilding and Security Governance in West Africa: Beyond Commercialisation', *Journal of Peacebuilding and Development* 3, 2 (2007), pp.53–69; K. Meagher, 'The Strength of Weak States? Non-State Security Forces and Hybrid Governance in Africa', *Development and Change* 43, 5 (2012), pp.1073–1101.

is between the ‘government’ (*hakuma*) and the ‘home’ (*baai*).⁷⁶⁶ The ‘government’ refers to the government itself, its army and police force, as well as militarised rebel movements with a national political agenda. It is spatially associated with urban centres and distance from the ‘home’. In contrast, the ‘home’ is governed by the decision making of the family heads and the local leaders. Home communities often have their own, local defense force of armed youth and in pastoralist communities these defense forces are often synonymous with those who keep the cattle.

After the CPA, international observers and policy makers portrayed violence by the armed cattle-keeping men of the home as inherently illegitimate because they were non-government armed actors. They were portrayed as destructive and anarchistic in their violence, increasing the fragility of the new state of South Sudan.⁷⁶⁷ This built on broader assumptions that pastoralists are politically marginalised and distant from modern government,⁷⁶⁸ and modernity due to their mobility and lifestyle.⁷⁶⁹ It ignored recent relationships with the SPLA and government forces. While many government leaders in South Sudan were from pastoralist communities and displayed an ongoing stake in cattle by privately investing in herds, official government policy more closely complied with the skeptical international sentiments. Post CPA disarmament campaigns were targeted against the cattle keeping home defenses, including the Nuer White Armies, the Dinka *titweng* and the *gelweng*.

In December 2013, the SPLA “fell apart”⁷⁷⁰ across South Sudan, dividing along Nuer and Dinka lines or possibly, more accurately, along former SPLA – SSDF lines.⁷⁷¹ This started the current civil war. Yet, these new levels of violence and fragmentation were also an opportunity to further reconstruct the government and its military apparatus. The *Dut ku Beny*, that had its historical origins in the institution of the *titweng*, was brought into the national military apparatus of the government. While the Dinka *titweng*, like the Nuer White Armies, were portrayed as being at a distance from

⁷⁶⁶ Leonardi, “‘Liberation’ or Capture’.

⁷⁶⁷ For example, J. Hatcher, ‘South Sudan unrest exacerbated by conflict among cattle herders’, *The Guardian* (2014).

⁷⁶⁸ J. Abbink, ‘The Shrinking Culture and Political Space of East African Pastoral Societies’, *Nordic Journal of African Studies* 38 (1997), pp.1–17; Interview with NGO worker, Juba, July 2012 (in English); Discussion with DFID staff, Juba, July 2012 (in English).

⁷⁶⁹ V. Azarya, ‘Pastoralism and the State in Africa: Marginality or Incorporation?’, *Nomadic Peoples* 38, 11 (1996).

⁷⁷⁰ De Waal, ‘When Kleptocracy Becomes Insolvent’.

⁷⁷¹ All the senior commanders in the SPLA-IO except James Koang are former SSDF commanders.

the Government of South Sudan (GOSS) and were the focus of disarmament, this relationship gradually changed. In bringing the *Dut ku Beny* into the national army, a militarised group often assumed to be at a distance to the government was drawn across the concentric lines of the state/non-state boundary – an act which itself redefined the nature of government.

In South Sudan, literature on other armed groups has focused on groups who opposed the SPLA and, therefore, appeared to be a greater explicit threat to the new GOSS.⁷⁷² This article instead considers armed groups who fought with the SPLA before the CPA. The SPLA negotiated a mutually beneficial relationship with the militarised male age group of the western Dinka in Bahr el Ghazal. Over time, they have been known by various names including ‘*titweng*’, ‘*gelweng*’, ‘community police’ and some as the ‘*Mathiang Anyoor*’ (brown caterpillar) or ‘*Dut ku Beny*’.⁷⁷³ This provides a counter example to the assumption that such other armed groups are necessarily in opposition to the government. The ‘*titweng*’ was the first name given to a group of militarised men from the western Dinka by the SPLA in the 1980s. Therefore, this term will be primarily used in this article to refer to these youth in general.

This article reflects on the negotiation of the *titweng* identity across the government – non-government boundary to better understand the ongoing construction of the South Sudanese government. The elusive, “twilight”⁷⁷⁴ boundary between the state and non-state offers “a clue to the nature of the phenomenon” of the state itself,⁷⁷⁵ with “hybrid domains of security”⁷⁷⁶ a common focus of studies of this boundary. Apparently weak states still display order and security⁷⁷⁷ as citizens turn to alternative

⁷⁷² See, for example: Young, ‘The White Army’; Arnold and Alden, ‘This gun is our food’.

⁷⁷³ Occasionally commentaries assume *Mathiang Anyoor* and *Dut ku Beny* are synonymous. Yet, the *Dut ku Beny* is commonly used in Juba to refer to a smaller force connected to the President. Alternatively, the *Mathiang Anyoor* refers to a larger group recruited from Bahr el Ghazal since 2012 that fought in Heglig and across South Sudan in 2014.

⁷⁷⁴ Lund, ‘Twilight Institutions’.

⁷⁷⁵ T. Mitchell, ‘The Limits of the State: Beyond Statist Approaches and their Critics’, *American Political Science Review* 85, 1 (1991), pp.77–96, p.78.

⁷⁷⁶ V. Boege, Anne Brown, and K. P. Clements, ‘Hybrid Political Orders, Not Fragile States’, *Peace Review: A Journal of Social Justice* 21 (2009), pp.13–21, p.18.

⁷⁷⁷ N. Bagayoko, ‘Introduction: Hybrid Security Governance in Africa’, *IDS Bulletin* 43, 4 (2012), pp.1–13; Baker, ‘Linking State’, p.14; Boege et al, ‘Hybrid Political Orders’, p.25; Meagher, ‘The Strength of Weak States?’, p.14; K. Vlassenroot and T. Raeymaekers, ‘Kivu’s Intractable Security Conundrum’, *African Affairs* 108, 432 (2009), pp. 475–484; D. Anderson, ‘Vigilantes, Violence and the Politics of Public Order in Kenya’, *African Affairs* 101, 405 (2002), pp.531–555; B. Baker, ‘When the Bakassi Boys Came: Eastern Nigeria Confronts Vigilantism’, *Journal of Contemporary African Studies* 20, 2 (2002), pp.223–44; D. J. Smith, ‘The Bakassi Boys: Vigilantism, Violence and the Political Imagination in Nigeria’, *Cultural Anthropology* 19, 3 (2004), pp.429–455.

security providers⁷⁷⁸ and the state tries to co-opt non-state security mechanisms to improve their control.⁷⁷⁹ Yet, “it is in the struggles and debates of local politics and property regimes that states are made, not simply in the projection of power outwards and downwards by the central state”.⁷⁸⁰ The *titweng* have not simply been co-opted by a powerful, militarised centre. In the negotiation of their identity across these boundaries, they have shaped the nature of government itself. For example, they have helped draw to the centre an ethnicised, Nuer-Dinka identity politics that was constructed amongst the *titweng* in the 1990s.

The recent crisis in South Sudan has initiated a belated transitional justice discourse. Previously, justice was rarely discussed. The CPA had ignored questions of accountability despite a strong demand from southern Sudanese civil society.⁷⁸¹ Despite the renewed demand for accountability, the complexity of the *titweng*’s role in recent violence and their relationship to government illustrate the non-linear landscape of command that will make justice and accountability difficult, especially without a detailed contextual and historical understanding.

This article is based on three years of participant observation while living in the western Dinka from 2010 - 2012. The author continued to research in South Sudan until 2015.

A History of the Titweng

Constructing the Titweng

After the SPLA’s formation in 1983, the Greater Bahr el Ghazal region quickly offered support to this movement. By the late 1980s, the SPLA had established itself as the *de facto* government of almost all of Greater Bahr el Ghazal.⁷⁸² Communities (voluntarily and involuntarily) supported the SPLA war effort with food (including meat from livestock) and recruits. To undermine the SPLA, northern groups (that became known as the Murahaleen) were armed by the GoS as a proxy force to conduct raids into these

⁷⁷⁸ B. Baker, *Multi-Choice Policing in Africa* (Uppsala, 2007); H. M. Kyed, ‘Community Policing in Post-war Mozambique’, *Policing and Society* 19, 4 (2009), pp.354–371.

⁷⁷⁹ Baker, *Multi-Choice Policing in Africa*, p.90.

⁷⁸⁰ Leonardi, *Dealing With Government*, p.9.

⁷⁸¹ See, for example: Y. Ajawin, ‘Human rights violations and transitional justice.’ In A.H. Abdel Salam and Alex de Waal (Eds.) *The Phoenix State: Civil society and the future of Sudan* (Trenton NJ, 2001).

⁷⁸² Some urban centres and road arteries remained under GoS control.

SPLA sympathising areas.⁷⁸³ Food shortages in the early 1980s had already encouraged raids into northern Bahr el Ghazal from southern Darfur and Kordofan, yet these raids increased in scale from 1985 with the start of GoS support.⁷⁸⁴ These armed raids killed hundreds, and took captive property and people. The western Dinka not only shared a border with the north, but also, to the east, a border with remaining Anya-nya II fighters (based in Western Upper Nile) who resisted the SPLA leadership of the southern rebellion, and from the mid 1990s, led the SSDF. Supported by GoS from 1984, they were another proxy force used to fight the SPLA. For example, in the 1988 and 1989 dry season, a combined Anya-nya II and Murahaleen force attacked the far northeast of Bahr el Ghazal.⁷⁸⁵ To the western Dinka, therefore, the SPLA war brought unprecedented levels of uncertainty and violence.

Socio-political structures of the Dinka home community had long provided security.⁷⁸⁶ After childhood and before marriage, men were expected to have recourse to violence to protect their community and their cattle. With the rise in violence from northern raids in the late 1980s, the *titweng* (“protectors of the cattle”) were formed utilising the militarised nature of this age group and incorporating support from the *quasi* government of the SPLA. While the *titweng* were a response to the demands of the home community, local memory and the media⁷⁸⁷ recall them as also an innovative idea of the SPLA.⁷⁸⁸ This new force of the *titweng* provided a defense for Bahr el Ghazal against GoS’s proxy forces and compensated for a lack of adequate SPLA protection.⁷⁸⁹ They were armed and reorganised by the more formal SPLA. In the late 1980s,⁷⁹⁰ Kiir provided SPLA officers to help train and command the *titweng*,⁷⁹¹ with training usually limited to operation of AK-47s.⁷⁹² If not provided by the SPLA,

⁷⁸³ Johnson, *The Root Causes*, p.69.

⁷⁸⁴ A. N. Mawson, ‘Murahaleen Raids on the Dinka’, *Disasters* 15, 2 (1991), pp.137-149.

⁷⁸⁵ Mawson, ‘Murahaleen Raids’, p.144.

⁷⁸⁶ A. N. Mawson, *The Triumph of Life: Political Dispute and Religious Ceremonial Among the Agar Dinka of Southern Sudan* (1989).

⁷⁸⁷ See for example, M. Mayom, “Youths, gelweng leaders called on to help voter drive in Lakes”, *Sudan Tribune* (2009)

⁷⁸⁸ O’Brien, “Shots in the Dark”, *Small Arms Survey* (2008), p. 24; Sudan Tribune, ‘Lakes State Gets New Military Caretaker Governor’ (2013).

⁷⁸⁹ Johnson, *The Root Causes*; Executive Chief, Kuajok (Warrap State), April 2012 (in Dinka).

⁷⁹⁰ Events are dated based on interviews in the western Dinka, although exact dates could often not be recalled. Kiir’s initial support of the *titweng* is remembered as during the era of increased Murahaleen raiding, before the SPLA division between Garang and Riek, that other research highlights as having occurred at the end of the 1980s.

⁷⁹¹ B. Malwal, *Sudan and South Sudan: From One to Two* (London, 2014), p.178; A. Adal, as recorded by A. M. Anai, ‘Warrap State Peace and Reconciliation Conference - Mayen Rual’, *PACT Report*, 17 June 2005.

⁷⁹² Jok and Hutchinson, ‘Sudan’s Prolonged Second Civil War’, p.134.

families personally invested capital in guns for their sons with tacit permission from the SPLA. In the early days of the late 1980s they were also known as ‘*Tit Baai*’ (protectors of the home) or the ‘*Machar Anyar*’ (black buffalo).⁷⁹³ There was little resistance to recruitment into the *titweng* as it facilitated protection of their own communal property and offered them the opportunity to restore their dignity⁷⁹⁴ after the severity of raids. They offered a “civil defense capability” that resulted in a major decrease in abductions, forcible displacement and cattle raids.⁷⁹⁵

Prior to the institution of the *titweng*, age-sets had structured these militarised groups of young men. Age-sets are remembered as a leaderless group of male youth initiated into manhood during the same, multi-year season. Age sets were often exclusive groupings with a discrete membership⁷⁹⁶ and common across the “tribe” in that they collectively “call the sets by the same names”.⁷⁹⁷ In many pastoral societies, political life is regulated by these age-based organisations,⁷⁹⁸ with a younger ‘warrior grade’ age-set below the age-set with normative authority.⁷⁹⁹ Younger age sets would compete with the older, dominant age sets to establish their supremacy and normative authority. This allowed notions of equality at the same time as a hierarchical structure to facilitate both moral leadership and military protection. Amongst the western Dinka, competition between age sets had become more theatrical and symbolic than a full display of the young men’s force. Age-sets and contestation remain common elsewhere in South Sudan,⁸⁰⁰ although they vary in their exact form and the role they play in constructing a physically protected moral community.

The formation of the *titweng* brought a radical, SPLA-enforced departure from the age-set system amongst many western Dinka. SPLA actively reconstructed the militarised youth by pausing the age-sets system and inter-age competitions. Instead they encouraged a unified larger group to fight together irrespective of their years of initiation, with the assumption that a larger group would better defend against large raiding groups from the north. This further made fictitious notions of shared lineage and

⁷⁹³ Executive Chief, Kuajok (Warrap State), February 2013(in Dinka).

⁷⁹⁴ Jok and Hutchinson, ‘Sudan’s Prolonged Second Civil War’.

⁷⁹⁵ Hope Project, ‘Best Practices and Tools for Community Based Peace-Building in South Sudan’ (2002); Malwal, *Sudan and South Sudan*.

⁷⁹⁶ M.Doss, *Evans-Pritchard and Segmentary Structures Amongst the Nuer: a Reappraisal*, 2000.

⁷⁹⁷ Evans-Pritchard, *The Nuer*, p.289.

⁷⁹⁸ Abbink, ‘The Shrinking Culture’.

⁷⁹⁹ Abbink, ‘The Shrinking Culture’, p.5.

⁸⁰⁰ See Lewis (1972) for a description of the Murle age-set system.

familial ties that had been used to construct social unity amongst warring militarised youth. While literature has suggested increased violence from youth based on generational tensions,⁸⁰¹ this restructuring of the *titweng* structurally reduced inter-generational contests between proximate age-sets, suggesting a more complex understanding of youth.⁸⁰²

Previously, age-sets were not ‘imagined communities’ to the extent that their members all knew each other individually.⁸⁰³ These newly formed larger groupings of the *titweng* were now too vast for members to all know each other personally, requiring the imagination and construction of this group. Symptomatic of these larger, imagined groupings was the introduction of informal uniforms to mark the group’s boundary. Without uniforms they could not quickly distinguish between enemies and fellow fighters during combat. The wartime lack of clothes meant that palm tree leaves tied around wrists were used.⁸⁰⁴

The groups were also less bounded and static in their membership; all fighting men in the home communities could be considered as *titweng*. The more prominent cleavage was no longer between age groups, but between those fighting for their home communities and those captured by the government sphere. With growing education, urbanisation and association with the government, including through joining the SPLA, increasing numbers of youth were not entering these local defense forces. Scarification as part of the home initiation into manhood was one symbol of this boundary of the *titweng* as it was primarily the youth who remained in the cattle-camps and home community who were scarified. Yet, this was still not clear-cut as many of those who were scarified went on to be educated, join the SPLA or enter the government sphere by other means.

Yet, with the *titweng* supported by the SPLA, could the *titweng* themselves be considered part of the government sphere? Leonardi describes how “the SPLA used a

⁸⁰¹ See, for example, J. M. Jok, ‘War, changing ethics and the position of youth in South Sudan’. In Jon Abbink and Ineke van Kessel (Eds.), *Vanguard or Vandals: Youth, politics and conflict in Africa* (Brill, 2005), p.145.

⁸⁰² Leonardi challenges the assumption that violence is necessarily a result of generational tension. Leonardi, “‘Liberation’ or Capture’.

⁸⁰³ This references Anderson’s use of ‘imagined communities’ in: B. Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (2006), p.6.

⁸⁰⁴ Aguok Dinka *titweng*, Kuajok (Warrap State), April 2012 (in Dinka); Agaar Dinka chief, Malek (Lakes State), June 2012 (in Dinka).

combination of violence and patronage to transfer the allegiance of young soldiers from their families to the military hierarchy”.⁸⁰⁵ Yet, unlike the young soldiers described who had been recruited into the SPLA and trained far from their homelands, the *titweng* remained in their home communities and therefore did not experience the same shift to subjection to the military hierarchy.

Nevertheless, there was ambiguity over whether the *titweng* had been captured by government. Gun ownership was associated with the government sphere. Prior to the SPLA war, guns were largely limited to government control and ownership. The British government in the first half of the 20th Century, due to their superior military might, had quashed much of the trickle of arms traded into Sudan from the east and north, often in exchange for ivory. The dominant owners of guns were government officials (using guns to shoot wildlife as well as enhance security) and government chiefs. The association of guns with the government continued into the post CPA era. People interviewed often referred to guns as belonging to the government in general terms, even if specific guns they described were privately owned. Therefore, in acquiring guns, the *titweng* gained symbolic proximity to the government and, in this case, the SPLA. Distribution of guns blurred the home – government line and left the *titweng* sitting ambiguously between the two.

The *titweng* also explicitly supported the SPLA. On occasion, they would supplement SPLA’s deployments,⁸⁰⁶ especially when the SPLA were fighting near their homelands. One account describes them as a proxy force for the SPLA, participating in 197 military operations in Bahr el Ghazal.⁸⁰⁷

The utility of the *titweng* prompted competition between vying SPLA elites. There was ongoing competition between Kiir and Garang for ultimate authority over the SPLA in Bahr el Ghazal,⁸⁰⁸ and there was dissatisfaction from the home community of Bahr el Ghazal over Garang’s failure to prioritise their protection from northern raids.⁸⁰⁹ Garang was skeptical of the *titweng* because they were a coordinated, armed group that

⁸⁰⁵ Leonadri, “‘Liberation’ or Capture’, p.399.

⁸⁰⁶ Hope Project, ‘Best Practices’.

⁸⁰⁷ P. A. Nyaba, ‘The Disarmament of the Gel-Weng of Bahr el Ghazal And The Consolidation of the Nuer – Dinka Peace Agreement 1999’, (Sudan Council of Churches and Pax Christi, 2001), p.5.

⁸⁰⁸ Malwal, *Sudan and South Sudan*.

⁸⁰⁹ Johnson, *The Root Causes*, p.109.

was not directly controlled by the SPLA,⁸¹⁰ or at least not controlled by him. Rumours started that the *titweng* were loyal to Kiir and a counter-force to Garang.⁸¹¹ However, the benefits of the *titweng* for the broader SPLA effort were hard to deny as they freed up SPLA soldiers to focus on their fight with Khartoum.⁸¹² Plus, the protected herds were also a source for the feeding of the SPLA. The cows were even known as the ‘bank of Garang’.

The SPLA influence over these armed Dinka youths appeared to make it more difficult for chiefs to control them.⁸¹³ Yet, contemporary chiefs often contrast SPLA soldiers with the *titweng*, highlighting the legitimacy and continued obedience of the latter. The *titweng*’s lack of consumption of alcohol, compliance to the customary courts, and respect for gun control by local authorities are all given as examples of their continuing subscription to the normative values of the home. Unlike SPLA soldiers, they do not fall under the direct command, or have the ability to levy the authority of, a distant SPLA commander. They are also reliant on resources of the home, such as cattle, for life and marriage. For example, one day in 2012, while singing to his song bull, a *titweng* amongst the Apuk Dinka fired a shot into the air in celebratory happiness. At the time, local authorities had banned the firing of guns in celebration in case it was misunderstood as an act of aggressive. The *titweng* was fined a bull by the local chief and did not resist compliance with this demand.

Yet, it should be noted that chiefs, themselves had a complex relationship with the SPLA, not sitting in the sphere of the home but across the home-government boundary. While many chiefs had an authority independent of the SPLA, many also supplemented and maintained their authority through a negotiated relationship with the SPLA that made them part of the SPLA/M governance structure.

⁸¹⁰ Johnson, *The Root Causes*.

⁸¹¹ Malwal, *Sudan and South Sudan*, p.179.

⁸¹² O’Brien, ‘Shots in the Dark’.

⁸¹³ Jok and Hutchinson, ‘Sudan’s Prolonged Second Civil War’.

A New Ethnic Idiom

The 1990s brought a new era of South-South violence that incorporated into the *titweng* a stronger ethnicised vision of being Dinka⁸¹⁴ and created the new iteration of the *gelweng*.

In 1991, Riek Machar split from John Garang's SPLA. Riek sought support from the Nuer and encouraged an ethnic, militarised narrative to the division.⁸¹⁵ This failed to unite the Nuer⁸¹⁶ but did militarise the Dinka and Nuer division.⁸¹⁷ By the mid 1990s, Riek armed the western Nuer youth who became known as White Soldiers.⁸¹⁸ They would defend against and raid into western Dinka areas controlled by Garang's SPLA. The Dinka were portrayed as synonymous with Garang's SPLA, making them legitimate targets based on ethnic identity.

With the violent raids into Dinkalands now occurring further south, the initiated cattle guard of what is now Lakes State were instituted as *gelweng* by SPLA authorities, mimicking the institution of the *titweng*.⁸²⁰ As one chief and former *gelweng* explained, "We were given guns to protect our cows. That's when we started to be called *gelweng*".⁸²¹ During this time, gun ownership became considered as a necessary condition for being a *gelweng*. The *gelweng* would often also be given ten milking cows that would allow them to move ahead of the main cattle camps with a supply of milk.⁸²² These *gelweng* became the armed frontline to offer a strong defense to protect the home community, the cattle and the SPLA against Riek's forces and the Nuer. They were seen as the Dinka equivalent of the Nuer White Army.⁸²³

'*Titweng*' and '*gelweng*' both translate as 'protectors' or 'guardians of the cattle'. '*Titweng*' remains common amongst the northern Dinka while '*gelweng*' is used

⁸¹⁴ The SPLA-Anyanya 2 war of 1983-87 militarized the Dinka and Nuer division, but this was eased by 1980s Nuer leadership in the SPLA such as Riek Machar. At this time, the *titweng*'s 'enemy' was 'Nuer' but raiders from the north.

⁸¹⁵ Jok and Hutchinson, 'Sudan's Prolonged Second Civil War'.

⁸¹⁶ Johnson, *The Root Causes*.

⁸¹⁷ Jok and Hutchinson, 'Sudan's Prolonged Second Civil War'.

⁸¹⁸ 'White soldiers' contrast with trained, formal 'black soldiers'.

⁸¹⁹ Nuer White Armies to the west of the Nile were influenced by those to the east yet the western Nuer White Army had its own institutional idioms and did not become as infamous for wide scale mobilizations over large geographic territories.

⁸²⁰ *Gelweng*, Gun Cattle Camp (Lakes State), June 2012 (in Dinka).

⁸²¹ Executive Chief, Lakes State, June 2012 (in Dinka).

⁸²² Anai, 'Warrap State'.

⁸²³ Executive Chief, Lakes State, June 2012 (in Dinka); Jok and Hutchinson, 'Sudan's Prolonged Second Civil War'; LeRiche and Arnold, *South Sudan*, p.101.

further south and has become the more common generic reference for both groups. This article continues to use ‘*titweng*’ as the generic term due to its historic primacy.

The *Titweng* after the Peace Agreements

The 1999 local Wunlit peace agreement reduced conflict between the western Nuer and Dinka. Plus, the return of Riek to the SPLA in 2001, the 2005 CPA and the 2006 Juba Declaration brought a new discourse of peace to South Sudan. If there was a landscape of peace, then the continuation of local defense forces appeared meaningless and functionless.⁸²⁴ As discussed above, the vision of the CPA also excluded other, non-government armed groups. As the *titweng*, like the White Armies, were not to be integrated into the SPLA, they were to be disarmed to recreate a clear civilian – soldier divide, give a monopoly on the use of the gun back to the government⁸²⁵ and eliminate these other armed forces.⁸²⁶ Even in local ontology, it made sense for the guns to be recollected by the government as “the guns don’t belong to the cattle keepers; they belong to the government”.⁸²⁷ The guns had been a loan from the SPLA-government to the cattle keepers and their return was symbolic of a new era of peace and security. Disarmament of the White Armies was a focus for the government as their history of violent opposition to the SPLA carried the danger of undermining the SPLA/M led government. Yet, disarmament was also carried out amongst the *titweng* and *gelweng*.⁸²⁸

The post CPA narrative ignored the *titweng*’s previous relationship to the SPLA and reimagined them as uncontrolled, armed cattle-keeping youth at a distance from the government. Their violence was explained by “cattle-rearing culture”⁸²⁹ and “limited opportunities for youth in the cattle-based economy”⁸³⁰ with cattle raiding perceived as a calculated livelihood option for the most poverty stricken.⁸³¹ Youth-implemented violence was linked with generational rebellion, assuming that the elders saw the

⁸²⁴ O’Brien, ‘Shots in the Dark’.

⁸²⁵ Greater Aweil Dialogue (2003), Wanyjok 8 June, as mentioned in Bradbury et al, *Local Peace Processes*.

⁸²⁶ Young, ‘The White Army’, p. 20.

⁸²⁷ Executive Chief, Tonj East (Warrap State), June 2012 (in Dinka).

⁸²⁸ For an example of a report on this disarmament see, Safer World, ‘Civilian Disarmament’; Safer World, *People’s Peace Making Perspectives: South Sudan* (London, 2012).

⁸²⁹ LWF, ‘LWF Supporting Peace Process Launched by Sudan Council of Churches’ (2012).

⁸³⁰ Enough, ‘Conflicts in South Sudan’ (2013).

⁸³¹ O’Brien, ‘Shots in the Dark’; Safer World 2012; Sommers and Schwartz 2011.

titweng as dangerous.⁸³² A local chief described the *titweng* as turning their guns on themselves to settle more localised grievances.⁸³³ At local peace conferences, senior SPLA figures criticised the *titweng* for having “grown horns and become equal to the government”.⁸³⁴ Another politician described how, “The gun in those days was to protect the cattle but now it is to kill us and our cattle”.⁸³⁵ They accused the *titweng* of following alternative authority figures, such as Mabiordit – a free spirit active in Bahr el Ghazal.⁸³⁶ The imagined distance from the government also prevented accusations of government culpability for *titweng* violence, preserving the post CPA sentiment that insecurity was due to government weakness not culpability.

Yet, the *titweng* remained legitimate locally and individual government leaders often supported the *titweng* of their own community. For many South Sudanese, the post CPA experience was of ongoing violence in the form of cattle raiding, disarmament campaigns and explicit political rebellions. Amongst the western Nuer and Dinka, having enjoyed relative peace after the 1999 Wunlit Agreement, the CPA reignited violence. In this context, the *titweng* maintained their legitimacy and form as a local defense force with significant public authority. Local government officials would appeal to the *titweng* for support to ensure security in their counties and chiefs would actively nurture relationships with these youth sometimes by providing ammunition. As before the CPA, the *titweng* continued to effectively support local government and the SPLA near their homelands as a proxy force. For example, after the 2010 election, there was violent dissent by various rebel groups in South Sudan.⁸³⁷ In May 2011, there was a large, armed raid into a western Dinka cattle camp by the rebel South Sudan Liberation Army.⁸³⁸ A small SPLA force offered no protection from this attack. *Titweng* ambushed the retreating rebel force, rescuing most of the stolen herds and killing many of the attackers. The *titweng* both protected their home and undermined government opposition.

⁸³² C. Vandewint and M. C. Atem, ‘Gogrial Counties Reconciliation and Peacebuilding Conference’, 11th May 2004.

⁸³³ Executive Chief, Warrap State, November 2011 (in English).

⁸³⁴ Anai, ‘Warrap State’.

⁸³⁵ Anai, ‘Warrap State’.

⁸³⁶ Anai, ‘Warrap State’.

⁸³⁷ De Waal discusses rebel groups in relation to the ‘political market place’. Waal, ‘When kleptocracy’, p.349.

⁸³⁸ According to a UN source, vehicles were waiting to transport the raided cattle to Khartoum to fund the nascent SSLA.

The *titweng*'s defense also protected the personal cattle of some of the highest politico-military leaders in Juba that used these grazing lands. With oil revenue flowing to the Southern government since the CPA, being an elite in the South Sudanese government not only brought power but also private wealth. For elites from Bahr el Ghazal, the *titweng* offered protection to their large personal investments in cattle. Elites built loyal, co-ethnic networks through patronage, including through the giving and lending of cattle that constructed a binding relationship. As well as through cattle exchange, having a large herd in itself also bestowed status. As the nephew of a senior SPLA figure described, "My uncle in Juba⁸³⁹ has bought thousands of cattle that are now in our grazing lands. He is aspiring to own 10,000 cattle"⁸⁴⁰. This uncle had opted to invest most of his monetary wealth in cattle in his home grazing lands. These cattle were not only a visible display of his wealth and power, but he also used the cattle as dowry for numerous wives. Despite the wealth to heavily invest in cattle, it was only eight years after the CPA that he first invested in building a 'modern', brick house in his homelands.

Investment in cattle by the elites transferred wealth from the government centre to the space of the grazing lands. This helps to explain the resumption of fighting in the grazing lands from 2005. Leading politicians would arm their nephews to guard their cattle. As one young man explained, "I am given guns by my uncle in Juba to guard his cattle. I am proud to guard his cattle. Yet, of course, if the cattle are raided or I lose any of his cattle to illness, I must get more cows. He cannot accept that his herd gets smaller. So I raid more cattle for him and he helps me with ammunition when he can".⁸⁴¹ Elites relied on family networks and the established socio-political groups of the cattle camp to provide care of their cattle. In return, the carer gained milk, a portion of the calves, weapons and the promise of access to large dowries for marriage.

While disarmament in Bahr el Ghazal was not as notoriously violent as amongst the White Armies,⁸⁴² the ongoing violence in the home communities and the utility of the *titweng* prompted dislike of disarmament from both elites but also people in the home communities. Chiefs questioned the government's legitimacy to remove the

⁸³⁹ This 'uncle in Juba' is a senior figure in the SPLA who works closely with Salva Kiir.

⁸⁴⁰ University student, Wau (Western Bahr el Ghazal), March 2012 (in English).

⁸⁴¹ *Titweng*, Greater Bahr el Ghazal, June 2012 (in Dinka).

⁸⁴² Young, 'The White Army'.

‘protector’ of the gun when it failed to provide alternative protection.⁸⁴³ Frustration was increased by a perception that the government owed the *titweng* for their wartime support. As one long serving Dinka chief described in the context of a discussion about the *titweng*, disarmament and security, “During the time of war, we all contributed. So, now, we thought the government would help us. Through our contribution, the SPLA took Rumbek. Now they are enjoying the benefits, but we have nothing”.⁸⁴⁴

Often only the *titweng* who guarded the herds of the elites remained armed.⁸⁴⁵ As one recently disarmed *gelweng* described, “We will not survive. We thought the government was our protector, but they have turned away from us. We will just remain and die. We can do nothing”.⁸⁴⁶ One sub chief explained the gun’s import: “For us, our cows are also taken. Like, the person called Majok, his eighteen cows were taken. This thing occurs always . . . If we were having guns, our things could not have been taken like that”.⁸⁴⁷ One *gelweng* questioned whether the whole institution that provided local defense had now ended with the removal of guns:

“There are no *gelweng* now as there are no guns. You cannot be a *gelweng* when you don’t have a gun. This is because without a gun you have no power; you are instead just a young man in the cattle camp. You have no power to protect anyone”.⁸⁴⁸

Preference was also expressed for the *titweng* and *gelweng* over the SPLA as they understood local priorities. “The *gelweng* are stronger than soldiers because soldiers are not from our clan, they are not our children and their cows are not nearby; they need orders from above. Soldiers like first to put on boots”.⁸⁴⁹ One chief also described his confidence that the *titweng* were as strong as SPLA soldiers and just as capable in local defense and securing land claims.⁸⁵⁰

⁸⁴³ Executive Chief, Tonj East (Warrap State), June 2012 (in Dinka).

⁸⁴⁴ Executive Chief, Lakes State, June 2012 (in Dinka).

⁸⁴⁵ O’Brien, ‘Shots in the Dark’, p.26.

⁸⁴⁶ *Gelweng*, Gun Cattle Camp (Lakes State), June 2012 (in Dinka).

⁸⁴⁷ Speech of Sub Chief, Akot Security Meeting (Lakes State, June 2012 (in Dinka).

⁸⁴⁸ *Gelweng*, Gun Cattle Camp (Lakes State), June 2012 (in Dinka).

⁸⁴⁹ *Gelweng*, Cattle Camp (Lakes State), May 2012 (in Dinka).

⁸⁵⁰ Executive Chief, Greater Gogrial (Warrap State), March 2012 (in Dinka).

Local popular discourse and bull songs⁸⁵¹ often honoured militarised acts of the youth and referenced the bravery of the *titweng*. Women discussed their pride in sons who were part of the *titweng* and described methods used from an early age, such as story telling, to foster in their sons a responsibility to participate in community defense.⁸⁵² In Lakes State in 2012, children interviewed in cattle camps and primary schools predominantly aspired to be *gelweng*.⁸⁵³ Formally educated youth often were eager to highlight their distinction from the *titweng* (especially to the audience of this educated researcher),⁸⁵⁴ yet they still relied on the brothers who were *titweng* to look after their cattle and they would spend salaries buying ammunition for the *titweng*. There was ambiguity amongst mothers interviewed over their preference for sons to aspire to be educated or part of the *titweng*, with many preferring diversity amongst their children.⁸⁵⁵

An Alternative to Disarmament

The *titweng* were actively drawn into government as an alternative to their disarmament, again blurring the government – home boundary and altering the limits of their legitimate violence. The CPA had given two alternatives for other armed groups – return to being civilians (that was implemented via disarmament) or integration into the forces of the government. The *titweng* could legitimately possess guns by being incorporated into the government.

From the 1999 Wunlit peace agreement, it was suggested that *titweng* could “come under the discipline of the military forces in each area”.⁸⁵⁶ As early as 2003 in Aweil, it was posited that the “*gelweng* should be turned into police” and that these police should be controlled by the chiefs as members of the local government.⁸⁵⁷ In 2006 in Yirol, it was argued that the *gelweng* could be transformed into a uniformed security force that would assist police in collecting taxes, executing court verdicts and preventing illegal cattle trading.⁸⁵⁸ In adjacent Nuer areas, armed youth were often

⁸⁵¹ Cattle keeping men often commission a song to reflect their family and personal history that they will learn and sing to their song bull.

⁸⁵² Group discussion with 23 women, county head quarters in Warrap State, June 2012.

⁸⁵³ Half a dozen cattle camps were visited and two rural primary schools, September 2012.

⁸⁵⁴ Group of six educated youth, county head quarters in Warrap State, June 2012.

⁸⁵⁵ Group discussion with 23 women, county head quarters in Warrap State, June 2012.

⁸⁵⁶ Resolution 4 (D) of the Dinka-Nuer West Bank Peace and Reconciliation Conference, Wunlit (Sudan), 27th February–8th March 1999.

⁸⁵⁷ Greater Aweil Dialogue, note 49.

⁸⁵⁸ Sudan Tribune, “Gelweng Militias to Have Role in Lakes State – Yirol Officials”, 22nd November 2008.

controlled by county commissioners. In the 2009 preparations for the national election, the *gelweng* of Lakes were also utilised to mobilise voters in a quasi government function.⁸⁵⁹ From 2012 in Warrap State, individuals in government used the internationally legitimate concept of ‘community police’ to draw the *titweng* into government.

Renaming the *titweng* as ‘community police’ symbolically incorporated them into government and drew on international discourse about police sector reform in post-conflict settings,⁸⁶⁰ giving a semblance of international legitimacy to this new iteration of the *titweng*. While ‘community policing’ had become a popular state building policy in fragile states,⁸⁶¹ it remained a vague and ambiguous term.⁸⁶² Locally, ‘community police’ was described as an English translation of *titweng*.

The following field notes recount a first encounter with ‘community police’ in May 2012 while travelling to interview *titweng* Majok:

We stopped to ask after Majok. We were quickly directed towards a cluster of trees. As we approached I realised we were being directed to a newly created military training ground marked by a single rope on the ground. The ordered rows of young men also suggested the discipline of the army.

Thirty of the local *titweng* received tuition from a uniformed army official. While I was familiar to the others and greetings were abundant, I was new to this army official. My sudden appearance prompted the need for an explanation. I explained that I was hoping to interview Majok – a *titweng* who composed bull songs. ‘They are now “Community Police” and not *titweng*,’ was part of the official’s reply. As we walked away, my translator explained that now all *titweng* are ‘community police’.

⁸⁵⁹ Mayom, ‘Youths’.

⁸⁶⁰ For example, community policing was included in DFID’s 16 million GBP Sudan Safety and Access to Justice Programme (2010–2014).

⁸⁶¹ Examples of discussion include: L. Denny and S. Jenkins, ‘Securing communities: the what and the how of community policing: Background paper’, ODI, July 2013; M. Brogden and N. Preeti, *Community Policing: National and international models and approaches* (Cullompton, 2005); H. M. Kyed, ‘State vigilantes and political community on the margins in post-war Mozambique’. In D. Pratten and A. Sen (Eds.), *Global Vigilantes: perspectives on justice and violence* (London, 2007).

⁸⁶² M. Numzio, ‘Thugs, Spies and Vigilantes: Community Policing and Street Politics in Inner City Addis Ababa’, *Africa* 84, 3 (2014), pp.444-65.

In 2012, there were two phases of absorption of *titweng* into the *community police*. Initially only a select few *titweng* were given training at specific camps for a set period of time. As one *titweng* described during this initial phase, “Chiefs selected certain youths from the *titweng* to be trained. They will only be policemen in the *toc* [grazing lands]. The commissioner and other military people are training them. They will be given guns. But they will not be soldiers. They will be more like police”.⁸⁶³ During this phase, they were given police-like uniforms that the youth perceived transformed them from being part of the home community to being part of the government.⁸⁶⁴ The uniforms were seen as a symbol of the government, providing a clear boundary between what they had become and the *titweng* they were before.

Receipt of salaries had become an additional benefit associated with capture by government, especially since the CPA and GOSS’s receipt of oil revenues. In the patchwork SPLA, salaries were a means of “paying the soldiers not to fight the government”.⁸⁶⁵ While the incorporation of the *titweng* drew on ideas of home loyalty and defense, salaries were also demanded by the new ‘community police’ as an incentive for being in government, and were paid by the government to encourage compliance. This shift to being paid and more clearly being under the authority of local government officials as opposed to the chiefs brought explicit fears that they would be less disciplined⁸⁶⁶ as chiefs were able to more closely control the smaller number of *titweng* under their authority.

In the later phase of *titweng* absorption, it became assumed that all *titweng* should be considered as ‘community police’, allowing all the *titweng* to remain legitimately armed and increasing the defense force available. This larger group was not presented with the same symbols of the government, such as police uniforms or salaries. Without these symbols, community police were not such a discrete and bounded group. There was little to distinguish the community police from the youth of the home in general. It was unclear if there was even such a distinction. However, uniform-like outfits of homogenously coloured clothes had previously been given by individual local government figures to renegotiate their popularity amongst and informal control over

⁸⁶³ *Titweng*, Greater Gogrial (Warrap State), February 2012 (in Dinka).

⁸⁶⁴ Community Police, Greater Gogrial (Warrap State), April 2012 (in Dinka).

⁸⁶⁵ Warner, ‘Armed Group Amnesty’, p.45.

⁸⁶⁶ Market place conversations, rural market in Warrap State, September 2012 (in Dinka).

the *titweng*.⁸⁶⁷ The colour of the clothing allocated depended on the socio-political section to which they were assumed to belong by these local government authorities. For example, *titweng* from Gogrial West County were given black clothes with red trimmings. In Gogrial East County, *titweng* wore different colours depending on their *wut* (cattle camp or section). The Amuk *wut*, for example, wore purple. The *titweng* accepted these clothes as rewards for their security provision and a sign of the post war prosperity. They were contrasted with the palm leaves that had to be worn during the war years. Yet, this gave local government control over the identity of *titweng* and over each grouping each *titweng* belonged to. In practice, these were not contested.

The following field notes from March 2012 further illustrate the local government relationship to the *titweng*:

Titweng had gathered in the county capital on the instruction of the County Commissioner to attend an NGO peace building exercise. During the meeting an urgent message came from the commissioner to these youth. There were reports of a Nuer attack in the grazing lands and they needed to go immediately. The commissioner would facilitate them by letting them use his car. These young men rushed to the grazing lands in immediate compliance.⁸⁶⁸

In this instance, both County Commissioner and *titweng* shared the desire to defend the grazing lands. This Commissioner would even fight along side the *titweng* or, at other times, successfully instruct them not to raid. Yet, when a new Commissioner of this county was appointed, the *titweng* made it clear that their willingness to comply with his authority was conditional. The former Commissioner's authority over the *titweng* was charismatic, based on perceptions of his security aptitude and his appreciation of the *titweng*'s role. Therefore, under some commissioners, the *titweng* acted as a proxy government force while, for others, they slipped away from association with government and were an armed, uncontrollable threat.

As community police, local perception changed about the type of war they were allowed to fight, with legitimate violence, according to a junior chief, now limited to 'wars of the government' (*tong hakuma*) in that they were required to defend, but not

⁸⁶⁷ Deputy of Chief Arrest, Kuajok (Warrap State), February 2013 (in Dinka).

⁸⁶⁸ Extract from author's field notes, March 2012.

initiate raids. This appears to reference the distinction made by Riek Machar in the 1990s⁸⁶⁹ and the *titweng*'s role in the 1980s and 1990s in support of the SPLA.⁸⁷⁰ However, despite uniforms and a restrained mandate, most *titweng* continued to consider themselves part of the home community further complicating the boundary of the home – government spheres. Much of the insistence by the *titweng* that they are not the *government* was an attempt to reduce the government's authority over them. At the same time as the introduction of community police, the more formal, national force of the *Mathiang Anyoor* was being constructed. This force would fight against Sudan in Heglig in 2012 and, from 2014, in the new civil war, they would fight for Salva Kiir's government against the newly formed opposition force of the SPLA-In Opposition (SPLA-IO) led by Riek Machar. Many *titweng* feared being taken across the government boundary if it involved being spatially away from their local communities and cattle.⁸⁷¹ The simultaneous introduction of the 'community police' and the *Mathiang Anyoor* led the *titweng* to assume that under any government authority they could easily be absorbed into a nationally re-locatable army. For the *titweng*, the distinction between 'community police' and army soldier was unclear. Government demands to mobilize youth into the army were one of the main conflicts between the home leadership and the government.⁸⁷²

The renaming of the *titweng* as 'community police' also left ambiguous the chiefs' role in their supervision. For example, in early 2013, discontent grew in Kuac South Payam (Gogrial West County, Warrap State) with a complaint that too few of their *titweng* had been selected to be 'community police' and rearmed. The chief was disgruntled as he had previously controlled the distribution of guns based on cattle ownership. With the lack of 'community police' selected by the Warrap State authorities, a senior chief sent some of his *titweng* to a training camp in the neighbouring state of Western Bahr el Ghazal.⁸⁷³ In his words: "Not all youth had been selected as community police and given guns. So, those without guns went to Wau to get guns".⁸⁷⁴ The chief was subsequently arrested by the Warrap State authorities in

⁸⁶⁹ Hutchinson, 'Nuer Ethnicity Militarized'.

⁸⁷⁰ Deputy of Chief Arrest, Kuajok (Warrap State), February 2013 (in Dinka).

⁸⁷¹ Similarly, the White Armies in 2014 supported the SPLA-IO but did not surrender command.

⁸⁷² Chiefs' meeting, Warrap State, March 2012 (in Dinka).

⁸⁷³ Deputy of Chief Arrest, Kuajok (Warrap State), February 2013 (in Dinka).

⁸⁷⁴ Deputy of Chief Arrest, Kuajok (Warrap State), February 2013 (in Dinka).

January 2013⁸⁷⁵ under the allegation that he was attempting to annex his area to Western Bahr el Ghazal.

The incorporation of the *titweng* into the government also created an alternative vision of the government. After the CPA, the government were perceived as dominated by the western Dinka. While the (western Dinka) *titweng* were drawn into the government, similar groups, such as the White Army, were seen as illegitimate and disarmed. Despite a publically multi-ethnic, unified government at this time,⁸⁷⁶ the treatment of the *titweng* was indicative of government favouring the interests of certain western Dinka.

The *Titweng* and A National Military Force

As mentioned above, at the time of the creation of the ‘community police’, thousands of *titweng* were also recruited into the more formal forces of the *Mathiang Anyoor*. Urban, returnee youth in Aweil also made a large contribution to this force. The *Mathiang Anyoor* was never formally incorporated into the SPLA’s hierarchy of commands and accountability. While receiving SPLA uniforms and arms, they were not given food or salaries. The formation of the *Mathiang Anyoor* was accompanied by attempts to symbolically draw together the communities of Warrap and Northern Bahr el Ghazal States – the main recruiting grounds for this force. For example, in 2012, former Chief Justice Ambrose Riing Thiik⁸⁷⁷ was active in reigniting relations, through a celebration of shared ancestry between members of one clan that historically migrated to different parts of Northern Bahr el Ghazal and Warrap States. This helped foster a common, western Dinka identity that would support regional mobilisation.

In 2014, the *Mathiang Anyoor* played a significant role in supporting the government’s military efforts against the SPLA-IO across South Sudan, such as being instrumental in recapturing Bor under the command of Paul Malong and continuing to

⁸⁷⁵ Sudan Tribune, ‘Warrap police arrest traditional leader for training “home guards”’, 26th January 2013, <http://www.sudantribune.com/spip.php?article45304> as view in January 2013.

⁸⁷⁶ It was not until July 2013 that Salva Kiir sacked his entire cabinet including Vice President Riek Machar, dividing publically leadership of the government and SPLA

⁸⁷⁷ Ambrose is mentioned in the leaked, draft report of the AU COI (March 2015) in relation to the ‘Jieng Council of Elders’. This Council is accused of being active in constructing the ‘*Dut ku Beny*’ in late 2013. Ambrose’s relationship with Salva Kiir was strained in 2007 during fighting between their home communities. Yet, long term friendship helped restore this relationship.

fight across the Greater Upper Nile. President Kiir refused to call the *Mathiang-Anyoor* a “private army”,⁸⁷⁸ instead referring to them as the “reserve army”.⁸⁷⁹ In April 2014, the Nuer SPLA Chief of Staff was removed and replaced by Paul Malong. Malong’s SPLA leadership and his personal command over the *Mathiang-Anyoor* drew this force further into government. Yet, many *Mathiang-Anyoor* have questioned their role and deserted to return to their home communities, complaining of lack of payment and food. Their lack of formal inclusion in the SPLA has prevented their inclusion in the payroll. Even after becoming Chief of Staff, Paul Malong was not able to rapidly mobilise financial support for these forces. In early 2014, Malong was accused of funding this force from Northern Bahr el Ghazal State’s own financial resources, but his response was to insist that only the force itself had been drawn from his home area.⁸⁸⁰ Some of the deserters from the *Mathiang Anyoor* were summarily executed if they were caught before reaching their homelands. This returning home mimics similar complaints by the SPLA-IO⁸⁸¹ in relation to the White Armies.

The force of the *Dut ku Beny*,⁸⁸² a newly formed force stationed near Juba from mid 2013, was also constructed from cattle-keeping youth of the western Dinka with some likely drawn from the *Mathiang Anyoor* as well as remaining *titweng*. Their *Dut ku Beny* nickname highlighted the perception that their job was to protect their boss – Salva Kiir. It drew on the local idiom of cattle keeping youth’s legitimate use of violence to protect the home community. Protection of the leader at the government’s centre was at a spatial distance from the home communities. Yet, it was synonymous with protection of the home community itself because having elites in government provided access for the home community to government resources and security.

President Kiir brought this force to Luri Bridge, near Juba, in 2013 but Kiir failed to persuade the SPLA High Command to recognise the force as part of the national army, as had been the case with the broader *Mathiaang Anyoor*. The High

⁸⁷⁸ Peter Nyaba had described this force as a ‘private army’ in the draft AU COI report.

⁸⁷⁹ Salva Kiir as reported by Radio Tamazuj, ‘Transcript: Kiir’s ‘one people, one nation’ speech’, *Radio Tamazuj*, 16th February 2015, <https://radiotamazuj.org/en/article/transcript-kiir's-‘one-people-one-nation’-speech> as viewed the 25th March 2015.

⁸⁸⁰ Sudan Tribune, ‘N. Bahr el Ghazal suspends secretary general over financial scandal’, 20th February 2014, www.sudantribune.com/spip.php?article50029 as view in March 2015.

⁸⁸¹ In April 2014, the military opposition to Kiir’s government, led by Machar, during an initial meeting of the leadership, they gave themselves the name of the SPLA-IO. However, many SPLA-IO commanders now question the name as they perceive the problem as broader than an internal division in the SPLA.

⁸⁸² A literal translation is ‘protector of the boss’.

Command was reluctant to accept this force as part of the SPLA and provide them with salaries or arms⁸⁸³ as there were concerns over its ethnic homogeneity and its principle loyalty to President Kiir as opposed to the wider state security hierarchy.

On December 15th 2013, violence started in the Presidential Guard in Juba. Over that weekend, a meeting of the SPLA's National Liberation Council had increased political tensions. The Presidential Guard was a heterogeneous collection of soldiers who had previously served under a variety of commanders who were now competing politically. Although the exact events in the Presidential Guard that night remain disputed, something prompted Nuer soldiers to resist disarmament and take control of the barracks. This could have been an isolated episode of violence, yet South Sudanese leadership and citizens immediately interpreted it as having national political and military significance.⁸⁸⁴ By the morning of the 16th December, various forces were brought into Juba including Kiir's *Dut ku Beny*. At this time, this force made up of Dinka from Bahr el Ghazal had still not formally been recognised by the SPLA High Command. The SPLA High Command found themselves confronted by both a defecting Nuer force in the Presidential Guard and this Dinka force that they had refused to recognise. By opting to work with the *Dut ku Beny* against the defecting Nuer force, the SPLA recognised the defecting Nuer as the 'enemy' and the *Dut ku Beny* as part of the security mechanisms of government. By 2014, the force was being described as part of the SPLA and government.⁸⁸⁵ Kiir's claim that the December 2013 violence was an attempted coup gave the SPLA and the *Dut ku Beny* a shared interest in the protection of Kiir's government.

The fighters of the *Dut ku Beny* also brought with them the assumed enemy of the Nuer constructed during the wars in their homelands since the 1990s. Nuer civilians, as well as soldiers, were targeted in Juba in December 2013. Even if there was no direct command for violence to be targeted on an ethnic basis, the targeting of Nuer was not unpredictable due to this historic moral framework. With the *Dut ku Beny* behaving as

⁸⁸³ Sudan Tribune, 'South Sudan president admits forming private army' 17th February 2014, <http://sudantribune.com/spip.php?article49993> as view in January 2015.

⁸⁸⁴ President Kiir, on the 16th December, described events on the night of the 15th December as a coup attempted against the President. This has been widely disputed. Yet, fear of national violence was so widespread that many South Sudanese, on hearing of the fight in the Presidential Guard, anticipated wide spread violence to follow. One South Sudanese acquaintance in Juba, by late evening on the 15th December, had already called the author to describe how 'the war has started'.

⁸⁸⁵ Radio Tamazuj, 'Official: 14 women killed in Warrap attack', <https://radiotamazuj.org/en/article/official-14-women-killed-warrap-attack>, 2nd April 2014.

government actors, the government appeared to be captured by the western Dinka and in opposition to an enemy defined in ethnic terms, highlighting “the crucial fact that the state is neither a neutral actor nor a passive arena within which ethnic groups operate”.⁸⁸⁶

Conclusion

Since the CPA, *titweng* have slowly been incorporated into the government, partly as a local defense force renamed ‘community police’ and eventually as the *Mathiaang Anyoor* and *Dut ku Beny*. As a useful and locally legitimate force, the *titweng* brought both efficiency and legitimacy to the government, but blurred the home-government boundary and incorporate into government an ethnic based understanding of the legitimacy of violence. This highlights the impact that idioms constructed at a local level can have on the centre.

After the new eruption of violence in December 2013 in South Sudan, there has been “widespread killings of civilians, often based on their ethnicity, and mass destruction and looting of civilian property”.⁸⁸⁷ International observers have called for elites to be held responsible for these apparent violations of international law. The ethnic nature of the violence seems to increase further the need for accountability. At the time of writing, civil society is voicing concern that a peace agreement will be reached between elites without a commitment to justice. For many South Sudanese, this absence of justice will give legitimacy to ongoing violence as revenge. Yet, in international law, the categorisation of victims and perpetrators of violence makes a difference. As this article highlights, in South Sudan there is no clear distinction between civilian and combatant, nor government and non-government. Boundaries are often blurred and identities recast to meet the demands of their fluid, violent contexts. While justice is clearly demanded, it must be recognised that the boundaries described in international law may not easily trace over those experiences in daily life in South Sudan. With ethnicity-based violence having implications in international law there is a need to recognise the “complex ways the intricate and shifting tissue of ethnicity has been woven into the fabric of the African state, and of the repercussions this has

⁸⁸⁶ A. Wimmer, *Waves of War: Nationalism, State Formation, and Ethnic Exclusion in the Modern World* (Cambridge, 2013), p.173.

⁸⁸⁷ Human Rights Watch, *South Sudan's New War*.

throughout society”.⁸⁸⁸ The ethnicisation of the South Sudanese government through the incorporation of the armed, western Dinka into the army involves a complex mix of constructed culture, visions of ethnicity, and agency of armed men and elites. The killing of civilians based on ethnicity is not limited to short-term elite commands, but was woven over time into the culture and fabric of the government.

⁸⁸⁸ Broch-Due, *Violence and Belonging*, p.12.

10. Conclusion

This thesis has been a collection of ethnographic studies of normative regimes of lethal violence amongst the western Dinka and Nuer (South Sudan). It has look at ways that governments, Nuer prophets, Dinka chiefs and other public authorities have remade the moral boundaries of lethal violence, war and peace. It has also noticed the ways in which these actors build their own authority through the governance of these regimes. The thesis has looked at the examples of landscapes and customary laws as ways in which these regimes and their ontological basis are indirectly reshaped by these public authorities.

The focus on lethal violence in this thesis far from presents South Sudanese as passive victims of history and looks far beyond a chronology of conflict.⁸⁸⁹ In the western Dinka and especially in the current western Nuer, many young men expect to experience either the act of killing or knowing a close friend who has been killed. Many experience both. In this context, lethal violence is still not a comprehensive lens on life but it is an important part of how life is understood and how power is made. Many South Sudanese actively try to remake the normative boundaries and consequences of the lethal violence they live with as they wrestle with and against government authorities in times of war and peace.

This study has wider implications for a variety of interconnected fields in African studies and studies of armed conflicts. Primarily the thesis has highlighted that the reshaping of regimes of lethal violence, including through the remaking of laws and landscapes during times of peace, can have direct implications for war and the character of its lethal violence. The dynamics of war are neither built at moments of political tension nor in battlefield preparations. They are also carved out over time in intentional, explicit and accidental ways.

Scholarship on European laws of war has also linked laws to the nature of political power. Recent scholarship on just war theory has emphasised the historical link between these theories and the international order that upholds the unit of the nation-state.⁸⁹⁰ Constructed in the 17th Century at the time of the emergence of the European nation-state, Nabulsi argues that current international laws of war serve ‘the

⁸⁸⁹ Various scholars on South Sudan have warned us about this danger: Cormack, *The Making and Remaking of Gogrial*; Tuttle, *Life is prickly*; Johnson, ‘The Fighting Nuer’.

⁸⁹⁰ Judith Gail Gardam, ‘Proportionality and Force in International Law’, *American Journal of International Law* 87, 3 (1993), pp. 391 – 493.

interests of states at the expense of those who would resist them.⁸⁹¹ Current international laws of war try to limit legitimate violence to the state. Law, order, and power and sovereignty of the state were key values⁸⁹² that were embedded in positive laws in the 19th Century that included modern ideas of ‘civilian’ and made civil wars almost necessarily illegal and illegitimate by their nature. The thesis also echoes this finding that claims of political power are often central to the normative regime of lethal violence.

In addition, this thesis highlights that it is not just the content of rules of war that highlight the legitimacy. In addition, even the attempt to draw a distinction between the lethal violence of war and peace can be an attempt by the government to assert its own legitimacy and sovereignty. Many governments claim to govern through the rule of law and use this context to make legitimate even lethal violence. The law claims that government killing is more legitimate.

Secondly, the thesis highlights how spiritual authorities and local public authorities attempt to confront the government and politico-military elites who build their might on the asymmetrical power of the gun. It has offered insights into the potential for laws and landscapes to be reshaped during times of peace to influence lethal violence during times of war. The thesis has highlighted that local public authorities including Dinka chiefs and Nuer prophets, even in times of war, try to carve out space for claims of legitimacy beyond the power displayed through military might.

Thirdly, the thesis has highlighted the political nature of landscapes and the material nature of customary laws for the western Nuer and Dinka. This adds to an emerging literature on landscape. In relation to law, the literature on materiality and law is much more minimal.⁸⁹³ The materiality of law amongst the western Dinka raises the question of the extent to which this is the case elsewhere. It also highlights the importance of cattle both to the law and the governance of regimes of lethal violence. There is much more to understand about how law is embodied materially amongst the Nuer and Dinka, and the extent to which this can teach us about the relationship between law and the material world more generally.

⁸⁹¹ Karma Nabulsi, ‘Traditions of justice in war: the modern debate in historical perspective’, IN Stathis Kalyvas, Ian Shapiro and Tarek Masoud, *Order, Conflict and Violence*, (Cambridge, 2008), P.120.

⁸⁹² Nabulsi, ‘Traditions of justice in war’.

⁸⁹³ Johnson, ‘Medieval Law and Materiality’.

Fourthly, for international policy makers who spend time and resources on South Sudan, this thesis highlights the need for a nuanced understanding of lethal violence in times of apparent war and peace in South Sudan. Since December 2013, a broad spectrum of global countries, including the USA, the UK and China, has condemned all the armed conflict in South Sudan. For example, the following statement by the President of the USA, a year after the eruption of violence in South Sudan, highlights this portrayal of the conflict as inherently bad and illegitimate. Previous speeches had discussed a “plunge” into the “dark days” of the past of cycles of violence. Obama continued to describe the conflict as ‘senseless’.⁸⁹⁴

“Today, I appeal to the leaders of South Sudan to pursue peace as a way to honor those who have died. It is in your hands to end the cycle of violence, to set forth on a course of reform and reconciliation, and to hold to account those responsible for atrocities. Leadership that recalls the promise of South Sudan is what the country now needs to end this senseless conflict”⁸⁹⁵.

However, this blanket condemnation of violence in South Sudan carries the danger of simplifying the physical violence used and failing to notice the changing patterns of lethal violence that have been employed and that are employed by different actors at different times. It leaves no space for some violence to display more moral restraint. Plus, this blanket condemnation also displays a dissonance with those carrying out the lethal violence in South Sudan. Instead, a more detail observation of the lethal violence and its legitimacy leaves space to understand these shifting normative regimes of violence that characterise the lethal violence and also create the foundations on which government and political elites can mobilise South Sudanese to violence.

While December 2013 might not have marked a rupture between times of war and peace in South Sudan, it did mark a dividing line in the international communities’ perceptions of the Government of South Sudan (ROSS). Before December 2013, the US, UK, EU, Norway and the UN were all investing hundreds of millions of dollars annually in building the state in South Sudan. This support to ROSS (directly and indirectly) was cognizant of the lack of capacity of ROSS, and even of the high levels of

⁸⁹⁴ The White House, ‘Statement by the President on South Sudan’.

⁸⁹⁵ The White House, ‘Statement by the President on South Sudan’.

corruption and dominance of the military. However, most in the international community failed to notice (or were unwilling to highlight) the longer-term shaping by the government and elites of the normative regimes of lethal violence that, even in times of peace, drew power to the military centre and tried to delimit the consequences of government killing.

More attention needs to be paid not only to the explicit struggles for power and commands over armed conflict and violence but to how elites, governments and public authorities construct over time regimes of lethal violence that shape periods of war and peace. South Sudanese have sought to remake moral boundaries to govern even the most lethal of elite force. Elite involvement in war and peace, and their potential culpability, is not just momentary but is interwoven in the very fabric of the moral boundaries of South Sudan. Government and elite reshaping of regimes of lethal violence is not only essential if we are to understand armed conflict in South Sudan. It is also essential if we are to appreciate the real nature of political power and government-citizen relationships.

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