

Conflicts, Conflict Resolution Practices and Impacts of the War in South Sudan

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Abstract

Despite the homogenizing effect of human "civilization", Africa is as yet a continent replete with its own distinct tradition of conflict and conflict resolution mechanisms. It is, however, unfortunate that many African nations have gone through a host of armed conflicts that could possibly cast shadows on such traditions because targeting ordinary people and their way of life is the modus operandi of most modern war. This research has attempted to document on the nature of conflict, their settlement, and impacts of the war in South Sudan. Data were collected from 11 counties in South Sudan through key informant interviews, FGDs, and interview with community representatives. Findings indicated that traditional methods that involved mediation by the elderly, community chiefs and spiritual leaders were employed in conflict resolutions. Negotiation, compensation, forgiveness, and reconciliation were employed as conflict resolution mechanisms and were found to be powerful and effective methods. However, it was observed that during the war the military was involved in resolving conflicts. Moreover, the roles of community chiefs and elderly people were extended to recruiting soldiers and blessing the recruits, respectively. This changed practice coupled with other war-induced threats appeared to undermine the credibility of traditional methods as healers of the wounds of people in conflict. State courts were also increasingly involved in settling disputes in more recent years along with the traditional or local courts. Evidences suggested that the effectiveness of traditional methods was decreasing and yet state courts were only emerging. There was, therefore, a kind of power vacuum in conflict management at the moment and this could even further escalate conflict and crime rates.

Keywords: Conflicts; South Sudan; Conflict resolution; Traditional methods; Indigenous methods; Armed conflict

Introduction

Conflict is a mechanism through which goals and aspirations of individuals and groups are articulated, creative solutions to human problems are sought and collective identities are to be developed [1]. As integral to human making, conflict needs to be understood in the milieu of cultural [2] and social [3] contexts involving "values and beliefs, fears and suspicions, interests and needs, attitudes and actions, relationships and networks..." [3]. Many of the conflicts, now called 'new wars' [4], are more internal (civil, intra-state), non-conversational and culture-sensitive [5]; conflicts having their origins in domestic rather than systemic factors. Hence, analysis of the root causes of conflict has to emphasize shared understandings of past and present contexts [3], and its resolutions be anchored on laid down traditions [6] as the case is in 'traditional methods of settling disputes' [7].

Traditional conflict resolution mechanism is a well-structured, time-proven [8] social capital [8]. Africa is a continent having its own distinct tradition of conflict resolution deeply rooted into its customs and traditions [7]. What is distinct about these traditions is that it is deployed to cater for reconciliation, maintenance and improvement of social relationships [7] by effectively settling and facilitating the terms of relationship and collective action for achieving mutually beneficial ends [9]. Arbitration focuses on conciliation rather than justice on the basis of rules of law as in the western conception of arbitration [6]. There is cultural tolerance rather than punishment of perpetrators [10]. Much weight is given to maintaining social order than meeting

individual interests [9]. Traditional African principles are less individualistic and give emphasis to group interests [6]. Moreover, they consider all parties interested in and affected by the conflict. Tonah, 2007. Arbiters in African tradition are the elderly, religious leaders and other influential persons in the communities [3,6,11,12]. These are persons who know the psychological makeup of their people than trained judges, who are more tuned to rules, facts, and reason than to people's heart. The authority of African traditional arbiters is not questioned [13].

These African methods of conflict resolution have been, however, successively under siege over the years due in part to colonialism [12,14,15], globalization [16,17], and urbanization [14], many ethnic groups in Africa were forced into cohesive structures by the colonists destroying many of the roots of traditional structures including mechanisms of conflict resolution. Wadinga [15] described that the divide and rule policies of colonial administrators assured the docility of different ethnic groups and isolated them from their own way of life. According to Theresa and Oluwafemi [12], Africans had their peculiar ways and manners of effecting peace-making, peace building, and confidence building. However, the advent of colonial masters to Africa, adulterated, and in some areas, wiped out these African methods of monitoring, preventing, managing and resolving conflicts. This resulted in to instability and retarded development; replaced dialogue between disputants by fighting, and the mediating role of elders was replaced in several clashes with police actions (tear gas), military-peace keeping operations, and endless court proceedings (P.154). According to Olateju [17], the colonial authority left a legacy of their legal system for governance in contemporary African societies. According to Olateju [17], the statutes and ordinances which encapsulated the letters of the colonial laws became the blueprints of compliance with the

judicial system and the principles behind the maintenance of law and order.

Kasongo [16], on the other hand, examined how globalization has been significantly impacting on traditional African culture of conflict resolution. Kasongo [16] argues that preserving the traditional measures of preventing conflict in post-colonial Africa becomes imperative in the face of the devastating impact of globalization and its attendant imposition of Western values on non-western societies; the possibility of African values going into extinction and African identity distorted is real.

There is little debate about the impacts of colonialism and globalization on local cultures including practices of conflict resolution. But, we can't at the same time down play the role of internal factors in shaping the course of Africa's transformation. Armed conflicts could be one such factor. Africa is in a deep and persistent malaise; it is by far most conflict-prone politically (Jackson, p.1) [18]. Jackson holds, "In policy-making circles and media characterizations, it is "the hopeless continent... Such pessimism is driven in part by the failure to manage... the destructive consequences of multiple violent conflicts" (p.1). Although such extreme characterizations would rather do even more harm by failing to appreciate not only African potentials but also many other promising developments witnessed on the African soil, it is established that Africa is a continent with longer history of armed conflict and resultant violence [19] harboring the highest number of armed conflicts [3] that invited the highest rate of external intervention, including the Middle East, which also experiences a great deal of intervention [20].

Because these armed conflicts do not occur in a vacuum but take place in society by society, and for society, their destructive effects would unfold themselves in the social, economic, political, and cultural harm inflicted on people that harbor them. Such impacts are extensively investigated on people and economies worldwide. However, there has been little research carried out trying to explicate the extent of this harm on cultural fabrics in general and indigenous practices of conflict resolution in Africa in particular. In fact, the situation is even grave when it comes to South Sudan where there is little recorded information about. In fact, some attempts were made to examine the impacts of the civil war on children [21] in general and impacts on their notions and behaviors of conflict and conflict resolutions in particular [22]. It was found out that the armed conflict in South Sudan has impacted on children by directly increasing their vulnerability and indirectly targeting their way of life (demolishing infrastructure and institution that cater for their needs) ultimately predisposing them to unbearable impacts of cross border migration and internal displacement, material deprivations and harsh child labor, abuse and maltreatment, child streetism, and a compromised schooling [21]. These experiences seemed to make children become more violent, disobedient, and difficult to communicate with particularly compared to their parents as children and other children living in a war-free neighboring zone [22]. These findings may trigger another question: why are then children becoming more violent? Would it be that the traditional mechanisms of conflict resolution practiced at home, in the neighborhood and communities at large are changing because of the war? In the same way that civilians are subjected to a host of crisis during war, would the traditional practices be subjected to undesirable impacts thereby losing effectiveness? In the light of these questions, the present study attempts to sketch the general profile of conflicts among adults in South Sudan, the legal system and traditional methods of conflict resolution put in place to

settle conflicts, and how the traditional methods of conflict management were impacted on by the war.

Traditional

Methods of conflict resolution

The traditional conflict resolution mechanisms that are considered indigenous to Africa are characterized with certain basic features. They are, first and foremost, rooted in to the African cultural milieu [2,6,23] that values social harmony and unity, interdependence, and communal life [2]. Second, traditional processes are relatively informal, familiar and, hence, less threatening [7]. Third, they focus on the principles of empathy, sharing and cooperation in dealing with common problems which underline the essence of humanity (ubuntu) [24]; simplicity, participatory, adaptable flexibility, complete relevance, and comprehensiveness [3]. Fourth, conflict resolution is not a two dimensional "negotiation" between the combatants, but a three dimensional "reconciliation" between the combatants and all others suffering the negative indirect effects of the conflict; hence, reconciliation with the "Earth" [2]. That is, traditional conflict management mechanisms in Africa are holistic and consensus-based and often tend to focus on whole communities as parties to a dispute, as opposed to individuals [6].

In terms of purposes, the immediate objective of such conflict resolution is to mend broken or damaged relationships, rectify wrongs, restore justice and ensure the full integration of parties into their societies again, and to adopt the mood of co-operation [3]. The purpose is not merely about adjudication of who is right or wrong and the punishment of culprits, but the reconciliation of the parties in which both parties are satisfied and willing to "let go their pain and forgive each other" [10]. Hence, it is called a mechanism of "restitutive reconciliation" [5] aiming at restorative justice, restoration of order, harmony and the maintenance of relationships within the community [5,6] by reintegrating feuding parties for true reconciliation [5] through apology and compensation [6].

The importance and utility of the processes lie in the fact that they strive to restore balance and peace, settle conflicts or eliminate disputes and maintain social harmony [6,7]. They facilitate ownership, strengthen group unity [6], and have greater resonance in societies than Western conflict management approaches [6].

Compared to the modern methods of litigation settlements in law courts, conflict resolution in traditional African societies promotes consensus-building, social bridge reconstruction and enactment of order in the society [12], peaceful co-existence and harmonious relationships [12,25], durable or positive peace, rather than the mere absence of violence [26], and effective conflict settlement [27].

Methods of conflict resolution include mediation, adjudication, reconciliation, negotiation, and cross examination [12]. Mediation involves anon-coercive, also called third party, intervention of the mediators(s) characterized with a no victor no vanquished' practice [28]. Adjudication is an act of bringing all disputants in the conflict to a meeting and conduct dialogue [29]. Reconciliation comes as an end product of adjudication in which after the disputants have been persuaded to end the dispute and give concessions restoration of peace and harmony takes shape anchored on the principle of give a little and get a little [29]. Use of arbitration by an authority figure that mediates between conflicting parties but is empowered to make binding judgments; not to render a judgment in law but to reconcile the

conflicting parties and its norms. The relationship between the authority and the community is cushioned by community representatives who advise authority William. Negotiation is an attempt to harmonize the interests of the parties concerned, emphasis on recuperation and reinsertion of errant member back into its place in society, the restoration of the harmony and integrity of the community, as the assertion of value consensus and social cohesion, so that the management of the conflict favors the concerns of both parties [29]. Cross examination is made as a means of weighting evidence through cross checking and corroborating of the facts of the conflict [29].

Methods

Study design

The prime objective of this research was to examine how the traditional conflict resolution mechanisms were negatively affected in South Sudan. Hence, data were collected using the qualitative research design in areas widely represented from the adult population of 11 different counties in South Sudan. This design was composed of both primary (Key Informants, FGDs and interviews) and secondary sources as discussed below.

Key informants

Five Key Informants were used from Rumbek Town to solicit data for a general assessment of the study area including the armed conflict, legal and cultural practices, and the impact of war on peoples' behavior. They were composed of four officials and a veteran teacher in Rumbek Town. The identification procedure was such that the researcher secured general information about Rumbek Town from a series of informal talks with the Staff of Save the Children Sweden that was based in this Town at the time of data collection [30,31]. The information obtained included, among others, the GOs and NGOs operating in this Town at the time data collection was going on. From this information, the researcher was able to identify the offices to be visited for further information. The offices/centers identified were 'The Police Department', 'Rumbek County Court', 'Deng Nyal Primary School', and 'Community Mobilization Center'. Having visited these centers with the help of Save the Children, the researcher was introduced to the officials who also helped identifying the key informants to be interviewed. Four officials were then identified accordingly for the interview. The fifth informant was, however,

identified during the FGD with community representatives. Note that all the five informants were males. They all were residents of Rumbek Town at least during data collection. All of them were receptive and cooperative in helping the researcher get access to files and documents in their offices. The interview was unstructured and held in English. Language was not at all a barrier. The researcher was even very much impressed by the fluency of one of these informants. The interview was conducted in three sessions at different dates with Key Informant 3 (the County Judge) as he was found to be most relevant to the purpose. A minimum of about 1½ hours was devoted for conducting the interview with each informant in one session.

Focus groups

One FGD was conducted with community representatives in each of the 11 counties. Community representatives consisted of three types of persons in the communities: elderly people, religious leaders (of whatsoever age in the communities like priests, pastors, or any other), and community officials (formally elected or culturally assigned; preferably of older ages). Elderly people were specifically with ages 60 or above, healthy, dependable memory-wise, and were members of traditional institutions of settling disputes preferably both before the war and at present. One or two person/s was/ were drawn from each of these three groups for FGD in each of the 11 FGD sites.

The descriptive summary of the background characteristics of these community representatives is presented in Table 1. The major characteristics can be reiterated below:

- The number of participants ranged from three (It was impossible to find more members for the FGD in one center and hence only three were considered) to eight; with an average of five persons
- The age of participants was over 45 years except 1 person who was involved because of his responsibility in the community (that is; he was a community chief)
- The responsibilities included community chieftaincy, community eldership without any formal responsibilities, spiritual/ religious or church leadership (mainly protestant and Catholic)
- The discussants had participated in traditional ways of settling disputes before and during the war; except one who ways young before the war.
- The FGDs took from 1¼ hrs to 2½ hrs; the average being 1½ hrs – and this was sufficient enough to discuss all FGD questions.

Center of the FGD was conducted	Number of participants	Age range	Responsibilities held in the community	Participation in settlement of disputes:		Time the FGD took
				Before the War	During the War	
Maridi I: Zandi	5	63 – 66 years	Community leader Community elder	all yes	all yes	1 hr.
Maridi II: Avokaya	4	52 – 60 years	Community leader Community elder	all yes	all yes	1½ hrs.
Maridi III: Moru Kodu	5	49 – 69 years	Community leader Catholic church leader	all yes	all yes	1¼ hrs
Bor Dinka I: Nyarweang	8	45 – 60 years	Community leader Religious leader	all yes	all yes, except one with age 60 years	1½ hrs

Bor Dinka II: Kongor	6	48 – 61 years	Community elder Religious leader	all yes	all yes	1¼ hrs
Nyal: Nuer	3	31 – 60 years	Community leader Elder Church leader	all except one with age 31 years	all yes	2 hrs.
Rumbek	5	58 – 75	Elder Church leader & Priest School master	all yes	all yes	1 ¼ hrs
Cueibet	6	-	-	-	-	2½ hrs
Melualkon I: Awil East	6	62 – 66 years	Community leader Religious leader	all yes	all yes	2½ hrs
Melualkon II: Awil west	6	60 – 70 years	Community leader Religious leader	all yes	all yes	2½ hrs
Yirol	5	52 – 62 years	Religious leader	all yes	all yes	1¼ hrs

Table 1: Background description of community representatives participating in each of the 11 FGD centers.

FGD with community representatives helped in securing data about type, causes, and strategies of conflict in the communities of Southern Sudan before the war and at the time of data collection. It was believed that community representatives were in a better position to provide information on these matters because they had witnessed life both before and during the war and actively participated at the same time in the settlement of disputes.

Interview with Selected discussants: Interview was also held with community representatives after the FGDs. Attempts were made to interview about half of the participants of each FGD individually so as to gain more insight about the above issues. The interview focused on tapping special experiences of these participants in settling disputes with respect to (their) most unforgettable experience of a successfully and unsuccessfully resolved conflict as well as most recent experiences of a successfully and unsuccessfully resolved conflict. They were told to imagine about these experiences, and then asked the six questions taking each of these four experiences one at a time: What was the conflict about? Who were the participants? When did it occur? Why did it occur? How was the conflict resolved? And, who were involved in trying to settle the dispute?

Note that three persons were interviewed in each of the ten FGD centers (Cueibet was not included) - a total of 30 interviewees. These 30 interviewees were expected to report four types of conflicts they witnessed in their life - a total of 120 expected conflicts.

Secondary sources: Secondary data were obtained from relevant offices indicated earlier. Key informants assisted in getting access to these records. Some of these documents/ records included Crime Register Book, Case Register Book, and Save the Children's reports [30-33].

Results and Discussion

We are to begin our results and discussion with a brief presentation of the situation of crime, violence and conflict in South Sudan during the war. Conflict mechanisms are then examined beginning with a general sketch of the judicial system and the traditional mechanisms. Then follows analysis of the impacts of the armed conflict on these

methods of settling disputes. Finally, data obtained from the different sources are thematically integrated to shed light on the research questions already asked at the beginning of the report.

Crime, violence, conflicts and changes during the war

Data obtained from different sources have indicated that an increase in the type and rates of crime during the war. The statistics in Figure 1 depicts that the crime rate has steadily increased from 1999-2004 in Rumbek County; just few years before the 2005 Comprehensive Peace Agreement.

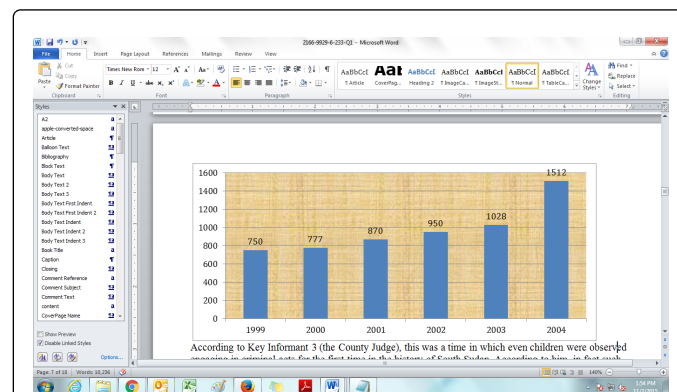


Figure 1: Crime rate for five years in Rumbek County (Source: Crime Register Book 1999-2004, The Police Department of the New Sudan.

According to Key Informant 3 (the County Judge), this was a time in which even children were observed engaging in criminal acts for the first time in the history of South Sudan. According to him, in fact such children were not treated as criminals and incarcerated like adults; they were rather advised and then sent back home. In Save the Children's case study, a community chief, Chief Dut, once complained that the war had affected much of their culture. Children had come wild; many did not want to go to school but wanted to fight (Save the

Children) [29]. In his capacity as a Community Mobilizer, Key Informant 5 also expressed that children had become increasingly difficult to manage particularly during community project implementations.

The same Police Officer was asked to list the most common crimes reported to the police. He gave the list in order of magnitude: Theft of cattle (first), adultery (second), fighting (third), abduction of girls causing fighting (fourth), and murder (fifth).

Community representatives were also asked to reflect on this issue during FGDs. The concluding ideas of each FGD were captured in a tabular form to ease presentations (Table 2). As the summaries of the FGDs can be seen in this table, the major types and sources of conflicts listed are very much in tune with the list given by the Police Officer: adultery, stealing, rape, love affairs before marriage, disputes over grazing land, and tribal conflicts.

FGD center	Responses
Maridi I: Zandi	Adultery, Rape, Stealing
Maridi II: Avokaya	Rape, Attack and kill people, Stealing, Adultery
Maridi III: MoruKodu	Stealing, Adultery, Abduction of girls, Rape, Killing people
BorDinka I: Nyarweang	Love affair before marriage, Boundary disputes, Disrespect for elders
BorDinka II: Kongor	Cattle raiding, Abduction of children
Nyal: Nuer	Conflict over girls, Grazing land, Adultery, Stealing cattle
Rumbek	Love before marriage, Cattle grazing, Stealing, Adultery, Tribal conflict
Cueibet	Adultery, Tribal conflict, Stealing
Melualkon I: Awil East	Love before marriage, Adultery, Grazing land, Tribal conflict
Melualkon II: Awil West	Love before marriage, Adultery, Grazing land, Tribal conflict
Yirol	Love before marriage, Adultery, Grazing land, Tribal conflict

Table 2: Summary responses of FGDs with elders about types and causes of conflicts.

The idea that crime rates tend to rise with time is obviously universal. However, what makes our present case special is the fact that the increase was tremendous during the war as it was noted by discussants. Different explanations were given why this was the case. According to an interview held with the Police Chief (Informant 2), the war had displaced people from their communities and this had impacted on their behaviors in two forms. On the one hand, displaced persons had little resources to depend on for survival. On the other hand, there was anonymity in the new area and this has lessened social inhibition and fear of bad labeling that could follow from doing socially unacceptable activities. Hence, this internal needs and favorable external conditions seemed to instigate many people to resort to different kind of criminal acts. FGD and interview participants have also underscored frustrations and helplessness that ubiquitously accompanied the extended hardships of the war as major reasons. Responses indicated that coping with material deprivations was so taxing and compromising that many of the affected persons resorted to such inappropriate courses of actions as stealing food items to feed a family, theft of cattle to offer for dowry, looting goats etc.

As regards the changes observed during the war, it was found that there was a change in the frequency of the disputes above (Tables 2 and 3). It was learned from all the FGDs that the problems reported have become rather common. In one FGD, it was even said that the people have become more violent, less tolerant, and difficult to deal with particularly during mediation of conflicts. There was also a change in the forms of conflict. It was said that love affairs before marriage, gang fights, as well as use of guns became common in recent years.

Summary of the interview responses with selected FG discussants presented in Table 3 yielded a total of about 79 unforgettable conflicts

noted before and during the war. Results indicated that about 82% (more than 3/4th) of the conflicts were group fights –usually tribal in nature. The lion-share of these conflicts was occurrences of more recent years suggesting that conflicts during the war seemed to take a tribal feature. It was also noted during discussions that whereas group conflicts in the past were extensions of individual disputes, the majority of group fights in recent times originated from group discords implying that people were gradually forming a schema or attitude towards an out-group. About 19% (1/5th) of the conflicts involved adultery, dowry issues, and conflicts over girls. About 75% of the conflicts involved violence (killings, rebelliousness, displacement, and abduction) and hence were more destructive than individual conflicts. This would then mean that conflicts during the war were more common, tribal in nature than individual, and hence more destructive than those in the past.

Issues			Freq.	%
Type of conflict	Group conflicts	Past	25	31.64
		Recent	40	50.63
		Total	65	82.78
	Individual conflicts	Past	10	71.43
		Recent	4	
		Individual total	14	12.66
Violence: killings, fights, abduction	Conflicts involving violence	60	75.94	
	Conflicts involving killings	19	25.32	

rebelliousness, displacement	Remarks	Almost all group conflicts involved serious violence	
		Almost all individual conflicts involved serious violence	less serious violence

Table 3: conflicts and changes observed.

Handling conflicts

There are both statutory and customary practices and laws operating together in South Sudan. The judiciary and cultural systems: From 1983–1994, it was the army who was responsible for resolving civil suites. According to Key Informant 3, there was no civil authority in the area. In 1994, a convention was held in a place called Moysim and people agreed that the army should give power to civil authority; which was then established accordingly. After the establishment of civil authority, the judiciary was setup at different levels of administrative units. First was the high court judge in each region of South Sudan. Regions are composed of different counties; each having its own county court. In each county, there are payams with their corresponding payam courts. The high courts, county courts and payam courts are State courts. At the bottom of these courts are local courts. There are two levels of local courts: Regional courts, and executive chief courts.

Although the judiciary was functional since its establishment in 1994, it was, however, not strong in carrying out its duties and responsibilities. This was partly because there was no head (or Court of Appeal) or Supreme Court. There was a sort of power vacuum at the top. In recognition of this vacuum, all judges met in 1999 in New Cush Workshop and formed the Court of Appeal.

The hierarchy of courts that has been in place until the endorsement of the Comprehensive Peace Agreement is presented in Figure 2. As it can be seen in Figure 2 extreme top, the ultimate power is vested on the Chairman of the Movement for a final say of verdict by the Court of Appeal particularly on such critical issues as death penalty and life imprisonment. At the lowest level of the hierarchy are executive courts where legal proceedings normally start. In between are the courts operating at the different levels of the administrative echelons.

State court personnel are qualified and are assigned by the Movement except sometimes for payam courts. On the other hand, local court personnel are lay people assuming the position either through democratic elections by the community members or through inheritance. The most striking difference between the two courts is that State courts apply statutory laws while local courts dominantly apply customary laws. Statutory laws are codified norms defining a criminal conduct and the type and level of punishment accompanying this conduct. The penal and civil codes are statutory laws. However, customary laws are non-codified laws that have been transferred from generation to generation orally.

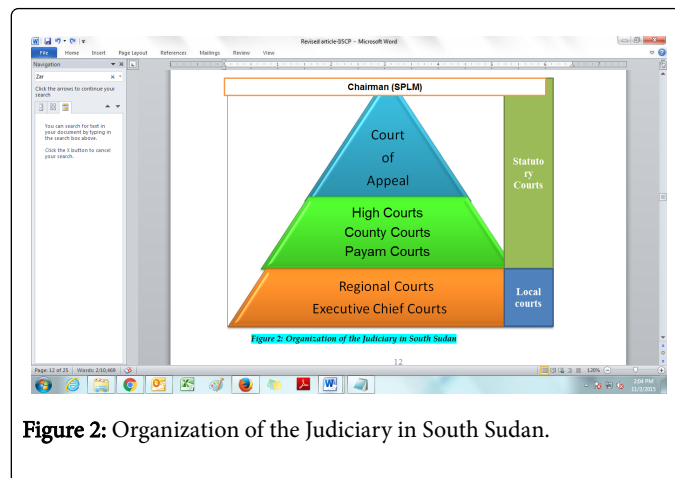


Figure 2: Organization of the Judiciary in South Sudan.

Differences of the two courts in the laws they enact definitely leads to procedural differences in legal proceedings. The legal proceedings in statutory courts are more or less universal in the sense that all criminal cases are first reported, through writing/ orally, to and/or screened by the police. That is, it is the responsibility of the police to investigate and sort out cases. If police investigation proves against the accused, then the police refers the diary to the county court for trial. If, on the other, the police fails to establish a legal ground for a case, then he/she dismisses the legal proceeding and instead refers the case to local courts. It is the police who decides whether a case is a trial in State court or local courts.

Local courts accept civil suits either from the police or the plaintiff. The defendant is then given a summon to appear in a court. Then, the case is presented before the court with the presence of both the plaintiff and the defendant. The plaintiff states the case followed by replies from the defendant. If the reply is in agreement to the complaint, then there is no need for witnesses or else witnesses are to account for the case. Under special conditions, the court may require the parties to swear an oath. This practice may differ from tribe to tribe. In Dinka tribe, for example, the parties are sent to a “Spear Master” to swear. There is in Dinka custom a strong traditional belief that lying before the “Spear Master” will cause death. The “Spear Master” is a man on whom people have developed a feeling of reverence and this is believed to transfer from father to son; thus each generation having one’s own Spear Master from this line. Eager to know more about this belief, the researcher asked one old man how much this belief is valid. This person recounted on deceased persons lying under the “Spear Master”. However, nobody knows about lairs that survived the oath because they hardly speak out afterwards. This could give the “Spear Master” the benefit of the doubt.

Although there are such real differences between the state courts and local courts, these should not entail that they are mutually exclusive. They are rather complementary in many cases. For example, state courts apply customary laws and procedures when there are appeals from local courts. Local courts, too, sometimes apply statutory laws.

Methods of handling disputes: FGDs with community representatives indicated that conflicts were to be handled either through traditional ways (elderly council, spiritual leaders, community chiefs) or through courts, or both—one referring cases to the other. Customary laws are practiced to resolve different kinds of disputes in the various tribes. In Dinka tribe customary laws are applied to resolve

disputes over dowry, divorce cases, redemption of a child, and issues involving adultery. Regarding disputes over dowry, for example, a man is required to give a certain heads of cattle to a woman as a dowry during marriage. Parents and relatives of the man are expected to contribute cattle to the dowry. In return to this obligation, they do have the right to share the dowry secured from a marrying daughter. Failure to meet this obligation or denial of this right would result into a dispute that is to be handled through customary laws at local courts. Note here also that daughters do not have the right to marry without the consent of parents. The researcher has personally witnessed, for example, a case in which a mother has managed to get her daughter imprisoned for refusing to stop a love affair she had with a boyfriend even when she was told to quit.

Disputes over redemption of a child can be considered as another instance of application of customary laws. It usually takes two forms. The first is the case of a man impregnating a girl had delivered a child but refused to marry the girl and instead preferred to pay one heifer as an Awac. The father may legally claim to redeem the child latter on. He may pay cows for redemption; the number of which depends on the age of the child-the younger the child, the smaller the number of cows. But, if the father refuses to redeem the child, then the child may be delivered either to his maternal uncle or to the stepfather who is going to marry the girl depending on the agreement of the family of the daughter with the stepfather. The father of the child is left free—can't be charged. The second is the case of couples deciding to divorce after bearing children. Here, the family of the girl can ask cows for redemption of children by the father. The husband has the right to collect back the cows given during dowry but after deducting the number of cows already returned to him by the parents of the girl and the cows for redeeming children. Here the possible calves of cows will get into calculation in both parties. Dead cows are not going to be claimed for except when the cow was sold but died there in the possession of the buyer.

Adultery among relatives could be a third example in which customary practices of conflict resolution may come in. If a man commits adultery with the wife of his uncle's son, to whom his farther has contributed cattle for the dowry, then the husband may make a charge at the local court but he will not get the usual compensation of 7 cows but only 3 because the perpetrator's father has contributed to the dowry and they are relatives, too.

The purpose of settling disputes in the courts could either be punishing the guilty through imprisonment and fines or requiring him/her pay compensations to the victim, or both as in murder cases. However, the local courts primarily function in a manner to ensure reconciliation of the disputants at last. The procedure is such that they try to find the party who is guilty through cross examinations and evidences, require the guilty pay compensation to the victim, bring reconciliation between the parties, and then ensure that the parties in dispute finally perform certain cultural or spiritual rituals so that the cause of the conflict could be removed. The ritual is also a promise entered by the two parties not to engage in further conflicts or else they will be subjected to bad a fortune that is believed to cost even their life. That is, the reconciling disputants perform, usually in the presence of the community gathering, traditional rituals of a spiritual nature that ultimately ensures that once initiated into the rituals back sliding to old disputes is like inviting bad fortune, bad name and disrespect, condemnation by the elderly council, and fines by the law. For example, in a murder case, where the relatives of the deceased are compensated with 31 heads of cattle in Dinka tribe, one bull from

these cattle is slaughtered and both parties taste the blood of the bull, which then means that the two parties are reconciled forever.

Evidences from FGDs and interviews have indicated that there has been a complete acceptance of verdict coming through traditional methods of settling disputes (Table 4).

FGD center	who is involved in settling disputes	What is being done to resolve conflicts	Acceptance of verdict by the parties involved in the conflict
Maridi Zandi I:	Elders' council, Chiefs, Courts	Reconcile parties by elders, punish criminals with fines, imprisonment	Yes they do accept or else they will be cursed
Maridi Avokaya II:	Council of elders, Chiefs, Courts	Punish and reconcile by elders Imprisonment by courts	Yes, they do accept
Maridi MoruKodu III:	Council of elders, Chiefs, Courts	Punishing of criminals and re-council	Yes, ritual performance by elderly people
BorDinka Nyarweang I:	Elders, Chiefs, Spiritual leader, Courts	Punish criminals and re-council	Yes, they used do accept
BorDinka Kongor II:	Chiefs, Elders, Spiritual leaders, Courts	Punish and re-council	Yes, ritual performance
Nyal: Nuer	Chiefs, Elders, Courts	Punish and council	Yes, but not now
Rumbek	Elders, Chiefs, Spiritual leaders	Punish and re-council	Yes, or else cursed
Cueibet	Elderly, Chiefs, Priests, Courts	Punish and re-council	Yes, or else cursed
Melualkon I: Awil East	Elderly, Chiefs, Priests, courts	Punish and re-council	Yes, or else cursed
10. Melualkon II: Awil west	Elderly, Chiefs, priests, Courts	Punish and re-council	Yes, or else cursed
11. Yirol	Elderly, Chiefs, Priests, Courts	Punish and re-council	Yes, or else cursed

Table 4: Summary responses of community representatives or FGD with elders: Effectiveness of methods and changes.

This is mainly because in addition to the rituals performed, individuals are to be cursed if they decline from the verdict. FGD discussants also mentioned 'punish criminals with fines', 'punish them and reconcile', 'imprisonment by courts', and 'punish and reconcile by elders' as added reasons enforcing the verdicts. Furthermore, as practiced elsewhere in African traditional societies [6,11], the process of mediation employed for settling disputes was indicated during FGDs to address feelings, emotions, attitudes rather than mere fact-laden and witness-based. Discussants also mentioned that conflicts were issues of concern not only to perpetrators and victims, but are concerns of the whole tribe and these concerns are to be addressed

during conflict resolutions process as the case is in traditional conflict resolution techniques of Africans that employ mediation, adjudication, reconciliation, and negotiation [12]. Last but equally important, conflict resolution has been led by social entities such as chiefs, elders of the community, priests, healers, and other tribal leaders (Table 4). These conflict mediators are with better social status, recognition, integrity and experience in the community and hence are socially and culturally positioned to persuade the parties consider their suggestions that are made in reference to relevant norms and rules [3] practical considerations, and communal implications.

Impact of the war on settlement of disputes

Involvement of the army in conflict resolution: The individual interview in Table 5 has added to the list of mediators that such agents as SPLA, SPDF, and Police were taking part in conflict resolutions during the war. Describing the effect of the war on practices of settling disputes, Key Informant 3 specifically underscored that the power of the courts had shifted to the army until the establishment of the judiciary in 1994. Even in later years, the courts and elders had a mere nominal power. It was the military who was handling disputes for both courts were incapacitated, inefficient and almost non-existent. The interviewee recounted, for example, on his own experience of being jailed by a soldier, who suspected him of spying, until he luckily managed to prove that he is a judge in another county.

The major change during the war was then that the army was functioning almost replacing traditional methods. It controlled the decision making power in the name of keeping the security of the communities. Making frequent interferences in the dispute settlement process, the army sent a message to the people that the decisions of the elderly and local people were not final and can be changed anytime. Thus, the army indirectly discredited the credibility of the elderly council. This had also wrongly socialized the young people to grow without respecting the elderly as it was mentioned during FGDs and interviews.

The problem with army intervention was that it used to make references to the SPLA Act, which was purely a military law. It was widely raised during discussions and interviews that punishing the wrong doer, lesser interest in reconciling parties, neglect of the cultural rituals as a final marker of settlement of disputes etc. were out of place while handling disputes. It only had a focus on the problems surfacing out in conflicts with little or no time and interest to address the causes as well as repercussions of conflicts. It focused on immediate problems and sought immediate solutions, but indirectly promising revengeful intentions. Disentangling the problem from the perpetrator and the doer, the army used to treat conflicts in an impersonal manner and without paying regard to the hearts and souls of the parties involved. Instead of providing opportunities to let out disappointments, fears, intentions, it rather worked to suppress them until such time that they may resurge at any favorable time in the future.

Role changes among traditional mediators: The effect of the war can also be seen in terms of possible changes observed in the roles of people participating in traditional ways of settling disputes. A case in point was community chiefs. This can be seen clearly from Save the Children's [30,31] case study in South Sudan:

In many parts of Southern Sudan, chiefs explained that they often recruited children into the army since they (children) did not pay taxes. Chiefs had to contribute taxes in the form of good and cash to the local administration and to the war efforts. Since adult males were

the principal sources of taxes, recruiting them would mean a drop in resources. Less tax meant that a chief was inefficient and he would lose his position. The chiefs met their quota of soldiers by recruiting children (p. 10).

Irrespective of the reasons, the chief's attempt to force children to go to war to fight would definitely undermine his credibility among the people in the community because he is perceived to serve the SPLM's interest at the expense of their own. It was also noted in one of the FGDs that even the elderly were found to engage in such newly war-invented roles as giving blessings to the new army recruits soldiers, receiving and integrating the war-returnee soldiers after getting them go through some rituals-such as killing a goat and make him wash hands with the blood-to cleanse the sin committed during the war.

Emergence of other new threats: The other impact of the war was related to changes in people's behaviors, circumstances, and pragmatic needs that were brought during the war and as such demanded for a different approach to conflict management. Some of these changes mentioned in FGDS and interviews include the following:

- Frequency of problems have increased tremendously in the various communities that required immediate interventions through ways other than traditional methods; that require a bit longer time for intervention
- Disrespect for elderly people as the power shifted to those who hold guns.
- Intolerance of people to one another and hence preference for reporting even less serious cases to police that could normally be handled at the community level. This has affected the role of the police because the police had to sometimes function to reconcile people than to make charges.
- Chaos, normlessness, and insecurities that urged people to have little concern for tomorrow, for other people, and even for oneself
- Observing greater damage, killings, and destructions happening around them because of the war, people in the communities began, unlike before, to downplay and go for a take it easy kind of understanding about conflicts between persons
- The war that was going on around communities for many years appeared to give refugee to wrong doers as many who looted cattle, killed people, abducted and raped women, and stole property simply ended safely joining the army and lived unnoticed
- Anonymity of war-displaced people in an area meant that local rules and methods became less meaningful, if not irrelevant (e.g. Swearing before the Spear Master couldn't give sense to a Neuer IDP)

Effectiveness of traditional methods: An ultimate effect of all the changes above is on the effectiveness of the traditional methods. Hence, an attempt was made to check if the effectiveness of traditional methods and local courts was reduced during the war. For this purpose, data were secured from different sources that are thematically presented here under.

To begin with key informants, the Police Officer (Key Informant 2) indicated that people were in favor of taking their cases to police no matter how insignificant it could be rather than getting them handled through traditional methods wanting to revenge their disputants possibly before he/ she escapes the trial in local courts and mediation by the elderly people. There were many instances in the communities where criminals easily escaped trials during the war.

Interview held with community representatives have also suggested that the traditional ways of conflict resolution have declined in importance. People seem to take even minor cases to courts. They have little respect to the council of elders, chiefs and spiritual leaders. They have become revengeful and do not seem to believe in the importance of rituals performed in conflict resolution. It was also learned from interviews that the elderly councils have become more punitive in their measures in recent times. Interview with community representatives (Table 5) has in the same way suggested that about 30% of the conflicts were not successfully resolved. About 67% of the unsuccessfully resolved conflicts were conflicts witnessed in most recent years. This confirms the responses in the FGDs that the traditional ways of settling disputes have become less effective in more recent years. More serious impact of the war on methods of conflict resolution was that in almost 95% of the conflicts, negotiations occurred after serious fights, killings, or destructions had occurred.

Issues	Freq	%
Conflicts resolved after harm is inflicted	75	94.94
Conflicts not resolved	Past conflicts	8 33.33
	Recent conflicts	16 66.67
	Total	24 30.38
Mediators in recent conflicts	SPLA, SPDF, courts, police, elderly council, chiefs	

Table 5: conflicts and changes observed.

Credibility of traditional ways of conflict resolution was also more specifically singled out for FGD to learn if it has been affected. As the overall summaries of the FGDs in Table 6 indicate, the credibility has been affected: Council of elders is no more working, chiefs are not important, People do not accept traditional ways any more, Traditional ways have become ineffective; People go to courts, people prefer courts now, Now all conflicts are handled in the court, but every conflict goes to court now. In fact, there are differences among discussants regarding the level of this effect. In half of the FGDs, it has been completely affected while this effect is somehow felt by the remaining half of the FGDs and centers. In any case, people who want their conflicts resolved through the cultural methods must have confidence in the tribunal (elders, chiefs, religious leaders etc.) that would resolve the dispute. The disputants must be ready to submit themselves to the constituted authorities [13].

FGD Centers	Questions	
	Changes observed in conflict and methods because of war	Credibility of traditional ways of conflict resolution
Maridi I: Zandi	council of elders is no more working People go to courts	Completely declined
Maridi II: Avokaya	Now all conflicts are handled in the court	Completely declined
Maridi III: MoruKodu	People prefer courts now	Completely declined

BorDinka I: Nyarweang	But every conflict goes to court now	Completely declined
BorDinka II: Kongor	People do not accept traditional ways any more	Completely declined
Nyal: Nuer	Gang fight, mostly boys Lack of tolerance Chiefs are not important	Completely declined
Rumbek	Use of guns in the fight	Yes, somehow
Cueibet	Traditional ways have become ineffective	Yes, somehow
Melualkon I: Awil East	Traditional ways have become ineffective	Yes, somehow
Melualkon II: Awil west	Traditional ways have become ineffective	Yes, somehow
11. Yirol	Traditional ways have become ineffective	Yes, somehow

Table 6: Summary responses of community representatives or FGD with elders: Effectiveness of methods and changes because of the war.

Data were also secured regarding the number of appeals presented from local courts to state courts in Rumbek County (more appeals implying less credibility of the local courts). Table 7 presents some relevant data from the Judiciary Research Center at Rumbek Town.

Type of Appeals	Number of Appeals
Civil appeals from local courts in 3 counties	149
Civil suites (fresh cases)	134
Criminal appeals	237
Criminal cases (fresh)	124
Source: Case Register Book (2000), Judiciary Resource Center. Rumbek County, Rumbek Town.	

Table 7: Statistics on fresh criminal cases and cases of appeals to state courts in 2003.

As indicated in Table 7, local courts didn't seem to provide an ultimate resolution to many disputes they handled. The figures suggest that the number of appeals from local courts were much bigger than fresh cases the county court had to handle at least in 2003.

Power vacuum: Finally, participants were asked about more recent problems in conflict management that can be traced back to the effects of the war. Participants expressed different but interrelated concerns: Lack of clarity of responsibilities among stakeholders (army, police, state courts, and local courts), lack of coordination among stakeholders, a sort of vacuum noted: traditional methods have come less effective, but others are not strongly in place. Evidences indicated that three phases were generally observed in the conflict management strategies: Phase one was the case in which traditional ways operated by themselves. Phase two was inclusion of the army in the traditional ways. This is a stage characterized by absence of a clear body responsible for handling disputes. And, Phase three was the emerging stage at present of the court replacing the army; but still a state of transition to a more powerful legal system.

Conclusions and Recommendations

Traditional methods basically operated to bring in reconciliation and were effective. Mediators were the elderly and community chiefs; all had the trust from the people. So, their recommendations and suggestions were sought with respect and there was no vengeance. Rituals were observed because of fear of encounter of negative outcomes. With the war becoming extensive in its coverage and severe in its impact particularly during the last two decades of the SPLA-lead fight against the Khartoum Government, commensurate negative impacts were noted in the behaviors of the people. That is, crime, violence, and conflicts have been increasing in frequency and seriousness during the war. New types of problems introduced, complexity added to existing ones, variety increased in perpetrators, and group fights of a tribal nature became rather common. The armed conflict has brought a corresponding impact on the traditional methods of conflict resolutions in South Sudan. Widened the tribunal (beyond the elders, chiefs, and spiritual leaders): army, police, and court were involved. Role changes were introduced: police and army involved in mediation, chiefs and elders also begun engaging in executing new war-related activities like recruiting, blessing and reintegrating soldiers. This, however, seemed to interfere with their primary responsibilities ultimately reducing their credibility during the war as in the proverb "a friend of all is a friend of none". The number of conflicts unsuccessfully resolved became more common in recent years than in the past, there was an increase in the number of appeals to state courts from local ones; and people also tended to report even minor cases to the police possibly seeking vengeance. Hence, there also appeared a change in intentions of the people (preference for vengeance), the aims of conflict resolutions being more punitive, and reappearance of old conflicts in a new light particularly in group conflicts.

In fact, statutory courts became more apparent alternatives in handling conflicts in addition to the traditional methods. These courts were found to complement rather than supplant the local courts. However, because law enforcement was stronger and more visible here, people preferred to take their own cases to state courts. However, state courts were not structured to a technical and professional level that allows them meet the rising demands effectively. We would say then that the protracted war in South Sudan has reduced the effectiveness of the traditional methods of settling disputes, on the one hand, and arrested the development of modern legal practices, on the other hand. There appears, as a result, a sort of vacuum, which could lead to confusion, normlessness, and further escalation of conflict and crime rates.

The issue of prime importance here is then the need to fix this problem. Should we retain the traditional methods of conflict resolution in appreciation of their contributions in the past or detain them in realization of their declining utility; work to preserve or perish them; emphasize or deemphasize their present roles?

First and foremost, filling in the gaps observed in the methods of settling disputes is in fact not only necessary but is rather a top priority. Revitalizing the traditional methods could be an idea that would come to the mind of many people at this juncture as in Olateju [17], who stressed on the need to preserve the indigenous peace model which is still believed to impact on the dynamism of cultural development in post-colonial Africa as this is not totally alien to the cultures and values of Africans but was rather deeply rooted in their thought patterns and experience.

To the understanding of the present author, this is impossible as it means fitting a square peg on a round hole. The society is under transformation and hence revitalizing traditional methods is tantamount to setting the wheel back. Improvising the functions of the traditional methods may rather appear more appropriate. This may include, among others, widening the functions of the elderly council from a mere task of reconciling people in dispute to involving modern practices that equally make provisions to respecting individual rights. The society has increasingly become aware of individual rights and hence conflict resolution should respect this rights rather than simply requiring parties to forget the problem in pursuit of maintaining stability of a community at hand. It should also be realized that traditional methods are not perfectly clean in themselves. For instance, in almost 95% of the conflicts noted in this study, negotiations occurred after serious fights, killings, and destructions happened. This could be because people intending to engage in conflicts may not refrain back possibly feeling that reconciliation is always ahead.

Second, the society is becoming pluralistic and elaborate rituals of one tribe may be irrelevant for another. It was, for example, noted that this is a time in history in which group fights of a tribal nature has come quite common in South Sudan. How would then the reconciliation methods of one tribe be put to use to bring the two different tribes to terms? The traditional methods are not in fact without limitations [34]. They are instead less effective in plural societies [35] and also tend to exclude key groups such as women, children and youth [35]. They are limited in their ability to address more far-reaching conflict between local communities and outside actors that follow different traditions and customs, such as state authorities or multinational enterprises. The existence of numerous, different parties to the conflict in Nigeria, for example, have resulted in complex conflict management approaches. The most effective method adopted is considered to be the development of a non-adversarial, participatory approach that allows the various stakeholders to share information and opinions and to engage in joint problem-solving [34].

Third, as part of improvising traditional methods, attempts should be made to formally and clearly delineate their discretion and working relationship with the state laws. Empowering the capacity of the people involved through short term trainings and workshops should again be part of the deal. Such trainings need to focus on the legal system and proceedings already set for use in the New Sudan, modern conflict resolution techniques, and fundamental human rights, the rights of children and women here is still a need to sensitize the communities through different access groups (e.g. community mobilizers) regarding the implications of polygamy and dowry issues to such problems as adultery, rape and abduction of girls/women and group fights. People also need to understand that settlement of disputes through a third party or reconciliation efforts to settle disputes usually occur after serious harms are done because of conflicts and hence these methods are costly.

Finally, people should be helped to understand that opting for these indirect methods does not necessarily imply that one is mature. It could rather mean that the child is feeling compelled to avoid confronting the reality. This is again born out of wrong conception that conflicts are always bad, destructive and avoidable. However, conflicts may be potentially useful, constructive and are inevitable facts of life in interpersonal relationship. No matter what we do we can't avoid them completely.

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