

# **SOUTH SUDAN: WAITING FOR PEACE TO COME**

## **STUDY FROM BOR, TWIC EAST & DUK COUNTIES IN JONGLEI**

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Local to Global Protection (L2GP) is an initiative intended to document and promote local perspectives on protection in major humanitarian crises. So far, community oriented studies have been carried out in Burma/Myanmar, Sudan, South Sudan and Zimbabwe.



“And I always thought: the very simplest words  
Must be enough. When I say what things are like  
Everyone’s hearts must be torn to shreds.  
That you’ll go down if you don’t stand up for yourself---  
Surely you see that.”

Berthold Brecht  
From: And I always thought

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L2GP was initiated by a group of organisations within the ACT Alliance in cooperation with other organisations and individuals in the above countries. The initiative has been financially supported by Danida (Denmark) and Sida (Sweden). A paper summarising the initiative and synthesising key findings so far, will be published by the Overseas Development Institute's Humanitarian Policy Group (ODI HPG).

The analysis and opinions in this report are solely the responsibility of the credited author(s) and cannot be attributed to any of the above mentioned institutions.

L2GP studies from Burma/Myanmar, Sudan, South Sudan and Zimbabwe are available at [www.local2global.info](http://www.local2global.info)

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### **Local to Global Protection**

The 'Local to Global Protection' (L2GP) project explores how people living in areas affected by natural disaster and armed conflict understand 'protection' - what do people value, and how do they go about protecting themselves and their families, and communities? The research also examines how affected populations view the roles of other stakeholders, including the state, non-state actors (e.g. armed and political groups), community-based organisations, and national and international aid agencies. Are these viewed as protection actors, or sources of threat - or a mixture of both?

The project asks similar questions of all stakeholders, but with a commitment to understanding the realities of civilians caught up in armed conflict and natural disaster, and trying to communicate their situation and priorities to the 'humanitarian industry'.

Community oriented research has been carried out in Karen State and in the Irrawaddy Delta (Cyclone Nargis) of Myanmar, in Southern Kordofan (Nuba Mt.) and in Jonglei State of Sudan – as well as in Harare, Mashonaland East and Matabela Land North in Zimbabwe.

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## Key Points

- The Jonglei study stresses how local people associate ‘protection’ with physical security from banditry and local clashes rather than the more ‘rights-based’ definition used by humanitarian actors.
- Helping the new Government of South Sudan address such insecurity should be given the highest priority. For this the new UN peacekeeping mission (UNMISS) will need to cease being an ‘observer’ mission like its predecessor and engage with the problems faced by local people and security providers through greater on-the-ground deployment.
- Aid agencies, for their part, need to work with a deeper understanding of the major factors that drive insecurity – in particular the role of livestock, the presence of small-arms and the lack of opportunities for the youth which mean that long-term historical cleavages are being exploited for economic advantage and a short-cut way to access bridewealth

## Executive Summary

This study has sought to bring clarity to the increasingly popular concept of ‘Protection’, by studying it from the bottom upwards. The idea of agencies preventing suffering and engaging with the political factors that cause it rather than always picking up the pieces is an attractive one, but in interviews conducted for this study, local people felt aid agencies were failing to provide them with the kind of protection they needed. Despite the clear desirability of preventing suffering, aid agencies simply do not have the capacity to provide the security that people crave. Physical protection in Sudan should be provided to local people by the Government of South Sudan and UNMIS/UNMISS (UN Mission in Sudan/South Sudan) peace-keepers. UNMIS, the peace-keeping force before South Sudan’s independence, rightly pointed out that such physical security is the responsibility of GoSS. However, GoSS have a limited capacity to ensure security in all parts of such a large and heavily-militarised territory. So, with UNMIS’s unwillingness to intervene in incidents of South-on-South violence, and the Southern Army SPLA’s reticence to take sides in local clashes the result has been that local people in Jonglei have rarely felt less safe than they do at the moment.

In deciding to take on protection programming agencies therefore risk becoming both victims of their own ambition/publicity and not being sufficiently transparent about the fact that people mainly rely on self-protection and local agency rather than humanitarian agency or government protection. The natural response to the inability of aid agencies to provide meaningful physical protection in South Sudan is to seek out smaller ‘client populations’ to protect in the manner of traditional protection programmes, but by doing so agencies move away from the big ideas of protecting a whole community (from insecurity or hunger for example) to picking up the pieces of those who have already fallen out of local protection structures which in other ways, described in this study, are still functional. For local people it is violence that is more damaging sociologically than local gender roles or power structures. Work that aid agencies do to support livelihoods and provide services plays a role in

insulating people from the effects of violence and they should continue generously building up the protective ‘fat reserves’ of South Sudanese society as it goes into an uncertain phase.

### The Approach of the study

The process of carrying out the study showed how difficult it is to capture genuine local voice. Calling a research study ‘participatory’ or using aspects of PRA is rarely enough to change the fundamental power dynamics and communications gap that exist between global and local actors. Most humanitarian enquiry carries substantial baggage – often due to the assumption that, as part of the humanitarian project, local people and global actors share a universal agenda and that ‘humanitarian concerns’ are also the concerns of local people. This study has tried to provide a bridge between the local and the global – for example trying to equate the rights that local people have as a member of a family and a local community with a rights model in the western sense. However, it is not always possible to find common ground between for example the rights and responsibilities of group membership and the inalienable private rights underpinning the Universal Declaration of Human Rights and hence much ‘Protection’ work. A humanitarian protection worker present when the results were presented in Juba regretted the ‘impunity’ of the restorative bloodwealth settlements made in local courts as opposed to custodial sentencing in a western sense. Neither is it always easy to find programmatic implications in accounts of the way local culture operates – hence the remark by the same participant that the findings ‘were unusual and not susceptible to programming’. The current study has tried to leave the ‘comfort zone’ of global programmatic policy making and use local voice genuinely to challenge global decision-making rather than trying to iron out the differences between local and global perspectives.

### Insecurity:

In comparison to a humanitarian definition of protection, local people associate protection strongly with physical security, and the safety of animal herds in the face of insecurity. The study cites numerous witnesses who claim that this part of Jonglei is now more insecure than it was for most of the war. Certain villages have seen their population double as surrounding villages have been emptied due to cattle raids and abductions. A forcible disarmament programme which received much criticism is now acknowledged by the Governor of Jonglei State to have been a failure<sup>1</sup>. In any case disarmament alone is unlikely to bring many benefits when some parties remain armed and when promised state-provided security is not being delivered<sup>2</sup>. If UNMISS and the SSAF (South Sudan Armed Forces – formerly SPLA) are not providing this, people will re-arm and the whole cycle will go round again. As other authors have noted ‘protection of civilians from violent crime was somewhat-counter intuitively more effective during the war’ and that in spite of the presence of 10,000 peacekeepers<sup>3</sup>.

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<sup>1</sup> UNMIS (12 May 2011)

<sup>2</sup> Small Arms Survey 2007b:6

<sup>3</sup> Schomerus and Allen (2010:58)

Livestock are central to the livelihoods strategy of the people of Jonglei. However, their importance has been systematically underestimated, both culturally and economically, as have the extremes to which people will go to obtain cattle and the insecurity that this fuels. There is an undercurrent of violence and competition over economic resources between local sections, leaving aside conflict caused by civil war. These can be referred to as ‘second-tier’ conflicts and have been downplayed in the CPA but could ultimately give rise to a return to armed conflict<sup>4</sup>. Violence therefore needs to be addressed at the grass roots and a detailed knowledge of the competing local communities established (a process not assisted by UNMIS’s lack of presence at the county level), rather than neglecting this local violence in favour of concentrating on CPA-related incidents.

A particular example is cited to describe the complexity of conflict at a local level, where a village was claimed by three different sub-sections within the Twic Dinka. In February 2010 four people were killed in clashes before the police and army intervened. There was then a long process of investigation by a special committee made up of chiefs from outside the area. Fighting erupted 2 days after the committee made its ruling on 1 March 2011 and another 20 people were killed. This was not senseless ‘tribal’ conflict but competing territorial and grazing claims with their nearest neighbours. Such local complexity within the bigger picture of the north-south conflict could not begin to be understood by the UNMIS patrol that called in to investigate in February 2011 on their way back from another clash further north and left without making contact with the local chiefs who had been convened by the committee.

### Self-Protection:

In the face of disarmament of local populations, it seems doubtful that self-protection will ever be especially successful. As one person, interviewed in February 2010 in Bor said, “With a gun, one person can raid a whole village” – and the whole village will be scared of following if they are unarmed. Local patrols (*akar*) are sometimes used to form a protective ring around communities when there is insecurity, but it is usually more about early warning than preventing determined raiders. Courts and local chiefs play an important role in protecting ‘rights’ of community members, but in terms of diffusing the conflicts that lead to local clashes, courts find that their lack of cross-County jurisdiction or harmonised customary-law and compensation regimes, mean that they have little influence. Once cases have already led to killing, it is even more difficult to resolve these disputes as the case cited above shows, and it is therefore easier to avenge the killing which leads to a blood feud. Mechanisms for mediation therefore need to be permanent rather than in the form of temporary ‘conferences’ which local people felt rarely sought to address structural causes of local conflict or understood all the historical grievances that need to be resolved<sup>5</sup>. That is not to say that it is easy to address these structural causes. However, in the context of the destabilising influence that the asymmetric and incomplete disarmament has had on the communities of Jonglei, one should not underestimate the risk of self-protection by vigilante activity nor the subsequent difficulty of resolving the cycle of violence that is provoked.

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<sup>4</sup> Pantuliano et al 2008:55

<sup>5</sup> Schomerus and Allen (2010:78)

### Local concepts of vulnerability:

Those without cattle are seen as vulnerable (despite being less at risk to raiding), as cattle play a vital role in providing nutrition for children and the elderly (particularly during the hunger gap in cereal availability) and are essential for marriages. Those who have cattle can forge alliances with other groups and build up family size – which is seen as vital for providing better protective cover for its members. In Dinka the expression ‘*atuel ci biok tueng*’ literally means throwing the stick forward but also means investing in the future in strategies that will provide protection later. Those without cattle are caught in a cycle, with boys unable to marry and girls from low-status families unable to command sufficient bridewealth. Those that are for some reason (widowhood, divorce, etc) are alienated from a support network through relations breaking down or having a network that is small, poor or powerless suffer, in the case of South Sudan (without any state safety-net), serious consequences. Women are sometimes caught between the protective structure of their husband’s family and their own family and do not get sufficiently protected – and this effects their children too. Others who cannot have a family or who are part of a very small family are similarly vulnerable. These are categories of vulnerability not easily actionable by outside agencies, but instead of seeking out or creating such ‘actionable categories’, agencies should be prepared to get involved in more developmental work of building up societal resilience, beginning by increasing livelihoods margins.

### Local protection mechanisms for the vulnerable:

Given that the extended family is responsible for the support of its members, family mediation plays the primary role in seeking a solution for the vulnerable. But for those without any kind of protective family structure, the courts, including those practising both customary and judiciary law, play a vital role in providing ‘protection’ for local people. Customary courts also demonstrate a very ‘human’ and at times ‘humane’ interpretation of the law rather than following legal precedent to the letter as the cases that are described in this report demonstrate; they are designed to resolve disputes and mediate rather punish. People are using the courts and feel as though the justice meted out in both traditional and judicial courts responds to local concepts of acceptable and unacceptable behaviour. Many of the cases are of sexual transgression or infidelity and without the courts people would end up taking matters into their own hands. One can identify the Dinka concept of *cieng* as the rights framework within which local people operate, and family mediation and the court structure as the institutions that protect their rights if they have behaved ‘properly’.

Cattle, due in part to their use in bridewealth payments, are probably at the heart of much violence that takes place in Dinka society as marriage controls access to reproduction. Bridewealth payment is also, though, the means to legitimise the family unit, protect girls from sexual advances and give rights (and inheritance) to the children within it, but young



people, particularly those brought up outside Sudan, are increasingly arguing for 'love marriages' rather than marriages with cows, and sometimes present a *fait accompli* to their parents by eloping. This shows how the 'local' has the capacity to change from within and does not necessarily need outside stimulation by global aid agencies to modernise.

## Government

As a result of the slow roll-out of local government structures throughout South Sudan, administration and justice have had to rely on the old system of traditional chiefs, while local security has been left in the hands of a nascent police force that does not yet have sufficient number of trained policemen to ensure safety. Jonglei State Governor Kuol Manyang indicates that of the 8000 police and wildlife forces in the state only '2000 to 3000 have guns' (UNMIS 12 May 2011). The SPLA meanwhile is more concerned with issues of external security and has in general been unwilling to be seen to take sides in local clashes.

Protection of its citizens is a primary obligation of the GoSS and it cannot leave local people to ensure their security unarmed forever. The whole country needs peace, time to recover from multiple personal traumas and strength to cope with the cultural dissonance of being thrust into the modern age after 20 years of isolation. It will take time to build up the capacity of local government to govern the remotest areas of Jonglei but it is vital if South Sudan is to avoid breaking up into a myriad of isolated communities. GoSS is certainly aware that this is its main challenge and Jonglei's Governor has made combating lawlessness his first priority. The international community must be sympathetic to the complexities that the Government of South Sudan faces – though this is sometimes at odds with a Human Rights model that sees local authorities as the perpetrators of atrocities. Until now 'robbery and raiding' in the South have not received the attention that atrocities in Darfur have received, but casualties in the South are now surpassing those in Darfur and local people are requesting protection. There is also increasing political instability in many areas of South Sudan so interpretation of Protection of Civilians mandates need to reflect this local reality by increasing the GoSS capacity to ensure protection.

## Agencies

Local attitudes to protection – and specifically the emphasis on the need for physical protection from insecurity - have implications for the work of aid agencies. Aid agencies need to face up to the fact that providing physical safety to civilians during periods of violent crisis is beyond their remit – even while they advocate for responsibility-bearers to provide better security<sup>6</sup>. What agencies should be doing is retaining realistic expectations of the political changes that humanitarian aid could or should be achieving and concentrating on the more mundane work of supporting access to livelihoods. What this study has shown is that local

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<sup>6</sup> See DuBois (2010)

people prefer agencies to provide humanitarian assistance and services for the majority rather than ‘humanitarian protection’ for a minority.

The definition of protection used by aid agencies focuses on the legal entitlements of citizens<sup>7</sup> rather than the threats that local people face and this sets the tone for a theoretical rather than practical analysis of the problem. Agencies involved in protection are rightly concerned about protecting individual human rights, but should avoid conflating the abuse of civilians by warring parties or even inadequate governance structures with the abuse of vulnerable individuals by their own societies, or assuming that the societal values that underpin the culture disappear during civil war. It is also important to recognise that a society that does not take care of its own vulnerable individuals is not a fully-functional society, so aid agencies should be building up local structures and local society to take care of the majority population rather than just focusing on the marginalised. The danger of presenting aid workers as ‘protectors’ is that it ignores the activities of local people to protect themselves, and prioritises humanitarian agency over local agency.

In Sudan, the safety of the people is intimately linked with the safety of livestock, and livestock play a fundamental role in the lives and livelihoods of the people. International agencies have underestimated the role of livestock for too long, and by systematically downplaying these roles, failed to understand why it is both the source of much insecurity and the social lubricant that keeps the society working. And it is only by advocating for a secure environment in which all groups can access grazing and helping people build up a healthy buffer in terms of alternative livelihoods that agencies will be able to claim to have helped protect people should there be renewed instability.

## UNMIS

In the same way that aid agencies feel the need to be engaging in politically-informed protection work, peace-keepers have increasingly seen PoC built into their mandates. In terms of UNMIS’s Chapter VII Protection of Civilians mandate, there were differing interpretations of the PoC mandate at different levels of HQ, Mission and troop-contributing countries meaning that for years until 2008, there was no common understanding of PoC<sup>8</sup>. A disagreement between what a mandate says and what troop-contributing countries agree to as rules of engagement is also a poor basis on which to run a mission, especially if the mandate is more interventionist than the troops. The self-interest of the force-providing nations is often the defining factor, and in the end, for Abyei town on the border of Sudan and South Sudan for example, this meant the countries comprising UNMIS-Abyei had little interest in sacrificing peacekeepers lives to defend the CPA, while in both Abyei and South Kordofan Egyptian peacekeepers were perceived to be spies<sup>9</sup>. The expectation local people have that

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<sup>7</sup> See Callaghan & Pantuliano (2007)

<sup>8</sup> Sabarthes 2009

<sup>9</sup> Craze J (2011) *Creating Facts on the Ground: Conflict Dynamics in Abyei*. HSBA Working Paper 26, Geneva: Small Arms Survey

armed peacekeepers would defend them during insecurity was found not to be true in this case, and the same has applied to more recent clashes in Jonglei.

The biggest disappointment of UNMIS was that soldiers did not leave their bases in the State Headquarters to set up permanent bases in the counties and engage with the ‘protection’ issues that local government and the GoSS deal with on an everyday basis – the local issues that are fuelling armed violence at the level of the village, the section and the cattle-camp. Not only has there been a lack of field presence, but deployment decisions meant that hotspots such as Abyei and Jonglei had insufficient troops. The fact that UNMISS and the SPLA are sending troop reinforcements to Jonglei following the most recent clashes on August 18th 2011 when up to 330 people have been confirmed dead (with local authorities suggesting undiscovered bodies would raise this figure to 600 killed) speaks for itself<sup>10</sup>.

It could be argued that by focusing on PoC, one is not judging the operation by a fair criterion, given the constraints of troop numbers (around 10,000 for UNMIS and 7000 proposed for UNMISS), the size of South Sudan and logistics capacity. One could always argue that in Sudan, UNMIS’s main role was CPA monitoring; however there is little proof that it was UNMIS monitoring that ensured a peaceful referendum especially as they only put in place 10 of the 70 planned Referendum Support Bases. Protection has become the prism through which outside agency towards civilians caught up in war is now mediated, but this has created an unrealistic expectation that peacekeepers will intervene rather than observe, and there are now numerous examples from other countries as well as Sudan where this has been shown not to be the case and the presence of peacekeepers shown to be mainly symbolic. While observation and ‘witnessing’ of insecurity incidents that had already taken place is important, insufficient effort was made to engage with government efforts and responsibilities to provide protection and prevent incidents taking place.

### Recommendations:

Policies towards protection must be built upon the most commonly-experienced scenario – that outsiders are usually only goaded into reacting once violence has already erupted – rather than the more optimistic scenario of being pro-active enough to anticipate and prevent civilians from suffering. This is not the place to question why this is so, but to create policies that, while not falsely claiming to ‘protect’ nonetheless advocate for a better protective environment for south Sudanese. To that end,

- Political and peace-keeping actors need to develop a better understanding of the drivers behind south-on-south violence and work with the government on addressing it as a vital contribution to State-building and creating national rather than local identity

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<sup>10</sup> <http://www.sudantribune.com/UN-statement-on-Jonglei-violence,39936>  
see also <http://www.sudantribune.com/President-Kiir-orders-SPLA,39966> and  
<http://www.sudantribune.com/Tackle-inter-tribal-conflicts-in-S,40167>

- Aid agencies need to address the livelihoods needs of armed and under-employed youths that see cattle-raiding as an economic opportunity and an easier way to progress and marry than investing in farming or commerce.
- Aid agencies need to 'sell' livelihoods interventions as legitimate to the donor community to build up the resources, options and resilience of local communities in the face of donor-fatigue and unwillingness to take on recurrent costs and long-term commitments
- Pilot stock patrols were only set up in April 2011 as a UNDP pilot project in Kolnyang Payam, Bor. They must be rapidly expanded and UNMIS must be prepared to contribute aerial reconnaissance after large raids.
- The study has shown how the internal management of aid agencies and UNMIS encourages accountability to headquarters rather than local populations. This management culture needs to be reversed
- Co-ordination between agencies involved in protection would be easier with fewer agencies involved and clearer lines of responsibility and accountability. As South Sudan is huge no one agency (including UNHCR) has the capacity or willingness to cover it all; the work needs to be divided clearly between agencies with legally-mandated responsibilities to protect with reporting and co-ordination mechanisms radically improved and made more accountable and transparent, but formal protection activities should not become key activities of all agencies (especially those with no institutional experience of protection work) under pressure from donors.

## 1. INTRODUCTION:

This section describes the gap between the perspectives of global actors and local people that gave birth to the Local to Global Project, and shows how it is one thing to want to showcase local perspectives, and quite another to develop the methodology that gives global voice to local concerns.

### 1.1 Humanitarian Agency and local agency

In the interests of helping local people, humanitarian agencies have a tendency to use terms such as ‘participation’ or ‘protection’ as if they were part and parcel of the humanitarian division of labour rather than concepts that exist and have meaning outside in the everyday ‘civilian’ world. One of the major research questions of this study was to try to investigate how local people understand ‘protection’ and what they do to practice ‘self-protection’. Wood (1985) describes the relationships of power that lie behind such terminology - including the way labels can be imposed by the more powerful on the less powerful, and this study tries to reverse that situation by showing how a perspective which is ‘local’ and describes ‘local agency’ can inform and dictate policy that is ‘global’ (these are of course also labels but their reference is geographical rather than being highly value-laden). Such humanitarian labelling<sup>11</sup> often portrays ‘humanitarian’ interests as if they were universally valid – hence terms such as the ‘Universal Declaration on Human Rights’ – and self-evident rather than the active result of policy and decision-making – one can see this as ‘Humanitarian Agency’ in contrast to ‘local agency’<sup>12</sup>. The terminology serves, amongst others, two purposes: firstly it helps a humanitarian worker to make sense of a complex and very foreign context by classifying it in universal terms he or she recognises and suggests a control over matters that he or she rarely actually has; secondly by using the correct labels, he or she is displaying a knowledge of humanitarian terminology that means that he or she will be accepted and taken more seriously (a kind of code that defines in-group/out-group<sup>13</sup>). The fact that such code is not understood by the people being referred to is either unimportant or one of the objectives depending on one’s political perspective – but it has one important corollary in that it prevents local people holding Humanitarian Agency to account.

Holding the intervention of the international community in places like Sudan to account is a complex procedure: it does not just mean mechanically accounting for money and ensuring that projects have been carried out; it means understanding what could have been done with the means available, what should have been done and what was done – and evaluating whether the discrepancy between concepts and reality came from incompetence, malice, corruption, ignorance, unrealistic expectations or whatever. It is impossible to impose

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<sup>11</sup> LWF in Duk for example are having trouble deciding whether to label the building they have constructed in Mareng a ‘community centre’ or a ‘youth centre’.

<sup>12</sup> When analysing protection problems Actionaid (2009:41) stress the importance of considering ‘power dynamics’. In this case one would want to analyse who is interested in ‘self-protection’ and why? Also it would be legitimate to ask whether either self-protection or outside-protection actually work. As Oxfam (2009:22) say self-protection is not a magic wand – it can avoid outside agencies ‘doing harm’ (*ibid*:32) but denies them the benefits and resources of a well-thought-out intervention.

<sup>13</sup> A 2011 report on IMF by the Independent Evaluation Office ([http://www.ieso-imf.org/eval/complete/eval\\_01102011.html](http://www.ieso-imf.org/eval/complete/eval_01102011.html)) criticised the organisation for ‘groupthink’ and mentioned how going against the grain would ruin a person’s career.

personal accountability for the functioning of the whole system or expect people to know whether it is working as a whole or not, and what to do if it is not working. Even programme managers and donors are not ultimately responsible if the resources that are made available as humanitarian aid are not commensurate with the needs.

In practical terms, programme efficacy is related to issues such as staff turnover, numbers of broken-down vehicles and lack of co-ordination/duplication between agencies. It is important not just to mention them, but to show how they matter much more than principals at a local level<sup>14</sup>. Practical measures such as the installation of a local mobile-phone network can actually have a greater effect in preventing raiding than a workshop for the disaffected youth. In other words programmes that have a visible local impact (eg the dyke (*thiek*) in Twic East that has prevented flooding of the county for the last 5 years<sup>15</sup>) can be favoured over programmes that simply sound good conceptually, but that kind of comparative evaluation is rarely done.

The policy debates that establish the *modus operandi* of humanitarian and peace-keeping enterprises can become extremely complex and well-developed in Western capital cities, University courses and in the field of international diplomacy, while in-practice the difficulties in their implementation remain a well-kept secret. O’Callaghan and Pantuliano (2007:8) note that the differences between the preoccupations of policy analysts at headquarters and the practitioners at the field level is downplayed by some writers as being of ‘little significance’. However, they do have the potential to represent a ‘fig leaf’ that gives intellectual credibility to programming at a field level – a process DuBois (2010:2) identifies as a possible danger with the use of ‘Protection’ programming.

The danger of recasting aid workers as ‘protectors’ is that it ignores the activities of local people to protect themselves, and prioritises humanitarian agency over local agency. But the lack of impact of international assistance at a local level means people cannot afford to be the helpless victims they are portrayed to be in the media and in global political discourse, so describing their real lives would be the obvious place to start in a project that seeks to project local agency. But, listening to local opinions has also exposed how little local people understand of what is being sold in their name, what dissonance there is between local actors and global policy and how little local opinions count in the development of policy at an international level. The solutions that international intervention is proposing have everything to do with the language, culture and rhetoric of aid and peace-keeping, and little to do with local cultures. The following account seeks to redress this imbalance.

## **1.2 Methodology, terminology and accountability:**

Was this study ‘a collaborative process with empowerment and sharing of experience’ as described in the project proposal or was it something just a little more ‘extractive’? Why does this have important implications for L2GP?

The answer to the first question, as the reader might have guessed, is that the study ended up being more ‘extractive’ than participatory, and that is important, in reply to the second

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<sup>14</sup> Oxfam (2010:12) for example describe how a useful initiative by peacekeepers in Darfur to establish Standard Operating Procedures for patrols that accompanied women collecting firewood collapsed to high turnover of staff and lack of institutional memory meaning new units were unaware of the initiative.

<sup>15</sup> A dyke in Baidit was also considered a success because it employed 480 people

question, because it illustrates that going ‘local’ is easier said than done<sup>16</sup>. The current study is one of the two L2GP studies to have included an anthropologist in the research team, and, as ‘local voice’ can be accessed from so many angles there is a healthy multi-disciplinarity to the approach. As an anthropologist in 2011, the current author represents a discipline that has thought much and hard about the way it sees, communicates and represents the peoples it studies and in some cases argues that there is no longer such a thing as objective truth but just contested and conflicting versions of it depending on one’s point of view. While giving anthropologists a healthy self-consciousness about their right to be advocates or representatives of other peoples, one result of this is increasing irrelevance, incomprehensibility and academic ghettoisation for a discipline that has so much to offer people trying to make sense of a place like Sudan which has been the subject of anthropological study for a century as well as the object of enormous contemporary humanitarian and political interest. The author’s personal experience is that people working in Sudan are crying out for a bit of help in understanding local cultures, but in the absence of that help are going to try to represent ‘the local’ anyway borrowing ideas from half-remembered manuals of PRA and opinions from English-speaking locals. Expert anthropologists are no longer the gatekeepers to local cultures that they were in colonial times, nor are they the ‘spokes-people’ of exotic peoples - local people now have their own intellectuals to speak on their behalf. That does not mean, though, that anthropologists should stay detached for the sake of objectivity.

Having established, therefore, the necessity of a plural representation of a complex and constantly changing local reality, there is nonetheless an argument to be made that the baby should not be thrown out with the bathwater: if increasing introspection has made anthropology marginal, it has at the same time made anthropologists experts at detecting ‘misrepresentation’ and with that a professional responsibility to speak out against the methodology of most evaluations and assessments that use so-called PRA to be anything other than participatory. That self-awareness means admitting the places where the current research has had to search for the ‘local’ using methods that were not participatory. For example, the current research started with a certain methodology (a questionnaire) which was then oriented in very specific directions by what the lead researcher already knew from previous long-term unstructured research on other subjects (see box below describing the 5 questionnaires). Local researchers conducting the questionnaire were not considered uninterested observers, but educated local individuals with strong points of view that they would add unacknowledged into their reports<sup>17</sup>. They also needed to be regularly reoriented to recount verbatim what people were saying rather than the answers they thought their boss would want to hear. Also their reports would need to be triangulated with other information and observations on the ground<sup>18</sup>.

<sup>16</sup> All aid programmes stumble on the problem of participation of the local community – for either they are owned by the local community and not funded, or they are owned by aid agencies and therefore funded but needing to cajole local people into participating in a process they don’t ‘own’.

<sup>17</sup> One strongly held view is that any piece of social research is essentially a ‘needs assessment’ which must be conducted in each payam by enumerators from the payam who can go into bat for his/her payam and expose the needs in the population and thus ends up as a kind of shopping list. Local people always try to appear more vulnerable than they actually are for such needs assessments, and in our case underestimate the efficacy of any of their self-protection mechanisms (as well as hiding some of the more confidential or illegal ones for fear of compromising their effectiveness –eg I noted reticence to describe where cattle were being hidden from raiders )

<sup>18</sup> Local researchers were also taught to cross-check and verify all answers both within and between different questionnaires, and if this could really be absorbed, together with the need to remain neutral while cross-fertilising different answers, iterative learning would be possible. But the art of using oneself as the canvas on which local people can paint an ever-more distinct picture without your input is elusive and probably requires extensive training.

Over the months that followed and with feedback for each monthly report, enumerators were encouraged to eliminate questions that didn't work and relax their dependence on the questionnaire as a crutch, but there are limits to how semi-structured one can ask secondary-school leavers to go without more formal training. The methodology did not need a threshold cohort-size to become statistically significant, nor did it need to have identical quality data from different areas to be assured of spatial 'representativeness', so the data from enumerators that 'did not get it' could be ignored and offset by the enumerators who did get it – and these enumerators were then kept on after study period had finished to do further study on specific subjects that had been poorly addressed in the initial questionnaires or interesting topics that had been suggested by initial results. Through this process of flexible and iterative learning, and through rigorous self-analysis of the quality of the data as it came in, the study was able to use questionnaires as a well-accepted entry point, but subsequently to get away from the inflexibility of the questionnaire format with more open-ended research. Then the initial results could be followed up with specific fieldwork from the current author and observations from the ground, and then be triangulated with published sources and interviews with institutional government and NGO/Agency individuals.

There was never any reason a study that called itself the 'Local to Global' should end up being any more 'local' than the other 'bottom-up', 'grass-roots' 'locally-owned' studies done in the past, just on the basis of having a catchy title. As in most cases, most local people will not read what is written in their name nor complain about any misrepresentation<sup>19</sup>. This therefore puts a professional onus on the researcher to carry out honest self-policing and this is what this section has been about. Putting caveats on the findings is not about being modest or self-effacing, it is about being honest about the possibly unbridgeable communication gap that exists between the local and the global; it's about being honest about the donors and the aid agency that commissioned this study ultimately calling the tune (even with research); it's about being honest about the per diem rows with local field enumerators. But it's also about acknowledging that without imagination and a professional approach to bridging that gap, any study of this kind will end up being either too local (using local terms, referring to events only local people would understand and with only local relevance) or too global (frightened of describing local particularities that defy generalisation), so the role of an outsider is necessary to complement the work of local researchers and provide analysis. This role is key and thus the source of potential bias in the study. Much of the deconstruction of humanitarian notions on 'protection' has been done by the author, because local people are not aware of many of the debates that take place in humanitarian policy (in their name).

Most of the data on which the findings are based, though, came directly from interviews conducted by local researchers. It is always clear where it is local voice (in text boxes or quotations) or commentary by the author. Some of the local quotes have been annotated to make the English more comprehensible. As their words had already been translated from Dinka this seems a minor adulteration, but to as great an extent as possible, the local way of expressing things has been maintained even if that might look rather 'artificial'. Local views should be valued and not considered 'uninformed', and it was not felt necessary to annotate or contextualise every quotation to 'explain' or justify comments which might seem offensive or misinformed. However, it was necessary to supplement local knowledge of the humanitarian

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<sup>19</sup> The communication gap that exists between the local and the global justifies in itself this attempt to bridge the two. If not the vacuum will be filled by an easy and thoughtless imposition of 'our' own values and the implicit judgement of 'their' values that lack of access and culture-shock encourage. For the record the current author is one of 'us'.



system with the author's own findings to bridge the often unacknowledged gap between 'them' and 'us' and without that bridge there would be no way of claiming that this study had brought the Local all the way to the Global and somehow met in the middle. However, the humanitarian system is described in the rather confused way it appears to locals rather than with the neat logic that appears in project proposals or in conversations with some aid workers on the ground in Juba who have a clear overview of different agency activities and how it all fits together.

The L2GP project wanted two studies done in Sudan in places where they had projects – one in South Kordofan and the other in Jonglei State. Specifically the local partner had a base in Twic East County, and this was the county where the current author (the lead researcher) had spent one year in 1997-8 conducting an anthropological study, as well as 3-4 follow-up visits between 2005-2010. L2GP also wanted the study to cover Bor County where another local partner was based. The sample covered only Dinka areas<sup>20</sup> and did not cover the diversity of Jonglei State, so should not be seen as a complete picture of Jonglei but that does not mean that the lessons learned are not just as relevant to the other pastoralist societies that live in the rest of the State. The lead researcher had also done other research in Ayod (Nuer), Boma (Murle) and Pocalla (Annuak) so could draw on this.

Beginning in Twic East and Duk Counties, 5 researchers were chosen from different payams and they were trained in interview techniques; this was followed by the recruitment and training of 6 researchers in Bor. A questionnaire had been prepared based on the ongoing research in Nuba so this questionnaire was drawn on so the results would be comparable. The study was divided into 5 assignments, and each researcher spent a month investigating each assignment before moving on to the next assignment over a period of 5 months. The assignments were explained and a training session conducted in April 2010, and ongoing follow-up was conducted as reports came in to improve the methodology.

The first assignment was concerned with investigating the structure that protects people from risks to their safety and food security – for example the family, local community, courts, government, aid agencies etc. It sought to establish which people were falling through this safety net and why, and how different people in the society were being affected in different ways by ongoing insecurity and food scarcity. The assignment sought specifically to question whether vulnerability was the result of external pressures (such as insecurity or drought) or whether the threat was internal (societal), whereby the traditional culture and local governance was either failing to protect the weakest members of society or actively contributing to their vulnerability. This obviously has implications for how the vulnerable can be better protected (both by their own culture and by external agents).

The second assignment focused in particular on the local court system, as the means by which behaviour that was seen to run contrary to local values could be judged. Researchers were asked to focus on cases where there was a conflict of interests

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<sup>20</sup> As Pantuliano *et al* (2008:52) note, this is the part of Jonglei which has had most attention from humanitarian agencies, so one can be sure that the situation in other counties in Jonglei is probably even worse than that described.

between a system that seeks to establish consensus and protect the rights of the majority and a system that defends the rights of the individual. In particular the assignment sought to establish how effectively people's rights were being protected as members of a local community with certain rights before the law, and freedom to hold people to account using customary law

The third assignment was concerned with 'safety and security' – in particular from where security threats were coming, what assets were threatened, what activities local people undertook to protect themselves and what actions government, UNMIS and International agencies carried out or could carry out that improved/could improve security or threaten it. A series of questions on the benefits or threats to the current peace agreement produced rather standardised answers, so were soon removed.

The fourth assignment considered the link between livelihood strategies and protection threats (see Jaspars et al 2007:12), and in particular, the importance of livestock in the livelihoods strategies of Jonglei which has always been notoriously difficult to establish due to lack of concrete data. Questions also tried to tease out the cultural as well as economical role that cattle played, the extent to which cash had the potential to take over, whether the need to marry with cows fuelled an ambient level of insecurity due to the need to find cattle by any means for marriages and whether this was all changing.

The fifth and final assignment sought to investigate the contribution of international agencies in protecting lives and livelihoods, and to elicit suggestions for the roles that international agencies should be playing in reducing violence and insecurity. This proved to be the most complex of assignments as people have become used to not criticising the work of international agencies for fear of saying anything that might scare them away, so comments were at the same time sycophantic and badly-informed about the work of agencies.

#### Conclusion:

This introduction has described how difficult it is to capture genuine local voice as most humanitarian enquiry carries substantial baggage – often due to the assumption that, as part of the humanitarian project, local people and global actors share a universal agenda. The methodology of this study seeks to keep local agency and humanitarian agency separate, and by so-doing highlight ways in which the local and the global have differing priorities. The local people rarely have access to the eloquent justifications that the international community can give for its actions (or lack of actions), so cannot judge the actions in terms of what they set out to do, weigh up what the alternatives could have been or condemn activities that are dissonant with regard to local reality. But nor are aid agencies good at collecting data that is not neatly packaged to fit in with the solutions they have available to offer. What follows in this report though has important programmatic implications, precisely because it has tried not to let the humanitarian agenda drive the process. It is not until Section 4 that there is a more overt attempt to talk to global priorities, but the attempt to influence the actions of global actors has begun already with this argument to problematise the subject of humanitarian agency and will continue in the following description of how there is a 'protection agenda' that is not a 'humanitarian' protection agenda. Only at the end will the implications of this lack of common definition for humanitarian 'protection' work be drawn together.

## 2. BACKGROUND

This section describes the background context before, during and after the 1983-2005 Civil War in Sudan. While not being a comprehensive description of the history and Geography of Jonglei State, it grounds the main focus of this study – the Dinka population of Duk County, Twic East County and Bor County – within the wider context of the State and describes how violence characterises the past and present of the area, and is likely to characterise its future as the Civil War makes way for what can be referred to as second-tier conflicts (Pantuliano et al 2008:55).

### 2.1 Conflict in Jonglei

Since the signing of the CPA in 2005, Jonglei State has been closely associated with violence. Initially this was seen as connected to the disarmament process from December 2005 to May 2006 where an estimated 1600 people were killed (Small Arms Survey 2007:4); then the violence was seen as caused by ‘inter-tribal’ tensions (in two incidents in March-April 2009 between Murle and Lou Nuer, for example, more than 700 lives were lost); more recently, and since the disputed Gubernatorial elections of April 2010, violence has been associated with the rebellion of General Athor (with over 200 people said to have been killed in a single incident in February 2011 near Fangak according to Reuters). As for 2011, clashes occurred in June and August 2011, and the ‘tribal-violence’ argument was again dominant with local authorities claiming hundreds to have died in Pibor county, a Murle area, on June 15<sup>th</sup>, and 600 people having been killed in Urur County, a Lou Nuer area on August 18<sup>th</sup><sup>21</sup>. Within Sudan, such violence could only be seen elsewhere during this period in Abyei and Darfur, but AFP (2009) calculated in 2009 that Jonglei’s ‘rate of violent deaths had overtaken that of Darfur’<sup>22</sup>. If Jonglei has, thus, come to be associated with violence, one would therefore see it as a useful case study in the efficacy of the government, aid agencies, UNMIS and local people themselves in coping with violence. In this all sides are to be found wanting – as local people in Twic East and Duk Counties express with their words in the accounts cited and their deeds – particularly with their refusal to settle in areas that are unsafe now though they were occupied even during the war - that things are as insecure now as they have ever been.

Violence has been a feature of Nilotic societies since long before the British arrived in what is now South Sudan and froze the current territorial boundaries<sup>23</sup>. The British arrival came after a period of Nuer expansionism where the territory under Nuer control had expanded four-fold at the expense mainly of the Annuak and Dinka ethnic groups. One of the first challenges that the British had to confront on arrival in Bor was the growing restlessness of the tax-paying Bor Dinka faced with what they saw as the regular dry-season violence inflicted on them by the Murle – in the form of cattle raiding and abduction of children (Collins 1960). The response of the Anglo-Egyptian government was to enter Murle territory for the first time in

<sup>21</sup> <http://www.sudantribune.com/Jonglei-Hundreds-killed-and-many,39326> & <http://www.sudantribune.com/President-Kiir-orders-SPLA,39966>

<sup>22</sup> Special Representative of the Secretary General Ashraf Gazi himself claimed that the South had overtaken Darfur in June 2009, but insisted it was not the fault of UNMIS and with an eye on good publicity claimed : "Both Jonglei and Upper Nile States Governors acknowledged the major role that UNMIS played in calming down the tension between the rival tribes by establishing two temporary operating bases in Akobo and Pibor," <http://unmis.unmissions.org/Portals/UNMIS/2009Docs/mmr-june01.pdf>

<sup>23</sup> See Kelly RC (1985) *The Nuer Conquest: The Structure and Development of an Expansionist System*. Ann Arbor: University of Michigan Press – quoted in Harragin 1999:96)

1908 and, following the failure of that patrol, to send a full-scale punitive mission four years later that killed 146 people (Collins 1960: 51). This, together with the establishment of a permanent presence in Pibor Post put an end to raiding until the end of the colonial period but it resumed soon afterwards. Collins argues that it was the presence of visible government in Pibor that persuaded the Murle that they were not being ignored, but it could also be argued that having a military outpost in Pibor allowed the British to display a deterrent military presence which also gathered vital intelligence. They therefore had the means to be informed about any possible Murle raid as it was being prepared and the military means with which to counter it.

The period between the signing of the Addis Ababa Agreement and the mutiny in Bor are considered a peaceful time in comparison to what came later. A man from Duk County had the following to say:

‘In early 1970s and 1980s the security was not a threat because there were no illicit arms in the hands of civilians. Although many people ignored going to school, the economic activity was farming and rearing cattle peacefully.’

Having said that, this was the period in Twic East when the last Paramount Chief for Bor and Twic, Ajang Duot from Kongor, was killed; and when Deng Biar, from the Awulian section in Wangulei, was suspected of being involved, he was himself killed; and the Khartoum government reaction of lining up many of the chiefs in Paliau and shooting them, with other chiefs walking into the fire to show their disagreement with Khartoum. These events are not forgotten by the sections involved, and at the unveiling of a statue to Ajang Duot in early 2011 where 50 head of cattle were killed, Deng Biar’s son Manyang appealed for the people of Kongor to let bygones be bygones, but this might be easier said than done. The relations between the sections are marked by a history of conflict, and in fact the founding myths of the sections refer to splits and schisms leading to the creation of different sections and their moving to new areas. While sections can no longer move wholesale into new areas, these schisms are still played out in boundary changes: for example, Twic East County went from being Kongor Payam and Jonglei Payam before 1997, to Kongor, Nyuak and Jonglei Payams in 1998, to Kongor, Lith, Nyuak, Ajwong and Paker Payams in 2006. In the 1970’s Ajwong and Paker were fighting in the toic over grazing and girls (admittedly only with clubs) and were later uncomfortable in a political liason as Jonglei payam under an Ajwong chief. And fighting in the 1970’s and 1980’s was not just restricted to clubs as the shooting in 1982 of the Upper Nile police chief and around 10 others when they followed up Murle raiders at a cattle camp called Wunlier near Paliau.

Relations with the Nuer also deteriorated after the re-start of the civil war in 1983, and reached their lowest point in 1991-2 when the SPLA split and Nuer SPLA-Nasir troops took the whole of Bor decimating local cattle populations and causing the flight of the population to displaced camps in Equatoria and beyond. Even as late as November 2009 a Nuer militia leader<sup>24</sup> threatened Panyagor and gave the population 10 days to evacuate (he never did attack, but the current author was evacuated in 1997 when they did attack and Panyagor was only saved by a freak storm). The following descriptions of the 1991 period were given in interviews:

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<sup>24</sup> His name was said to be Cibitek but that sounds unfamiliar in local dialects

*September 1991 - The SPLA split leads to a massacre in Bor (piny aci riak)*

Makuac Payam June 2010: After the split in the SPLA, rebels under Riak Macar, instead of attacking army posts ‘were targeting Dinka Bor tribes residents’ setting fire to shelters, raiding cattle and other property and causing people to escape into the bush where they ‘hid for one month’. ‘Food relief was not there and people used to eat the leaves of fruit trees which led to malnutrition of children and increasing death’.

Duk Fawiel June 2010: ‘In September 1991, the Nuer tribe came along to attack, and killed and abducted women and children in Duk County and bit later this attack became non-stop and whole communities in Dinka-Bor areas were affected by attacks as they defected from SPLA/M rebel groups. They took away livelihood things like cattle, goats, sheep, and chickens: livestock and foods were taken. However, nothing was left behind by them even what we called ‘*pil*’ in native Dinka language, a shaped stone which is used by native people in the communities for grinding sorghum or ‘*dura*’. Everything was looted by Nuer tribe during that time in 1991.’

Kongor Payam Oct 2010: “It was early one chilly morning in winter when tribal fight began between Nuer [that had] defected and Dinka Bor civilians. This fighting emerged as simple, but it enlarged at last when it reached Duk County areas. By then [the woman being interviewed] was at her house here in Pawel Town, Twic East County. This was a stunning to her thinking that it would last longer than the regular attacks they [had] always experienced from either Murle tribe or Nuer tribe. But it later resulted in displacing millions of people in Bor region and there was also a flood on the ground, which made it difficult for people to run as fast as [possible]. So she just tried to walk, but [she was] slow due to floods on the ground. People who had canoes or boats were lucky enough since they could ride their canoe so they [could] go faster than [the] rest of the people who did not have them.”

“Suddenly when we were close to Pabiec livestock camp, the Nuer defectors attacked us and there we started to hide for our lives next to [some] bushy trees for a time. After we realized we were ambushed and also surrounded, we started to slide slowly and/or stealthily so that they would not hear us. This was not an easy move and the majority of people were scared to death. [You would] only cry [if] you looked in the eyes of persons close to you, since we expected that the enemy would get us and kill us as well. Fortunately we made it safely since it got dark” ... “The whole area was on fire for one week, which made everything look blurred when you see it with your naked eyes. There was [so much] water since there was flooding on the ground. Snails started to suck blood from people’s body if they stayed too long in water. This was very painful; however people did not give up.”

It is said [by some Bor Dinka] that for those who can’t get cattle to procreate or can’t procreate even if they have cattle, can always ensure their lineage by abducting a child or buying an abducted child with raided cattle. The continuing phenomenon of abduction in Bor and Twic East is mainly blamed on the Murle ethnic group, and the story of one such Murle woman which was described at a Peace Conference at Lilir in 2002<sup>25</sup> is recounted below. The

<sup>25</sup> ‘After two years of peace and honouring the agreement, the peace was dishonoured and Murle took off with the cattle of the Angakuei (Athoc) and Palek (Gok) sections and following after them was ‘like chasing the wind’

Murle are also blamed for most of the cattle-raiding on the Bor Dinka, and a local elder at the same conference gave his opinion in the second quote on the motivations of Murle who were attending the conference:

Jalle Payam Dec 2010: An old barren Murle woman who had adopted a child who was sold to her for 100 cows (for which her husband had toiled) by abductors just before her husband's death, said "this is my beloved adopted son; I will not leave him; I will stay with him until I die with him and his home will be my home. What he has cost me, he should also cost [his parents] to redeem their son". The child told her to claim her cows from the people who she paid and to forget about him, but she insisted that she would remain with him. The old woman stayed with the boy until she died of old age in 2002 with his family.

Jalle Payam Dec 2010: "Murle killers of our friends, cats and rats who despise the good things in our stores, we know that coming here is not for peace but for the following basic needs of your cattle and yourselves: you come due to water for your animals and yourselves this dry season; you come to know the strategic secrets of our cattle camps to loot at a later time; you come so that you might know the families with children that you can abduct later".

'there has been no benefit of the peace initiative – only the Murle have benefited by becoming acquainted with our secret places, sources of water and our permanent cattle camps whereby they become a threat to us when they go back home. We local people of Jalle have wasted our resources and slaughtered our bulls for a celebration without profit which will reap no fruit'

Violence in Jonglei therefore has deep roots in history as well as culture, and stopping it will not be as easy as holding a peace conference. Central to the violence is competition over grazing pasture and water points. But also of great importance is the role of cattle in marriages (hence procreation, hence existence) as cattle are stolen for bridewealth payments as well as economic gain. A person in Baidit payam (Oct 2010) put it like this:

'In Dinka tradition, people dispute over cattle: this happens when one person wants to own cattle for [his] marriage alone. This situation is resolved by elders of the community dividing the cows according to the order of where people are born in that family... Land is another factor that causes disputes. This happens when one clan take their cattle to another clan's grazing area without permission. The elders have to sit down and discuss the problem of grazing land. They advise the two clans to share their grazing areas. In case another clan wants to take the grazing land of one clan by force, the weak clan have to report [the case] to the chief of the community and the case will be solved... If a person is caught [stealing cows] he has to be taken to the court where he will be fined for his actions and pay back six cows for each one he has stolen'.

One well-educated man interviewed in Duk County referred to:

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and lots of people were killed' (Jalle Payam Dec 2010). See also Bradbury *et al* (2006:153-4) for more on Lilir which they say actually took place in 2000.

‘Strong traditional beliefs and cultural behaviour and practice in our culture e.g cattle raiding and child abduction are the pride of the youth in some communities’ hence promoting insecurity and conflict with the neighboring communities...’

In general, what these examples show is that there is an undercurrent of violence and competition over economic resources between local sections, leaving aside conflict caused by civil war. These are referred to as ‘second-tier’ conflicts that Murphy felt were downplayed in the CPA and could ultimately give rise to a return to armed conflict (Pantuliano et al 2008:55). Violence therefore needs to be addressed at the grass roots, rather than neglecting this local violence in favour of concentrating on CPA-related incidents or what UNMIS refers to as ‘inter-tribal’ violence. Referring to such violence as ‘tribal’ implies that it is ‘culture-bound’ and somehow inevitable – and thus justifying outsiders not engaging in a thorough investigation of the history of the area (many rivalries go back more than a century) or its complex breakdown into sub-tribal sections that compete for resources rather than co-operating as a ‘tribe’. As Murphy puts it:

‘ethnicity is less a cause of instability and more a social system that becomes emphasised (and sometimes manipulated) when a community believes it is under threat’ ... ‘much violence can be attributed to greed, opportunism or crime [but] violent acts can quickly take on additional meaning, deepening people’s sense of insecurity and prompting further violence in turn’ (Pantuliano et al 2008:56).

## 2.2 Local Institutions – political/ religious/ economic etc

The importance of these institutions for protection will be looked at in detail in section 3. Here, in summary, are local descriptions of the main institutions:

Kongor June 2010: ‘The Community (‘*Dhien*’ [lineage] Leaders, Neighbours, and Friends) help to provide security by offering themselves to fight an attacker in case of an attack. The community also help to provide a person who has been robbed with goods to replace the stolen goods e.g cattles. The community organized itself to watch over in place where is likely to have an attack. The community organized a youth to go and graze the cattle as they have armed themselves.’

Chief’s Court (*Te de Luk*’ in native Dinka Language): The Court organized policemen and youth, where they are sent in time of trouble. They help in solving problems which bring conflict in the community...the Court does help by going around communities and see a person who is vulnerable and provide them with food e.g maize, sorghum, cattle, cows, goats, sheeps, etc. They also help to report everything which is happening in areas of government to give solution as in case of raidings.

Duk County September 2010: ‘*dhien* leaders protect people by law enforcement and teaching the community the strategies of raising their economy and livelihood’ ‘prevent disputes’ ‘reconcile the people of their community back to their good relation’, ‘provide food for the needy within the community’ and also give ‘insecurity alert’

‘neighbours and friends protect people from risks and food security’ ‘some neighbours assist their neighbours or friends financially’. ‘Some look after their neighbours children when they are absent or sick’

## 2.3 Changes since the signing of the CPA:

<p>Ajwong Payam June 2010:</p> <ul style="list-style-type: none"> <li>• ‘Since the war started, there was a problem of communication and since the CPA was signed there are a lot of communications [telephone] networks.</li> <li>• Building of schools and new hospitals: Since the war started there were no schools and hospitals built and when CPA was signed a lot of medical centres and schools are built.</li> <li>• Improvement of road transportation: Since the war began roads were disorganized and when CPA was signed a lot of roads are constructed.</li> <li>• Improvement of trades: Since the war started, there was a decline in trade and when CPA was signed there is a development in trade as well.</li> <li>• Free movement of people and goods: Since the war started, there was restriction in movement and when CPA was signed there has been freedom of movement.</li> <li>• Freedom of worship: Since the war started, there was no freedom of worship in Northern Sudan and when CPA was signed there is freedom of worship.</li> <li>• Farming improvement: Since the war started, there was a decline in agricultural sector and when CPA was signed, there are a lot of tractors brought for farming.</li> <li>• Fair election: Since the war started, there were no elections held and when CPA was signed, there was fair election held from state, county , payam and boma levels as well.’</li> </ul>
<p>Kolnyang Payam June 2010: ‘there are small improvements in my life because my children go to school, I go to the hospital when I am sick and I am not scared of Antanov’s any more. I have a small shop and a bicycle but insecurity has not changed’.</p>
<p>Baidit Payam Oct 2010: [since the signing of the CPA] ‘there [has been] an increase in the number of cattle. This is because some people who are working buy their cattle when they save enough money... Some marriages are held using money unlike in the past... some people use both cattle and money... [but] most marriages still need cattle to pay for bridewealth’</p>
<p>Duk County: July 2010:</p> <ul style="list-style-type: none"> <li>• Freedom of speech, which means GOSS independent.</li> <li>• Free education for everybody.</li> <li>• Settlement of returnees and resident cultivation for livelihoods</li> <li>• Changes in government ruling system - meaning having right to vote</li> <li>• Coming of investors</li> <li>• Building capacity of our leaders on how they should be self reliant</li> <li>• Development means free health, road construction, trades, employment, etc.</li> </ul>
<p>Kongor Payam Sept 2010: “The only benefit of [the] current peace”, according to one man, “is open transportation”</p>
<p>Lith Payam Sept 2010: Nuer and Dinka are brought into conflict over grazing which leads to fighting especially in cattle-camps over water and grazing... ‘but before the CPA ... there</p>



was no random killing of people compared to now' ... 'immediately after the CPA was signed all the coping mechanisms [ie weapons] of Dinka civilians in self-defence were taken from them and yet their enemies were still with guns with which they came to loot people at any time... so the current situation is bad compared to the past way of living'

'before the CPA was signed, cattle were kept by old people, including a few women plus a few boys or a young lady, but now it [has become necessary] for the *wut* (cattle-camp) to be kept by youth armed with guns so that if enemies come to steal cattle they can fight against [the robbers]... before cattle were grazing in the forest without any problems facing them but now since the CPA was implemented, [there is] robbery [from *luak* (cattle-byre) to *luak*] and abduction of children from time to time; Dinka depend for their way of life on cattle and consider that without cattle [there cannot be] marriages and a good standard of living.'

#### Conclusion:

Some important progress has been made since the signing of the CPA, but violence must not be treated as a phenomenon which will disappear with the flourish of a pen on a piece of paper. Schomerus and Allen (2010:58) note that 'protection of civilians from violent crime was somewhat-counter intuitively more effective during the war' (as the following section illustrates) - that in spite of the presence of 10,000 peacekeepers. The current research also found the same levels of anxiety about security 6 years after the signing of the CPA. If further escalation of insecurity is to be avoided, then the main drivers of insecurity need to be examined from a local perspective and the 'logic' of ongoing tensions established beyond broad generalisations such as referring to 'tribal' conflict. The following section presents a local perspective on the threats and protective mechanisms that local people identify. The final section (section 4) will then describe how these relate to the activities of outside actors.

### 3. PROTECTION IN JONGLEI

The following section looks at the local understanding of the concept of ‘protection’, and the threats – both internal and external – to which people are subject. The external threats are divided into threats to livelihoods and threats to physical safety, both felt by the majority of the population. The internal threats are then described as the local idea of who is particularly vulnerable within the society is established and the way a collapse or failure in the family support structure that protects people can leave individuals or groups isolated and vulnerable.

#### 3.1.1 Local understanding of Protection

The following discussion took place right at the beginning of the study with a group of 18 Dinka men and women from Twic and Duk counties, and though it is not comprehensive, it gives an idea of the local concept of protection. According to them, one of the words which come closest to ‘protection’ in English – *tiet rot* – could literally be translated as ‘guarding oneself’. A *tiet weng* is an armed youth who protects the animals in the cattle camp. It is more active than *gel rot* or *gel baai* which, while also having the sense of protecting oneself, is a more solitary kind of protection. ‘Solitary’ protection is inherently less effective in a culture where force in numbers (*koc kueth*) is associated with power, wealth, success etc<sup>26</sup>. The protective structure that assists people, as will be shown in ‘Section 3.2 Protection Strategies’, is a large family, and a large family is the door to political influence within the section. ‘Protection in numbers’ also applies to the increasing concentration of people into nucleated villages to protect themselves from raiders – the areas outside villages being considered *ror* (the bush) when previously they were settled with farms.

The first and fundamental thing that needs ‘protecting’ is *piir* (life) or *wei* (literally ‘breathe’). After this there is property (*kang*), food (*kuin*) and health (*pial*). Crops and water supplies need to be protected from damage by livestock. Both houses and grass awaiting harvesting for thatch need protecting from fire. Cattle also need to be protected, as does the grazing on which they feed. The people that need protecting are known as *koc nyop* (people who are soft like soft ground *nyoping*) – and they include old people and disabled who cannot run if there is an attack as well as girls and children (see following section on Vulnerability). They need protecting from *rioc* (a risk or threat or danger). This is mostly considered to mean ‘insecurity’ (if the risk is disease it is known as *bec*, or if it is drought or a similar disaster it is known as *yak*). In the same way that a building protects from rain, the best way to protect against *rioc* is by being armed, according to one interview. This theme of self-help was continued by this person when he saw the role of government as being to arm people (rather than provide security itself) but he noted the government has said people do not have the right to protect themselves and have carried out disarmament. Another person also emphasised that in cases of insecurity, it was the responsibility of everyone to protect themselves<sup>27</sup>.

<sup>26</sup> In the customary courts, it is the consensus of the majority rather than the minority that counts, despite the court’s objective of neutrality towards any particular clan.

<sup>27</sup> Small Arms Survey (2007b:2) note that amongst most pastoralist societies in Sudan, Kenya and Uganda ‘the state seldom plays a role in guaranteeing [pastoralists] their security’

Kongor Payam Sept 2010: When asked how they understand problems of insecurity, people replied “When there is rumour [that] an enemy [will] come, you prepare yourself to leave for good to a place where there is no “*rioc*” or insecurity,” said one man. Another man understood the problems of insecurity or “*rioc*” as “when there are people, who come for abduction of children and rustling of cattle or livestock.” As discussion continued a third man took his turn and said that his understanding of ‘*rioc*’ or insecurity is any problem that is threatening people in a particular place.

People deduce from personal experience that the institution that is most likely to resolve their problems is the local court rather than International Human Rights Law. They therefore know next to nothing about the latter<sup>28</sup>, and will not be the ones who are going to hold aid agencies or UNMIS accountable for not protecting their human rights. As for the former – the courts – their rights stem from membership of a group for whom the court is the forum of dispute resolution, and their rights will only be protected if they have behaved according to the mores of that group - things that are true and right (*ee yic*) and have been so since the grandfathers’ time. In some ways this is a local equivalent of ‘rights’ (*yiicdie* or my ‘rights’) – meaning people were ‘within their rights’ in the way they acted and can go to the court to prove it even if everyone around them disagree with their behaviour. The group under a single sub-chief (*buluk* in Bor Dinka) is also the corporate body which physically protects its individual members and their assets, and when civilians were armed during the war, would fight as a unit against outsiders or provide soldiers for the SPLA in a system known as *buluk ka diak*. This sets up a certain incompatibility between the protection and safety of members of corporate unit (ie the majority) and their rights as an individual who is marginalised within that unit. Dinka ‘rights’ are much more about corporate membership of a group and the rights that go with membership rather than ‘individual’ rights in a western sense.

### 3.1.2 Local Understanding of External Protection Threats:

People tend to divide between external threats which are faced by all people in the society (for example *rioc* (insecurity), *bec* (disease) or *yak* (drought) which can cause hunger (*cong*) and for which humanitarian relief is sometimes received), and internal family-scale crises felt only by certain members of the society. Relief is seen as belonging to everybody (like grazing land) and should be shared equally by the whole population at the lowest level possible (ie the family or sub-clan). This group will then give it to its weakest members (Harragin & Chol 1999:73). One interviewee put it like this:

‘at a time when there are no natural calamities like drought, flood etc as at present, then the relief should go to the poorest (vulnerable) because they cannot support themselves... but in case of natural calamities occurring [or in case of a return to conflict ], then the relief must target everyone because the little they get will be shared with their neighbours... they should do it through the small divisions of the payam like sub-clans, *dhien*, *mac thok* etc’

These external threats can be divided into threats to people’s livelihoods and threats to their security

<sup>28</sup> Cf Brendan Ross an Oxfam protection officer in Sudan : we go into communities expecting people to be engaged with our issues but ‘the General [Declaration] doesn’t mean much to them’.

i) External livelihoods threats to the survival of the majority:

Jalle Payam July 2010: ‘During the time of the conflict in 1991, my husband had two herds of cattle. Each herd had about fifty cows. My life was very good. Unfortunately, when the conflict started, my husband was killed when he was fighting with the enemies. Then the enemies took all the animals. Moreover many people lost their lives in the same battle like my dearest husband. Thousands of people who lost their lives were not only in [our] village but also in the whole Dinka Bor tribe. Not enough, the raiders took women and children with them. My husband left me with four children. Among those children, my first-born was twelve years old when the war [split in the SPLA] started in 1991. The younger brother of my husband, who had one wife and two children, tried his best to take care of us but it reached a point where he did not manage. His wife acted like a hungry hyena. She didn’t want us to share the family food with them. Quarrelling was the order of the day. We were feeding on wild fruits, leaves of trees and wild animals which were rarely found. We were not able to withstand the situation. One evening my elder son told me, “My mother, why don’t you follow the rest of our clan to the *toc* the other side of the River Nile”. He also suggested “Why don’t you go and gather *gor* (water lily) while I will enlist for fighting”. I asked him, “My son, will you manage?” “Yes mother,” he replied, “I am a grown-up person”.’

Kongor August 2010: One man insisted that cattle keeping cannot be stopped since it is engrained in Dinka culture, although livestock’s insecurity persisted. Even if you are a businessman, or business-woman, to stop-keeping cattle or livestock is impossible since this is engrained in [Dinka] culture... the Cattle economy, where everyone owns a number of cattle, has been practiced in the Dinka community for centuries back. For example, “Milk of cows is a penicillin or antibiotic to the people of Dinka community here in the Twic East County and if people can get sick, they can get well or recover when given few cups of milk”, said another man... ‘Cattle are not bad since they do a lot of things like supporting children and also used in marriage as dowries’[but] ... ‘people die because of cattle. Cattle raiders always comes and local people [fight] them to protect their cattle from being taken and they die as a result.’

Livestock are central to the livelihoods strategy of the people of Jonglei. Their milk provides a nutritional input to the household food economy – and in particular for children and old people – that is frequently ignored in food economy assessments because it is difficult to quantify in a place where people are reticent to talk about cattle numbers. For livestock also play an important social role – allying different families in marriage – and boasting openly about wealth in cattle will increase the bridewealth demanded when young boys from the family want to marry. Cattle are often placed in different cattle camps to spread the risks in terms of security and disease outbreaks, and this, together with animals loaned to family members with children or invested in marriages that will later produce daughters and returned bridewealth, makes it almost impossible for even local people to calculate the exact wealth of a family. However, what is certain is that their importance has been systematically underestimated, both culturally and economically, as have the extremes to which people will go to obtain cattle and the insecurity that this fuels. Thus understanding the units that graze

cattle together (the *wut* – literally meaning cattle camp<sup>29</sup>) and the units that compete for that grazing is also at the heart of understanding the conflict lines that run through the society. These units are responsible for the protection of cattle, and in the past used to produce warrior age-sets (*ric*) as a *wut* to defend and attack other groups (see Harragin & Chol 1999:8). It is still considered to be ‘the youth’ who will follow up raided cattle, and initiation as a youth or *aparak* is still considered a rite of passage to which young boys look forward with impatience. ‘The youth’ are also a force of potential violence and volatility that must be held in check by those who have graduated to the next generation group, and many of the rules of Dinka society concern the conflict between the generations of fathers and their sons – for the right to access cattle (and a constant battle over inheritance) and for the sexual favours of women (either as elopement with men’s daughters or adultery with their wives).

## ii) External Security threats to the majority:

As described in the introduction, insecurity has been an element in the life of people in Jonglei for a long period. At different stages, it has been caused by different factors, and we are currently in a period where internal splits within the GoSS and cattle-raiding are causing large numbers of casualties. But insecurity cannot be neatly divided, as UNMIS did, into violence between the pre-CPA combatants and ‘Inter-tribal’ violence. One reason for this is that different Southern ethnic groups were armed and used as proxy fighters by what one interviewee quoted below refers to as the ‘government of unity’<sup>30</sup>. Secondly, what used to be seen as ‘tribal cattle raiding’ is becoming indistinguishable from the violence of the civil war as it is carried out with maximum violence by well armed groups that are sometimes (as in the Duk attack in September 2009 described below) as keen to cause maximum death and destruction as they are to take cattle. Thirdly, as the first account below makes clear, ‘tribal’ violence is not a discrete kind of violence that can be distinguished from the prevailing violence that takes place at the village level – it is part of a spectrum of violence where the rebellion of General Athor in Jonglei is near the top, the fights between different sections (*wut*) over grazing in the cattle-camp is in the middle and the shooting of an adulterer by a jealous ex-army soldier is at the bottom - but all share the same history of brutalisation caused by war and seeking solutions through violence.

There is nothing uniquely ‘tribal’ about such violence – it is within different constituencies at different levels, sometimes, but not necessarily, stirred up by individual political leaders. To call it ‘tribal’ is also a misnomer. Competition between different territorial sections is manifest in the wrestling competitions but this is at the level of the ‘section’ not the ‘tribe’ (whatever ‘tribe’ actually means being an untranslatable Anglicism). Territorial sections (*wut*) have no hesitation about expressing their economic and territorial competition through violent rather than peaceful means but this is not ‘mindless’ tribal violence and it almost never takes place at the corporate unit of an entire ‘tribe’. It is not the expression of an archetypal or primeval ‘tribal’ conflict (as it is sometimes portrayed by outsiders) but a kind of violence with logical economic and political aims that should be understood and addressed by forces that call themselves ‘Peace-keepers’. Schomerus and Allen (2010:54) note that ‘cattle-raiding has become synonymous with what are often termed ‘tribal clashes’, a euphemism which does little to explain the reasons for cattle-raiding’. However, they go on to see addressing such a

<sup>29</sup> In Dinka, all sections, sub-sections etc are known as *wut* which just distinguished territorial denomination without reference to scale (as opposed to lineage or *dhien*) so it is difficult to distinguish the different categories though a local person knows the individual names of groups and which is a sub-group of which *wut*

<sup>30</sup> Pax Christi (2009) for example, in the example from Wernyol described below, surmise that it was ‘not a tribal conflict as is commonly concluded’ but that violence is ‘deliberately perpetrated’

complex problem at the current time to be ‘inappropriate’ as raiding is secondary to the main CPA-related issues of State-building, but I would argue that addressing local people’s competition with their neighbours in a fundamental building block to bringing about a wider peace<sup>31</sup>.

The people who do most to try to resolve some of these violent conflicts are the ‘tribal’ leaders and their courts. They need to be supported in this work, as understanding and addressing village-level violence is intimately linked with understanding the competing political constituencies within the GoSS – ie the contexts in which people unite and the contexts in which they compete. It is no good concentrating on reducing the impact of militia groups without engaging their civilian political constituencies and understanding the difficulties of absorbing the political ambitions of militia leaders within the structure of the GoSS and the soon-to-be SSAF. What is sure, though, is that without ongoing local economic and territorial grievances, sometimes whipped up by outside political interference, political leaders would not have the fertile territory with which to foment widespread violence. The following cases describe the logic behind various clashes and how local leaders attempted to address one particularly difficult problem that ended up escalating, as well as another one which could have escalated but did not:

#### *Clashes in Nyuak Payam, Twic East February 2010*

##### Introduction:

Wangulei is the court centre of the Nyuak section of Twic Dinka and payam headquarters of Nyuak Payam in Twic East County. The Twic Dinka are divided into 4 sections – Lith, Nyuak, Paker and Ajwong in descending order of size. The Nyuak, Ajwong and Paker each have their own payam and the Lith section have two payams – Lith and Kongor Payams. From data obtained at the end of 2008, Nyuak is the biggest payam in Twic East with 7 bomas, while all the rest have 4-5.

It is therefore a large payam, and would logically be a candidate to be split in two. However, the court centre of Wangulei is claimed by all three of the sub-sections that make up the Nyuak section – ie the Daicuek, the Ayual and the Awulian. This clash was between the first two of these groups concerns the ownership of Wangulei; the second clash described took place within the third group – the Awulian.

##### Daicuek versus Ayual

‘On approximately 23rd February of 2010, both clans: Ayual and Daicuek, rushed into a bloody fight and four people were left dead as a result [three people from Ayual and one [?] from Daicuek had been killed. As Daicuek had hit first and Ayual had had the highest casualties, people expected Ayual to try to take revenge. So] Panyagor Town Police forces, Wild life forces and a number of neighboring clans ran in to stop them from fighting and there they were stopped.’

‘A special committee of arbitration[was established] with members chosen from different

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<sup>31</sup> Cattle-raiding continued during the only other recent period of peace during the 1970’s and must be addressed unless it is to become the ‘default’ for the many areas of South Sudan that keep cattle.

counties: Duk, Twic East and Bor South County by Jonglei State Governor Kuol Manyang Juuk to execute the case since they were outsiders<sup>32</sup>,” said Bol Ayiik Bul, the Wangaru Town Court Clerk with Special Committee Clerk Immanuel Mabut Ajith<sup>33</sup>. “Of course, the twin causes of conflict were ownership of Wangulei Town... and part of the swampy area next to the water [course] known as *toic*”.

[The author witnessed an Indian LtCol, a Bangladeshi LtCol and an Indian Major from UNMIS<sup>34</sup> visiting Wangulei on 15 Feb 2011 to follow up the case but they found all the chiefs absent because they were attending the special committee in Panyagor<sup>35</sup> of which the officers were unaware so they continued on their way<sup>36</sup>].

‘On 1st of March 2011, a decision was granted after a number of weeks collecting evidence. The special committee gave a verdict in favour of the Ayual clan taking back the power to own Wangulei Town plus surrounding land, although it would still be a meeting place for three [groups] of Nyuak section: Awulian, Ayual, and Daicuek . The Daicuek clan was legally permitted to take three (3) livestock camps: Pakat, Pathoc and Guer, which historically belonged to Ayual clan according to the physical evidence and witnesses’ testimonies provided.’

‘Historically this land, which is now in dispute used to belong to Ajak Kur Ayuen, the first man to inhabit Wangulei area and he is said to be a fore-father of the Ayual clan. Reech Deng Lual, the ancient chief of Daicuek, was said to have acknowledged that Wangulei Town plus surrounding land completely belonged to the Ayual clan.’

‘[After the decision of the special committee] Wangulei Town has been turned into a ghost town because of the fighting between Ayual clan and Daicuek clan, which erupted early morning about 9 am on 3rd of March 2011 and ran until it was stopped by 2pm since the report came very late and pace of response team was also slow. More and more casualties have been ...reported from both sides as well as the local police forces and wild life forces, which were sent to stop them from fighting. Ten people are said to have died or been killed from the Ayual clan side (and twenty-three people confirmed wounded). For Daicuek clan, eight (8) plus two foreign resident fighters from Awulian clan and Duk County are also confirmed to have been killed according buriers’ testimonies (with eighteen people said to have been badly wounded as a result). Wangulei town is now evacuated and only local police forces and few wild-life forces are now stationed in the town<sup>37</sup>. [Daicuek people are reportedly hiding in Paker and Ajuong payams (as well as in Awulian areas) while Ayual have relocated to Kongor Payam. Another committee has now been formed comprising 19 people including 3 GoSS and State MP’s, following a visit by elders and intellectuals of the

<sup>32</sup> The County Commissioner was in a difficult position a propos of this case as he is himself from the Ayual clan.

<sup>33</sup> The case was considered so sensitive and the need for secrecy so great that the normal court clerk was replaced in this case and the case was seen in closed session.

<sup>34</sup> None of the locals knew their names – they said they changed so frequently they were not worth getting to know

<sup>35</sup> Panyagor itself was said to have been a *wut* (cattle camp) of the Ayual, but the Kongor people had buried their chief Aguir Deng alive there and thereafter laid claim to it. This again goes to illustrate the long history of inter-Twic territorial conflict.

<sup>36</sup> On the same trip, local people reported that UNMIS had called in briefly on their way through to see the police in Paliau and ask about the security.

<sup>37</sup> SPLA were in Wangulei for 6 weeks following the initial clashes but locals lobbied for them to leave because they were harassing locals who wanted to move round at night.

area over the Easter break, 22 April 2011].’

Internal Awulian clash:

“Two gentlemen fought in a ‘*wut*’ or cattle camp in Pawoi due to ‘*dhien*’ (clan) internal boundaries previously put in place by elders of the land and the complainant accused the defendant of trespassing into his ‘*dhien*’ internal boundaries<sup>38</sup>. Within no time, the complainant had rushed into a fight and hit the accused on the head with a stick. Other people came in and took the complainant away from the fighting ground. In the meantime, the accused had run and grasped a machine gun [but] the other gentleman was nowhere to be found.”

“The accused also grasped a spear and intentionally injured a calf of the complainant, in the thigh [an offence known as *riong*] [because] the complainant had hurt him in the head .... Awulian split themselves into sections - Pan-Diing against Pan-Akeech and fought each other until Police forces came in to stop them from fighting. Majority of sections that were caught fighting, were put into jail cells.”

The Court Clerk described the ruling as such: “[It was a] good thing was that [the complainant’s] calf did not die of its wound and therefore compensation was not entailed during the rulings and only elders and Chiefs of Awulian clan (Manyok Deng Biar, and Yoro Gak Angok), and Police Department Representative were called to be present and to listen to the victims and other groups’ reconciliation hearings so that they do not fight again.”

Some of the most violent acts are committed by youth that are beyond the control of tribal elders who steal and commit violence for various reasons as these four statements demonstrate:

‘L was a man from the Dinka tribe who used to go to the *toic* where he normally took cows from different tribes, after which he used the urine of the cow and poured it on the body of a white cow to become a grey or yellow colour instead of white. Someone realised that L had taken his red bull and poured urine on it, so he took him to the court – which fined him 300SDG and [told him] to bring back 2 bulls instead of the one that had been stolen’ (Lith Payam Oct 2010)<sup>39</sup>

‘small groups of boys do steal and hide themselves away from relatives for a long duration while selling the cows [that they have stolen] so they will not be caught. This also happened in May 2010 in Kolmerek boma. This was a game played amongst the boys of the same community or else between different communities. If a group of local boys steal the cattle of another community, [that community] will avenge themselves or fight each other as a consequence. This is common between the boys of different payams these days because the people of Jalle payam look at themselves as

<sup>38</sup> This was not the only case where people compete over space in the cattle-camp. One informant said those who found themselves on the outside of the cattle-camp would always be unhappy because there were more mosquitoes and less security there

<sup>39</sup> One interviewee claimed that if 2-3 cows were stolen it was likely to be local boys, as Murle would not come so far without taking at least 20 cows.



one people/one family. But people of a bad heart also do it to benefit themselves.’  
(Jalle Payam Dec 2010)

Stealing is carried out for three reasons: ‘[firstly] they carry it out to gain riches/wealth to marry and for the sustainability of one’s family (milk for babies and meat to balance the diet)’... ‘[secondly] They do it to show their ability and strength – to show that they are a man who can ‘search for things by themselves’... ‘[thirdly] They do it to revenge their grandparents who had cows looted some time back’

‘Many children were injured by Murle but ‘later on some minority of Dinkas were involved in abduction because they found it to be a way of generating wealth for marriages and survival but this act was responded to by the community by killing of those betrayers of fellow brethren’ (Jalle Payam June 2010).

Violence is never far away when cattle and girls are concerned. One local woman was explicit about the link between elopement and violence, and felt that the need for cattle forced families to betroth their girls to men that they did not love and this lead to messy divorces and further tension between clans. This violence committed between Dinka youth – within villages or between sections – provides the platform from which violence escalates to a higher level<sup>40</sup>. For, in some ways, the very efforts of the elders, to stigmatise violence between groups that are neighbours or relations pushes the youth to find a group that they can raid with a clear conscience; this therefore displaces the problem of cattle and territory that cause the violence in the first place rather than *solving* it. This causes a kind of opportunistic ‘tribal solidarity’ when a common enemy is identified – either when raided or doing the raiding – but in general these groups rarely co-operate as a ‘tribe’ (being made up of different and highly competitive *wuot* –literally cattle camps but also meaning sections). The advantages of raiding outside ones own group is that one is not likely to be recognised or be caught, and there is no established method for one group to be held collectively responsible for its attack on another group if the individuals involved cannot be identified<sup>41</sup>. The advantages of the gun compared with previous spear fighting is that it is often not possible to identify from whose gun a fatal bullet came, and thus compensation mechanisms cannot be activated. The following statement shows how difficult it is to de-escalate such violence:

‘although compensation is given when you catch a robber alive, and he is arrested and the case proved with witnesses, there are no cases of enemies being caught alive here, though they are sometimes found dead while others escape at the critical moment to escape death. They don’t compensate either group because both groups become enemies of each other so no compromise should be entertained between them’

Revenge is therefore much easier than resolving these disputes, and mechanisms for mediation need to be permanent rather than in the form of temporary ‘conferences’ if there is to be any chance of understanding all the historical incidents that will need to be resolved before any kind of peace mechanisms can be built up and accountability/compensation mechanisms be put in place. Schomerus and Allen (2010:78) note that local people felt such

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<sup>40</sup> Schomerus & Allen (2010:64) write about the impact of ‘youth gangs’ particularly around Wau.

<sup>41</sup> Nor it seems do the courts find it easy to try such cases as one Town court case in Panyagor illustrates: a person had recognised a cow in the market in Panyagor in 2010 as being one amongst 30 that had been raided around 2006/7, but the person selling it said he had purchased it in Pibor. The case was referred to the State High Court in Bor Town which was the sole entity that could return the cow to its alleged owner as it was ‘beyond their [geographical] jurisdiction’.

conferences ‘rarely sought to address structural causes of local conflict’. It will also be necessary to understand the destabilising influence that the asymmetric and incomplete disarmament, for which international actors have advocated, has wrought on the communities of Jonglei. The Small Arms Survey (2007) describe the civilian and military disarmament of northern Jonglei that took place from December 2005 to May 2006 as leading to an estimated 1600 deaths. The UN and UNMIS did not engage with the coercive campaign, but they did engage with the peaceful disarmament of Akobo from March-August 2006. The latter, was claimed to have netted only one quarter of the actual weapons in the area (even with the threat of coercion like in northern Jonglei hanging over the process). Reports from NGO’s and UN staff showed that in late 2007, civilian carrying of weapons was widespread, rearmament of places that had been disarmed had occurred and Pibor was still not disarmed (Garfield 2007:31). They note that ‘in the absence of a robust state security apparatus, the acquisition and use of small arms is part and parcel of both self-defence and livelihood maintenance patterns’ (Garfield 2007:37). Elsewhere, they write that ‘disarmament alone is likely only to produce short-term gains, especially when promised state-security is not provided during and after the campaign’ (Small Arms Survey 2007b:6). Saferworld (2010:2) refer to a ‘lack of alternative protection’ after disarmament. This is particularly dangerous when it has been ‘disarmament without reconciliation’.

‘Peace’ will not be achieved through only a superficial engagement with the interests of local people (asking them to shake hands and make up as the parties to the CPA have done) or without understanding that someone needs to provide protection for their main source of livelihood – their cattle. If UNMIS and the SPLA (or UNMISS and the SSAF) are not providing this, they will simply re-arm and the whole cycle will go round again. Any number of ‘tribal’ conferences can be held by UNMIS, church groups and Aid agencies but they will fail if they continue to see conflicts as the result of senseless tribal violence rather than as a result of economic rivalry for cattle, grazing, water and territory that goes all the way down to the village level. But it was the lack of detail at this local level that was the most tangible consequence of UNMIS’s lack of presence at the county level. When local people described where incidents took place (such as in Annex 1) the places that people are competing over do not figure on the most detailed 1:500,000 map available for Jonglei (CDE 2008), so it is difficult to imagine how agencies and peace-keepers can really understand where incidents are occurring let alone between which groups and sections.

Bor Town Sept 2010: ‘before disarmament, [we] were able to protect themselves and [our] cattle... the conflict between cattle keepers and raiders has increased since the signing of the CPA, hence creating political differences leading to hatred between the communities causing tribal clashes.

Anyidi Payam June 2010: ‘Before the war, insecurity was not as rampant as it was during the war, but after the signing of the CPA things have become worse’. Security incidents [occurred in June] on 22nd June at Langut cattle camp and on 24th June where goats of Magon and Thianwei villages were taken by Murle.

Duk County June 2010 – enumerator’s personal experience: ... ‘On 8th of June 2010, I was at Poktap at 11am while the cattle were released for pastures: an old man was alone looking after cattle carrying a *panga* [machete] and wooden stick for protection because he had no gun. While reaching Poktap town airport, he fell into an ambush of eight cattle raiders. They

captured him and they went away with him and 53 cattle were taken away. Before that they started to cut him with his own *panga* and beat him with his wooden stick. They cut his head twice and after cutting his head they left him with two other people while the six people went with raided cattles... some youth in the community and some in the Police forces ran after the old man and the cattle. They found the man before they reached to the two raiders who ran away. The man was found alive but without the 53 head of cows raided.’

Kolnyang Payam June 2010: ‘on 13th May 2008 a security threat came from the Murle [on Panwel village] resulting in the loss of 300 cows, killing of 7 people and abducting of five children. The raiders were followed by local people but neither the cows nor the children were recovered, and there was nothing said by the government nor assistance provided by the international organisations like UN and UNMIS.’

‘On the 3rd Aug 2008 another security threat came from the Murle – 700 cows were stolen [from Machar Goor village] and five people were killed in the course of defending [the cattle] and no children were abducted in this case. The raiders were followed but the struggle didn’t yield any fruit. There was no say from the government and no assistance was received from international organisations’.

‘On 17th June 2009 another security threat came from the Murle. Here three children were abducted [from PanPandiari village] and no cows were stolen but one person was killed. The raiders/attackers were followed but no recovery was made. There was no say from the government and no assistance was provided by international organisations.’

‘On 7th June 2010 a security incident took place. This was a recent security incident that I [the enumerator] witnessed and it came from Murle - as a result two were killed and sixty cows were stolen. Here I went to the home of the effected woman who had lost her only son in the incident and I tried to investigate how the whole story began; she couldn’t speak to me but what she would say was ‘*pandie ee riak*’ in the local language meaning ‘there is no future for my family’ - because she had two sons of which she lost one in the 13th May 2008 incident and again lost the remaining son in this incident as I was told by the neighbours. There was no say/reaction from the government and here I was told that the effected people got some assistance from World Food Programme and no assistance was received from UNMIS and other NGO’s.

[Observations of enumerator] ‘When I was in the field investigating most of the aspects related to the current safety and security in the area, besides what I was told, I observed the following: first of all, in all the villages of [the] payam, there are no *wuot* (cattle camps) and this due to the frequent attacks Murle launch on them every day... no-one moves or stays out when it reaches 6pm because it’s the time known for Murle attackers. Conclusively, the population in the villages of [the] payam currently is one quarter of the total population because three quarters of the total population have migrated to the banks of the Nile for safety and settled in places like Total, Malek, Pan-Pandiari, Goi, Yoolthar, Pariak and Panwell. These are big villages if you go there – you would think that no-one is living in the villages where they migrated from... In fact the positive impacts of the CPA are not realised in villages of the payam just because of insecurity’.

Duk County July 2010: ‘In Duk Padiet an attack in September 2009 by Wun-roor county’s

militias led to almost 200 lives being lost in less than 20 minutes of gun fighting. [Both men and women] were displaced by the fighting and much property was lost including shops which were burnt down and many other goods looted.’<sup>42</sup>

‘Civilians are the most targeted people at risk and reasons being that Jonglei state most civilians are pastoralists and in this case there are illicit arms in the hands of un-organized forces mainly militias. Security threats come from neighboring county who usually attack us and abduct children and confiscate cows. Thousands of cattle were raided by different raiders who come from various part of the neighboring counties eg Pibor and Wun-roor county, etc. How these threats are treated by the government is too discouraging in that some incidences are reported, but there are no prompt response to quell down the insecurity issues threat are on rise.’

Lith Payam Sept 2010: ‘X was a lady from Dinka Bor section [who was on her way home] from the *toic* [when she was] captured by Nuer raiders looking for cattle, so they started raping her and they were 6 in number. [After this] she was unable to walk any distance and three days went by without anyone knowing where she was until someone came from the houses to the *toic* and got her on the way sitting under a tree. He asked her what the problem was and she started crying because of the rape; she was scared of narrating [the whole story] to the man, [but] after he realised something had happened, he took her back home, where people tried and tried until she finally narrated what had happened and the case was reported to the police. [The case] was taken to the area of Duk where the rapists were and they were all captured and brought to the court. She was called with her parents, and the criminals were [each] fined one bull and one heifer for the rape [and were jailed for some years].’

Kongor Payam Sept 2010: ‘Today, a person can’t walk at night to Wangulei town, but [in the past] people used to walk without worry... You know, disarmament deteriorated or worsened everything and it would [have been] better to have allowed guns in the hands of people in the community so that enemy who elevate insecurity or ‘*rioc*’ in the area, can go away or never come again to kill or abduct children again. For example, we had cows and these cows have been taken due to disarmament.’<sup>43</sup>

‘Also, in Khiir village ‘*rioc*’ or insecurity is getting so bad. Enemy used to abduct children and rustle cattle; however it has switched from the way we used to know it. A recent crisis in Khiir village is so unique because the enemy killed or wiped out one family and abducted his little boy and left livestock in the barn without rustling them as they always do. This is unusual and people in that village known as Khir have now relocated to a safer area like Pawel town, Panyagor/or Mabior Town, Pakwor village and so forth.

The loss of 7 people here or 5 people there might not sound like a lot in comparison to other atrocities, but when they happen day after day they start to add up to a substantial number (though they are often unreported and don’t make their way to annual totals such as those below and could effectively be ignored by UNMIS). Wernyol was subjected to a particularly vicious attack on 29 Aug 2009 where over 40 people were killed including men, women and children attending a church service. Pax Christi (2009) reported that the view of the church

<sup>42</sup> UNMIS went to investigate and their account stresses the way ‘women and children were deliberately targeted’ as well as ‘the institutions of state’ – see AFP report that quotes 102 victims:

<http://www.reliefweb.int/rw/rwb.nsf/db900sid/EGUA-7W5T63?OpenDocument&query=Sudan&rc=1>

<sup>43</sup> A similar argument is made in the USA: ‘an armed man is a citizen, while an unarmed man man is a subject’ (Source BBC *From Our Own Correspondent* 19th March 2011)

was that this was ‘not a tribal conflict as commonly reported, but a deliberately organized attack on civilians. Now a ring of cleared forest surrounds Wernyol to give people defending the village a clear line of fire. Many people feel things are more insecure now than during the war – though some also add that in the 1990’s no-one had any cattle so there wasn’t anything worth stealing in Twic, Duk and Bor counties. Aside from the general perception, the actual figures show a death toll which is unacceptable. Here for example are the figures for 2009:

*Summary Security Report 2009 (source UNHCR)*

<b>Date</b>	<b>Major Incidents</b>	<b>Persons killed</b>	<b>Persons wounded</b>	<b>Children abducted</b>	<b>Cattle raided</b>
30 Jan 2009	Akobo County	29	15		3000
5-13 March	Pibor County	453		120	2000
18-19 April	Akobo County	250	70	30	
29 July	Twic East: Daicuek	6	8		
2 Aug	Akobo	185	31	some	
28 Aug	Twic East: Wernyol	42	64		
20 Sept	Duk County: Duk Padiet	160	50		
16 Oct	Uror County: Pathai	7	9		210
31 Dec	Piji County: Atar	3			
<b>TOTAL</b>		<b>1135</b>			

The major clashes in 2009 were between people from Lou Nuer and Tangajong Murle between Akobo and Pibor, with around 45,000 displaced fleeing to Akobo and Pibor towns. There has been revenge and counter-revenge since then. In April 2011, 27 people were killed and 14,000 head of cattle were looted, while in June 2011, local authorities claimed that hundreds of people had been killed in Pibor County (both Murle areas), and in August authorities claimed that 600 had been killed in Uror County<sup>44</sup>. UNMIS (12 May 2011) note that there have been more than 45 ‘inter-communal’ attacks and cattle raids during the first quarter of 2011. The attack in Duk County, mentioned by a witness above, had a death toll of 160 (including 85 attackers, 11 SPLA, 14 ‘national security’ and 4 policemen) and was partly revenged in the 16 October attack on nearby Pathai.

The current author had experience living in the village of Paliu for a year during the war, and has returned frequently since to find the place more insecure and fearful than ever. It makes an interesting case study of the pervasive effects of insecurity and their impact on the everyday life of people:

<sup>44</sup> Sudan Tribune 3 May 2011 <http://www.sudantribune.com/27-killed-3-000-families-displaced,38764>, <http://www.sudantribune.com/Jonglei-Hundreds-killed-and-many,39326>

*Paliau Village, Ajwong Payam. Twic East*

Paliau is the court centre for Ajwong Payam – a relatively small payam of 4 bomas on the road that runs from Bor to Ayod (for a full history of Paliau see Harragin & Chol 1999, Bailey & Harragin 2009:14). Like the rest of the area, Paliau suffered enormously during the war especially following the split in the SPLA in 1991 – a period referred to by local people as the time when the earth was spoiled (*na piny aci riak*). The time since the signing of the CPA has seen the village prosper with the rehabilitated road direct link with Bor allowing new shops to set up in the village, and the dyke built by GTZ in 2005 stopping the flooding that annually left Paliau cut off from the rest of the world for half the year.

By 2008, the village had grown from 170 houses (*tukl*) to 265 with almost 4000 returnees coming back to the payam as a whole just in 2007 and 2008 (Bailey & Harragin 2009:14). However, the growth in Paliau has not just been caused by people returning from IDP or refugee camps. There has also been a depopulation of villages that had been inhabited throughout the war but are now considered too unsafe so the inhabitants have moved to Paliau. These attacks have been mainly though not exclusively in Nyawai boma (north of Paliau) where extensive forest gives good cover for attacks<sup>45</sup>. One woman interviewed in Paliau from Nyawai had lost her child and husband in an attack blamed on the Murle, but had been given a loan from the Veteran's Fund. Jier village (actually in Nyuak payam but near Nyawai) was the first to be abandoned. Wutkoro (again over the boundary in Nyuak) was abandoned in 2008.

On 23 Oct 2008, 39 cows and 2 children were taken from the Nyawai area (though they were later retrieved). In March 2009, 400 cattle were looted from a cattle camp at Patindur (West of Paliau) though 200 were retrieved when the raiders were ambushed at the abandoned Jonglei canal (to the East of Paliau); in June 2010 cattle grazing at midday near Pathoi (East of Paliau) were taken and one person killed, but again an ambush at sunset along the canal at Gaikok led to the recovery of the cattle (albeit with 5 wounded who were rushed to Panyagor in a passing car); in August 2010 a child and cattle were taken at Pawel Bum (south of Paliau) and never recovered; in September 2010, three children were abducted from Nyany (1 hour's walk south of Paliau in Paker payam) with the father and first wife killed (and second wife and daughter wounded).

Both the Nyany attack and the Nyawai attacks take advantage of gaps in the built-up area for robbers to make their escape from the riverside area in the West to the bush in the East [nb the protection strategies suggested below include cutting down this forest]. For this reason, a police post has been placed in the middle of the forest at Nyawai in December 2010 and a wildlife post has been created near Nyany (the white-eared cob or *tiang* take advantage of the same corridor as the robbers). At another corridor at Wernyol in Lith payam, a police post has also been built, but only after the attack described above where some 40 people were killed apparently in revenge for raiders frequently being ambushed at Wernyol. In fact the tented post at Nyawai was mainly army, but because the army were notoriously mobile a few

<sup>45</sup> The author witnessed a herd of about 1000 cattle at Nyawai in May 2010 accompanied by 5 civilians carrying guns; given the punishment that they would receive, the fact they were openly armed indicates the fear they have of attacks in this area. It also corroborates what one witness said in that it was what a person did with his gun that would lead to prosecution not simply possessing one.

police were there too. It had been specifically requested by the people of Paliau at the start of the dry season three months before in a meeting held in Panyagor<sup>46</sup>.

Within Paliau itself, there is no longer enough space around houses to cultivate as people did in the past as houses are now packed into the centre for security. On the Eastern edge of the village, Sudan Medical Care built a new Mother Child Clinic but it is empty because people consider the location to be exposed to attack. Around the clinic were posters sponsored by LWF and Peacewinds showing drawings of prisoners in jail and saying 'Stop raiding'. In one case, a person injured in a raid preferred to return home wounded rather than sleep in the clinic. There had been an army platoon just near the clinic in 2008, but they had been moved to Duk when there was raiding there by the Nuer<sup>47</sup>. The whole area to the East of the village that was occupied in 1998 has been abandoned (see comparative maps in Bailey & Harragin 2009:48)

As described in the section 2.1 – the Background section on conflict in Jonglei – conflict is not new to Paliau. The sectional conflicts from the 1970's described above are still 'live' today according to one interviewee. In addition there are new conflicts: in one case seen in court in Panyagor a section from Paliau (the Kuac) had clashed with a section from Lith Payam (the Abeg) in the cattle camp, and one person was killed and many wounded. Other sections from Paker payam and Nyuak payam threatened to join in on the respective sides so police intervened urgently to avoid escalation. The court was trying to ascertain who was armed with sticks and who had guns as this was important. Another case from 1998 involving a blood-feud between the Athoc section of Bor Dinka and Ajwong section required the intervention of the Commissioner of the then Bor County and heavy police presence.

The brutalising effect of war and the presence of guns has made the threat of violence an ever-present danger which not only changes *where* people live but also *how* they live too. Thus the Dinka way of doing things or *cieng monyjang* is undergoing change<sup>48</sup>. Marriage and courting have seen some of the greatest changes. One informant noted that:

*cieng monyjang* is changing for, whereas before 'young boys were courting at night time, now it cannot happen because innocent people are being randomly killed at night by unknown people'

Another person told an amusing story that also shows how times have changed. He was courting in Maar and was given a mosquito net in front of the house for the night. In the morning he was woken by the mother of the girl wailing because a sack of sorghum had been stolen during the night. It could have been potentially embarrassing as he thought he might be accused, but the mother had no hesitation in blaming the Murle as something similar had happened to her neighbour recently. Such stories illustrate how insecurity is starting to

<sup>46</sup> The dry season used to be the main raiding season. Now, though flooding has now been stopped by the dyke, the soft ground in the wet season makes it easier to track the animals.

<sup>47</sup> The young men of the cattle-camp near the clinic were suspicious about questions concerning the security of their cattle thinking I might have been sent by the government. In general though the army don't pass by in any number (a lone soldier would hesitate to disarm anyone) though there had been soldiers during the Wangulei clashes in May 2009, and the police do not disarm people. In another interview, the person mentioned how during the disarmament process, people had just taken their guns to the hiding places from 1991 in the *toic* swamps where they could never be tracked down

<sup>48</sup> Deng (1972:185) defines *cieng* as 'the Dinka concept of ideal human relations' including 'custom, law, rules, way of life [and] culture'. *Cieng Monyjang* (or *cieng de monyjang* in Dinka Bor) is one of the things that unites all Dinka. It can be translated roughly as 'the Dinka way of doing things' (Harragin & Chol 1999:4).

become a way of life. The same person described how one could once travel from Paweil (Kongor) to Duk Padiet on foot [there were no cars in the old days] and there would be an uninterrupted pattern of settlement of the rural areas such that one would just stop where the sun went down and ask for accommodation. Now the same journey would encounter extensive uninhabited areas as people either left in 1991 or have moved more recently to nucleated villages such as Poktap and Wernyol rather than being spread out. Such deserted areas are good hiding places for raiders so it is a vicious cycle. It is said that people from Duk speak Nuer when they are in the bush at night in case they are confronted by raiders. There is an atmosphere of suspicion – and one person talked of being seriously interrogated because he was buying torch batteries and biscuits – vital equipment for raiders. There is a feeling by Dinka that the Murle are everywhere in the bush. Stories are told that their Murle wives leave their husband's food in a tree in the bush for them to come and collect (only knowing that he has been killed when the plate is left untouched). When a couple of friends found that the communal plate from which they were eating in the darkness had been finished particularly quickly, they joked that they must have had a Murle 'visitor' eating with them.

### iii) Who needs protecting from *rioc*?

According to one informant in Kolnyang 'those most at risk were cattle-keepers (because of the cows) and people with children'. It is important to emphasise that, in terms of the threat from external insecurity (as well as livelihoods threats) both rich and poor suffer, according to local beliefs (though another informant mentioned other resources that the rich can bring into play such as being able to mobilize many people to chase up their cows). The first example makes this clear:

Duk County September 2010: 'poor people are not stable economically because they are lacking wealth. They are not able to educate their children up to universities and their families are suffering from common diseases and poor feeding which causes malnutrition and divorcing' ... 'the rich people are suffering from losing their cows through diseases or theft'

Jalle Payam July 2010: 'abduction of children both on the way to schools and at home around 5-6 pm when the parents are busy with the corral and children are sitting or playing with babies' is a problem. "There is no fresh air of rest here in Jalle payam nor flow of peace in our minds and families and the worst was in 2008" (old woman). "*Ace tiŋ die jot ku ka yook cie beer jot be miith cie ku yen look piir ne ŋo*" (They took my wife and cows – how can my children and I survive?)(old man).

Security/threats: come from North, South, East and West... '*alo tiik ŋeer non, au le kuany thöou ; ka na lo möc yep tiim ka le kuany tiim ke yöök ka le a duu ken nök.*' (when women go to collect *non* grass or *thou* fruit or cut poles, they can be killed)

In other words, local people see all groups in society as being at risk to external threats to livelihoods and physical security, and therefore have equal rights to external assistance and protection. This is not the same as the people they themselves identify within their society as being especially at risk as the following section explains.

### **3.1.3 Local Understanding of Vulnerability – or who is at risk within the society:**

Jaspars et al (2007:17) describe how protection analysis includes an assessment of 'type and pattern of abuse' and 'disaggregation of the population into different risk groups'. The section



above described the *external* threats to which the majority are subject, and the current section describes the *internal* threats to which a minority – the vulnerable – are subject, but from which the majority are protected. This might seem an arbitrary distinction to make, but it is the distinction that local people make in contrast to the kind of adopted vulnerability as a criteria for external humanitarian assistance (whereby everyone is claimed to be vulnerable – meaning ‘eligible’ - or children are presented as ‘orphans’ because this is what UNHCR are looking for when locals know this not to be true). The real vulnerable (*koc nyop*) one will only know if one is part of that culture and knows the individual people intimately. In other words *koc nyop* - literally ‘soft or weak people’ (Haragin and Chol 1999) - are not a category of people that have a universal right to help from international agencies, but the individuals embedded deep within the society that have rights and obligations within the extended family structure that protects all individuals in Dinka culture but find that that protective structure does not adequately protect them - usually because their immediate family unit is small or broken up. In other words they are neither covered by the local system but nor are they accessible to humanitarian actors. In the assignment on vulnerability, local researchers were asked to investigate the nature of the family support structure which protects people and look at which people fall through this safety-net and to conduct interviews with them. Their findings included the following:

Kongor June 2010: ‘A large family (or *mac thok* in native Dinka) with many daughters may be richer because they bring a lot of dowries to their family and in other ways it is useless if there are no sons in that family because boys are considered most in a family as they the one to continue the [line of the] family<sup>49</sup>, and daughters are married to other parts [lineages] of the community and could be counted to the family of their husbands.’

‘A family with many people helps a lot in time of attacks as they come together and chase away attackers. Large families protect their properties e.g food/cattle - in case of anything, they deal with it. A large family of old aged people is useless because they are not strong enough to protect themselves if they do not have young people with them. [A] Large family with a lot of people help a lot in providing food for the family as everybody struggle to provide food.’

‘A family with productive members who are sick (who cannot bear children as they are infertile) go for treatment in case they have money and if the sickness is beyond treatment, if it is the woman who is infertile, the man must marry another wife to bear with her. And if it is the man who is infertile, the wife is given to brother of the husband to bear children with him and the children still belong to her husband. This [allows] a continuation of the family, [and] in case of an attack, they can call upon the help of extended family unless the family is lacking people.’

‘Women who are divorced will be under protection of their family or ‘*dhien*’ [lineage] of their father because they are no longer be counted to ‘*dhien*’ of their husband as they have divorced; they are sent back to their fathers and if they have children, these are given to husband and the wife remains with her father. Also a divorced woman who has children will be protected by her children even though she had gone to her father. They will still know her as mother and will provide her anything if she requested from them.’

<sup>49</sup> For a man to die without ‘leaving his name’ is known as *riar* and literally means ‘perish’ so people will do everything to avoid this.

Jalle Payam August 2010: ‘big family size provides security for the family when there are males eg fighting invaders such as robbers or men who want to elope with their sister or sisters... in terms of manpower, big family size provides labour (eg digging of gardens, building of *luak* [byre] for cattle and harvesting of grains from the fields... big family size is important when a member or members are contesting for a post (leadership); they can influence others and increase the number of voters’ ... ‘educated people can get jobs anywhere they stay... strong people like youths walk long distances to carry out business and trade’ and can inherit.

Baidit Payam Oct 2010: [having] ‘many people in the family has the advantage of collecting food in sufficient quantity compared to [those] with few... they provide labour... they go hunting for wild fruits, animals and green leaves...but if you are many in the family but they are young, then coping is hard... the oldest people help least but the middle-aged (ie 16 years to 40 years) can do a lot to help the family in survival activities... sickness of productive members is always a hazard...a family with enough girls has secured wealth because they heavily rely on girls as a source of wealth... neighbours help to provide security [since people keep a look-out for their neighbours]... friends are a good source of information and comfort...disabled people get help from their extended family but without an extended family they will not be alive’

Duk County Sept 2010: ... ‘the importance of family size is that a big size family can provide adequate security to the family’ ... ‘a family protects people from risks to their safety... many family members are a source of income and security’ ... ‘the youth provide security’ and ‘old aged people give advice based on their experience’ ... ‘a family with young members is better than a family of the old people’ ... ‘a family with a good number of daughters lives a better life because their families earn more dowries than the families with few daughters’ ‘this is because many families rely on girl child as source of wealth’

While family size can contribute to protecting people, the following are some case studies of vulnerable people to whom harmful events have occurred, including at the start some of the things that make people vulnerable:

Lith Payam July 2010: Another thing that leads to disturbance, is when two partners both in marriage, have to give birth and both stay for a long period of time without a baby - automatically the parent of the boy will chase the girls to go to home and start trying to look for another wife for their boy’ ...

Women are really vulnerable because when a certain girl has been impregnated by [a] man, she may be [disowned] by the man ... because he may be saying that [he] dislikes the girl because of [her] relatives’ characteristics ... Some girls are now living in [bad] families because they have been impregnated by their [lover] and yet, [they feel he is from] a bad community. So the parents of the lady may deny the man by going to courts and telling the courts, “we the parents of the girls we dislike the man and so we will take our daughter back and if a baby is to be born, then we will pay a price of one to two ‘*dau ku muor*’ (calf and an ox ) in native dinka.

Another thing, some boys [claim] that they love their girls and try to sleep with her, but that

sleeping [leads] to pregnancy [and] yet [the boy's] parents come in and deny it by saying "Our boy is in school, and no cow is to be paid; so if you want to stay until [the] boy finishes school, then that is when he will come and pay the dowry".

Bor Town June 2010:

Q: Who in the community is least able to cope?

A: Young ladies – 'because of when they are told to get married to those whom they don't want'.

[M was from Bor but was born in Ethiopia in 1991 and lost her father in 1999.] 'In 2004 she was in Standard 7 and dropped out from school because there was no-one to support her. In 2006 her mother decided to come to Sudan with them and settle in Jonglei... At the end of 2006 her mother decided to give her daughter to a man as his wife as she thought this would be the solution to her problems, and M accepted because of her mother's suffering. In 2007 she faced many problems in her husband's house – she was being beaten by her husband and abused by her mother-in-law for not producing [children]; there was nobody in that family to care for her and she could stay without eating and no-one would notice her even if she was sick. In 2008 she decided to go back to her home and no-one even came to fetch her – so now she is a bit OK'.

Kongor June 2010: The following is the story of a divorced woman. She said that she would divorce because her husband was infertile. Due to this infertility, she decided to commit adultery with a Bahr-El-Ghazal man (she and her husband were both from Kongor). She conceived and since it was her first delivery, she went back to her parents following Dinka tradition that for the first born, the wife is sent back to her parents to give birth under great care of her family. She gave birth to a baby girl. She stayed with her family for sometime, and decided to commit adultery with the same man again. Her husband did not [acknowledge] that the child belonged to him and the '*dhien*' [lineage] of her husband called her to explain what she had done but she brought the topic of divorcing to them. She told them that the first born was not theirs. This made the '*dhien*' of her husband upset and start beating her. She proceeded by bringing them to court and claimed for divorce; the court accepted her rights but [ruled that the] child would be taken by her husband although she claimed that the child did not belong to him. The man knew that the child did not belong to him, but said it acted as a repayment of the dowries which he had paid to his wife's family and the court accepted the right of the man.

[In the meantime she had got pregnant again] but mis-carried in the process and this miscarriage was brought on by all the domestic violence according to her statement. When she got back to [the father of her child] and told him that they should go and claim the child, he refused, saying that he is not secured because he has not paid any dowries and he is fearing that he might be killed by these people. Since she divorced, she stayed with her family although she always visited her present husband and spent some time with him (without conceiving again up to now). Her parents had not commented on her decisions, they said that she was the one who decided it alone. Her present husband had another wife and could not bother to pay other dowries. She works as a police woman in Bor Town. Her daughter is being schooled by her ex-husband and her ex-husband is married again and has three wives who are bearing children now. She said that perhaps it was her ex-husband who had a sickness but has now gone for treatment and that was why the wives are bearing children. She said that she could not explain what had happened at this present time because

it was still a confusing condition to her and people.

Kongor June 2010: ‘This woman is a widow and she lost her husband during the war in 1991 when Nuer came and attacked the area. Her husband was shot to death and she remained with her four children; they were all boys. After the death of her husband, she [forced] herself to be strong and looked forward to bringing up her children. At that time, it was everyone for him or herself and God for us all, so she could not call upon the help of relatives for her and her children. She was taken up to Nuer areas by these attackers when she makes a survival.’

‘Furthermore during those crises she lost her youngest son who was breastfeeding because of hunger and she remained with those three sons. At long last, the SPLM came and chased the attackers away and she came back to Jonglei State with her three children. She did not go for refuge anywhere, but she resisted all these problems within Sudan.’

‘After the CPA signing in 2005, the country was better. So she sent her two elder sons to schools and she remained with the youngest one and all this schooling is whatever they begged from relatives. She said she is still having no help from anywhere up to now because her children are not yet helpful to her as they are still in school. She did not have any survival mechanism except to go and work in hotels to be given food to eat with her youngest son and she gets two Sudanese pounds a day.’

Lith Payam July 2010: ‘In 1983, war broke out in Bor Town and [I joined the rebels but] I was the only woman among all men in the bush, which was a big problem. I tried to adjust all the men into the line to be followed but they came one by one. I said I will resist that situation of sleeping with all the guerrillas who came to be soldiers but that was a very big problem for me when the war broke out in Bor Town’. Her coping mechanism from that time of 1983; ‘there was no very good coping mechanism like now. People are using condom now, but not at that time, so I manage to use the frequency style of sex so that the egg or semen will not go deep into vagina and that was my coping mechanism. [I] was rescued by some few ladies who came first before us, where I pretend if I am not attached to soldiers.’

Bor Town July 2010: ‘she was born in 1993 during the time of war in Amer displaced camp in which they were provided with food. At that time her father was killed [her uncle having been killed in the 1991 massacre] and she was left an ‘orphan’ with her mother; after this they tried to move from Amer camp to Uganda where they stayed with other relatives from their clan. Her uncle gave her mother two more children (*ee ci lo yoot ne mamadu*) and then went back to fight; after which we lost him again and from there our life became tough and our mother decided not to give birth again. In 2007 [they] were repatriated to Sudan and settled in Bor where her mother became a cleaner.’

The scenario of many of these women is to have been married out of their own family but to find themselves widowed or rejected by the family of their husband due to the collapse of the marriage or the failure to produce children. Even then their own family will not be particularly welcoming as they will have to return the cattle they received for the marriage of the girl. The status of women is intimately linked to procreation, with women being more respected the greater number of children they have. Infertility impacts women more than men because men can always get a family member to impregnate their wife. Divorce also has a

greater impact on women as custody is given to the man if he has paid bridewealth. Adultery similarly is committed by married women while a man is not punished unless the woman he sleeps with is herself married. In all this, the children of these women also suffer – being brought up by a step-mother or other member who will not fight for their rights (including inheritance rights) within the family like a mother would. They also lack the ‘affective’ relationship that is considered normal from the mother’s kin, while the father’s kin are expected to adopt more formal roles. Many of the ‘unwanted’ children that end up on the street in Bor town are of this sort, for otherwise children in more conventional family units are highly prized and taken care of.

It is clear in the above accounts (and in the accounts of court cases to be found below) that there is a kind of universal familiarity in the kind of life decisions and events (young love, divorce, drinking, unwanted pregnancies, marital incompatibility, widowhood etc) that leads to some people ending up alienated from the protective structure that would otherwise be able to help them. One would almost be able to believe that they would be recognisable to a Western social worker rather than ‘exotic’. The cases also evoke an era in the West before contraception became widely used, when there was little control over female fertility. Protection by the family safety-net is clearly ‘negotiated’ and depends on individual agency, the degree of respect in which people are held as individuals and the resources that particular extended family networks have at their disposal. The consequences of being alienated from a support network through relations breaking down or having a network that is small, poor or powerless is, in the case of Sudan (without any state safety-net), more serious. These people are genuinely vulnerable but they are not the classic ‘protection cases’ (eg child soldiers) that many protection programmes seek out.

#### Conclusion:

In comparison to a humanitarian definition of protection, local people associate protection strongly with physical security and the safety of animal herds in the face of insecurity. Cattle are at the heart of much of the violence that takes place. Those without cattle are seen as vulnerable as cattle play a vital role in providing nutrition for children and the elderly (particularly during the hunger gap in cereal availability) and are essential for marriages. Those who have cattle can forge alliance with other groups and build up family size – which is seen as vital for providing better protective cover for its members. Those without are caught in a cycle, with boys unable to marry and girls unable to command sufficient bridewealth, so the fact that they will not have to worry about cattle-raiders brings little commiseration, and reaching the most vulnerable in society requires the kind of intimate insider knowledge that only locals have.

### 3.2 Self-Protection Strategies/Institutions:

#### Introduction:

In the same way that threats were identified as either external or internal, strategies by local people to counter those threats (or self-protection strategies), can be divided into those designed to counter external threats (to livelihoods and security) and those that counter internal threats in the form of the courts, kinship and Dinka culture in general. In general, and in the absence of adequate security and social-security coverage by the state, local people take responsibility for their own lives and livelihoods (unless they have been disarmed). They also rely on the structure of the family and the courts to protect their rights rather than appealing to their rights as a citizen of a state. The following section describe how those self-protection mechanisms function, or in some cases fail to function, while the final section (section 4) describes what in practice their State rights actually mean.

#### 3.2.1 Livelihoods:

##### i) description of protective assets/coping strategies

Jaspars et al (2007:20) describe how protection analyses may emphasise the political dynamics of a conflict while a livelihoods analysis emphasises the political and economic dynamics. Both models seek to ‘understand the impact of a crisis on vulnerability and the actions communities undertake in response to it’. They argue for joined-up livelihoods and protection programming because while humanitarian organisations create clear distinctions between livelihoods and protection, local populations ‘recognise no such differences’ (*ibid*:31). Livelihoods strategies are often conducted at great risk to people’s security. At the same time though, according to a conversation with food economist Simon Wilson, the main determinant of food insecurity in South Sudan is insecurity.

##### *Livelihood Strategies*

Lith Payam Sept 2010: ‘in Dinka way of living, your boy cannot marry or take a lady of other people without his father having cattle’... cattle are better than money ‘because one person may consume SDG1000, but you cannot kill one heifer and try to eat it alone without a gathering of people; also cows have milk apart from meat and skins. These things bring the importance of cattle in the Dinka way of living: you cannot marry with money alone, and you cannot be given a girl even if the lady loves you unless you pay 30 cows first’... ‘vulnerability came because cows were taken by the enemies and old people cannot stay without cows and children use the cows for milk and meat, and they do nothing with money’

‘[Dinka have now begun] selling some of their cattle and remaining with [just a few] to support life plus the vulnerable people such as old people, children and the blind’... ‘the richest become the poorest once their cattle have been stolen, [some] Dinka have realised, and that, by selling some of the cattle and having money in the bank, [then] if someone wants to marry, he can take the money ... and buy the cow which he needs and give it to the parents of the lady’

Kongor Payam Oct 2010: “In 1991 when Twic East County, was invaded and ruined by Nuer defection from the mainstream SPLA/M rebels, people fled for different areas to save their

lives. Others went or headed to swampy areas or '*toic*' in native dinka language so that they could sustain their lives [from] what they caught in the water. People who had canoes, nets, and mosquito-nets survived [better than] the people who did not have those materials... Life was getting difficult since we did not have either canoe [or] nets to fish for a living; however a gentleman helped us with his canoe and anytime he headed out fishing, he gave one of our family members [a lift] to check out what our nets caught... This was a critical time and without the canoe gentleman, we would not have survived up to this moment... People who did not have this support system were people least able to do away with starvation [but] old people, young and women made it because they got a strong support system from family members and neighbours at the time."

Baidit Payam Oct 2010: people who have had their cattle taken by raiders 'turn their economic activities to farming or fishing. These are the activities they have adapted for their survival. They were depending [before] on cattle for milk and were able to sell their cattle in time of need. The living standard of these people has dropped'.

Makuac Payam Oct 2010: 'one can go to the bush and collect firewood for sale which helps the low-income-earners'

Jalle Payam June 2010: From January-June 2010 there was no fear of raiding because cattle were taken to other side of the river.

Anyidi Payam June 2010: cattle have been moved near the *toic* or across the river because these areas plus areas near to homes are considered safe.

Despite some people claiming that it was better to have money in the bank that was not vulnerable to raiding, almost all respondents, when asked if they would personally consider not keeping cows, reiterated the profound social importance attached to cattle. As one person put it 'Dinka culture cannot change, because [people's] lives depend on cows... life without cows is to become the poorest'. There are plenty of other ways to make a living – including enlisting in the army, sending a family member abroad, working as a cleaner or selling cut-grass. However, one of the main advantages of livestock is that it complements the main crop-growing food sources by producing milk at the start of the rains which is the hunger gap in terms of cereals. Also when crops fail, pastoral production can often cover the gap.

### Case Studies

Jalle Payam August 2010: "In 2004 we [myself, my husband and four children] went to Lokichokio to collect ration cards and we were taken to Kakuma refugee camp... and then confusion arose between me and my husband until we separated in 2006. Meanwhile he stayed with the people of his *dhien* and I stayed with the people of my *dhien* while the children were being cared for by my husband's sister who got married to a man [in the same section of the camp as us]. In 2008, the situation became worse, and he planned to kill me with a spear, but the neighbours around helped me to escape. The following day, he came back to search for me; then I surrendered to the protection of the UNHCR compound. Thereafter, the UNHCR took care of me until my husband died in January 2009. Then I came back to my children and I took over the responsibility of the family. My first son went to Canada, [after] having [first] made the process to go to Canada several times [without success] until we were repatriated to Sudan in 2009 by UNHCR. After my son heard that his

father had died, he took responsibility. He sent some money to [provide] basic needs for his fellow brothers and sisters in Africa. In 2010, he bought twenty cows [both] for milk consumption and survival of the children, and some for his marriage which we are arranging next year. We worked hard to thatch our houses and *luak* for rearing cows, goats and sheep. In this year (2010), we dug a very big garden for grain, groundnuts and maize for consumption and selling to earn some money. I have a tailoring machine where I sew clothes to sell to earn some money. Now I have sent the three youngest children to Uganda for studies and one to Moi University in Kenya’.

Bor Town August 2010: ‘A man interviewed was born in 1978 in a place called Malek [near Bor]. He went to Ethiopia in 1987 when children were taken to Ethiopia for education and [to be trained] to be soldiers (*jeu ameer*)... in 1992 [he] came up to Lokichokio where [he was] helped by UNHCR for some months and then proceeded to Kakuma camp... In 1993 he joined primary, in which he faced a lot of challenges until he dropped out (eg when he went to school there was nobody to prepare food for him at home)... In 1994 they decided to join themselves [together] and work as a group to do cooking duties and he was encouraged because of his friends. He finished standard 8 and went to Secondary school and finished in 2005. In 2006, he came to Sudan, and stayed three years without a job (during which he worked as a volunteer). From there he decided to join the army [and has been there] up to now’.

## ii) analysis

Jalle payam Oct 2010: ‘*buur de yon anuen buur de weu*’ – ‘cows are better than money because cow meat and milk can be shared - even when one is poor one can benefit from [another] person’s riches in cattle... it is hard to share money: even when you see the money one is not tempted to give it away but to use it for ones own plans. It is easy to give a milking cow to your neighbour in Dinka culture for the survival of a weaned child for a period of time... Cows are sources of prestige in Dinka culture since the [distant] origins of their tribes... wealth in cows promotes one into leadership of the community, [cause] popularity and being respected as a leading person’.

### **3.2.2 Relating to Security:**

#### i) description of self-protection strategies:

##### *Security-Related Protection Strategies:*

Ajwong Payam June 2010: ‘Death, abduction of children and raiding of livestock became so obvious day and night during the war and very recently insecurity has resurrected in the area [more] than ever before. These issues were slowed down when government decided to intervene in protecting civilians by sending troops to enforce laws in the area and mobilization of youth took place too. Majority of youths were mobilized for training and armed to protect people in the area. Deploying of peace troops in borders took place in the area of Paliau. Also deforestation of forest: if the community decide to deforest the forest and it will be hard for attackers to raid communities easily.



<p>Lith Payam June 2010: ‘community should also plan to have arms for youths so that they defend themselves in times of insecurity and staying outside of the communities [ie patrolling]. In case anything happens in the community, they are the ones to secure the vulnerable people in the communities.’</p>
<p>Jalle Payam June 2010 – enumerator’s personal experience: On June 25th, when I went back to do more research, I saw young men coming back from the other side of the Nile with cattle, carrying long spears , and a few carrying guns some hidden in their blankets. Others were carrying the big drum, in case of any cattle-raiding or attack from the Murle, when they would beat it to warn the community. Also they had made traditional and metal shields to protect themselves from the harm of spears and even bullets. In the village people stay close to one another in terms of building houses while formerly they used to build far away (up to 600m) from one another. People don’t dig and cultivate around their compounds nowadays but far away from their homes because people could hide themselves in the crops and abduct their children.</p>
<p>Kolnyang Payam June 2010: he as an individual takes part in ‘patrolling the area, sending cows to Aliap land and sending children to towns such that they go to school. None of the government and international organisations like UN and UNMIS appreciated our coping mechanisms other than providing assistance to those who are effected’</p>
<p>Duk County July 2010: ‘Villagers must come up with a system of farming in groups especially in areas that are [un]inhabited and a bit [in]secure [where one]community [is in conflict]against the other for resources’...</p>
<p>Jalle Payam July 2010: ‘people of Jalle payam decided to settle close together. In one place in case of any attack they can be helped by nearby people who have weapons; here the businessmen and women move on the roads day and night [so they can raise the alert] and troops sometimes move on the road at night for government purposes’ [old woman]</p> <p>‘Jalle residents contributed cattle for the construction of a fence for the security of their cattle so their cattle can graze within the fence [but the wire cost a lot and there were no vehicles to transport it once purchased nor poles from the forest]... ‘Jalle residents cleared the bush, grass (non) and cut down trees – leaving only tall trees like <i>thöön bar</i> to act as hiding places to see where the enemy is coming from during the daytime... watchmen would stay in the tree for the night or the day (replaced by another person for the following day or night while they slept) ... Some of these trees like <i>thöön bar</i> are also important for survival during the starvation season.’ – ‘deployment of young men far away from homes is a successful strategy’ – also ‘communicate to the police director general when there is a cattle raid to help follow up the enemies after the community have chased the rebels’</p> <p>‘residents bought guns [and bullets] by contribution of cattle for security purposes – each gun being the equivalent of seven cows – “but the guns which we bought by our contribution and our cattle are gone [due to disarmament] – helpless life, hopeless peace in our community’ [teacher]. Soldiers can be hired for security and accept to fight with Murle. Murle have new guns which they have obtained from ‘the government of unity’”.</p>
<p>Lith Payam Sept 2010: apart from the herding team, there must be another group patrolling the area... [to] counter-attack the enemy in case of raiding’... [they should be provided with]</p>

communication facilities (Thurayas) to [communicate with the] herding team for co-ordination purposes.

Kongor Payam Sept 2010: “If insecurity comes”, one man said, “they have to alert people to run and also get together to see what the enemy is doing”. He explained that alerting or “*kiew*” is the way to let people know there is a problem in that area. “Many people have learned this technique a lot and when there is a little sound whether a child’s cry [or whatever], people listen carefully to understand thoroughly if it is an enemy’s cry or not. Now after alerting, people, by and large, became aware that there is an enemy on the ground and yet they wait attentively to see what to do next - whether to run or follow the enemy if [they have] weapons borrowed from soldiers or [soldiers who happened to visit his or her family in the community] or local police departments [though] police in this state are strictly not allowed to fight or to patrol this type of domestic problems (livestock rustling, children abduction, stealing of people’s properties).”

“The Youth representative calls for youth members in the communities in order for them to go after the enemy or in order for them to fight suspicious people with borrowed rifles,”... “Elders or chiefs in those particular areas hold meetings to find wrong-doers and to make peace with that community, where those attackers or raiders came from.”

Jalle Payam Oct 2010: people sought protection through ‘wild-life forces and police forces’. Also through ‘peace negotiation by *alama*, *buluk*, *magak* [chief, sub-chief, headman] when insecurity crises arose in a particular area... as before and now the community contribute cattle to buy protective weapons like spears, arrows, bows and guns’

‘In the cattle camp, young people are divided into those who are very young ...and [stay] with the children, women and girls in the cattle camps and those initiated men [who] move far from the cattle camp (*akar ayiki jot*) looking for [the enemy] and fighting them if they meet.’

Kongor Nov 2010: There was a raid at Pajomba behind LWF compound on 10 November 2010 during which 9 cows were taken but recovered before they had reached the GTZ dam. Ambushes had also been set in other places including Nyawai between Paliau and Wangulei. No-one was killed unlike the attack in Summer 2010 when 2 people were killed. Both raids were heard by the current author who was staying at the LWF compound when they occurred. In the November raid around 10 shots were heard over a 5 minute period and women were shrieking to sound the alert. In the June raid gunfire continued for over an hour. One of the enumerators working on the L2GP followed up in a pick-up and helped recover some of the cattle.

Some of strategies considered most successful by local people included sending out youth to form a defensive ring around a settlement or cattle camp (known as *akar* from a kind of noose-manoevre used in hunting) or to conduct patrols (known as ‘rece’ from the English military term). When raiding is taking place, the message is quickly transferred by alerting calls (*kiew*) and wailing (*koka*) even though there are sometimes false alarms. When it is discovered that there has been a raid, local people are mobilised to chase after the robbers. One strategy that had been shown to quite successful is to set ambushes at strategic places where robbers are likely to pass if they are heading to the uninhabited areas to the East of Twic, Duk and Bor. A set of raiders that had looted cattle in Warrap and killed 34 people on May 8th 2011, according to media reports (which referred to raiders as part of Gadet’s

militia), was ambushed as they escaped with the cattle and 48 of the raiders were killed (AFP 2011). The success that local people have in chasing after cattle which are cumbersome and slow shows what could be achieved with better policing and stock patrols

Elders play an important role not just in combating insecurity, but in addressing the things that cause violence and trying to prevent their own youth from getting involved. Within Dinka communities some of the following rules and sanctions apply:

‘there are rules set up by the community leaders to govern cases of local boys stealing cattle’... eg ‘if one is found guilty of stealing in the community [a boy] must be put in jail and be fined seven cows to pay the owner of the stolen cow and one bull to the elders of the community to remove the curse from them. The person must be shown to the entire community to bring shame on him for disgracing the values of the community... if he has been caught several times he must be put in prison for life unless the relatives and parents demand the release of the boy on condition of paying all his fines to the satisfaction of the elders and community leaders’

‘the elders also believe that a woman who is married with stolen cows is cursed and can give birth to abnormal children and this hinders local boys from stealing unless it is from far places to avoid being known by the community... formerly it was the rule that being found to be a cattle thief carried a death sentence but this reduced the number of ratio of girls to boys[!] so was abandoned. The government was doing the law but it was refused by the Dinka Bor community especially in Baidit and Jalle payams.’ (Jalle Payam Dec 2010)

They obviously do not have authority over the youths of other groups, and by the sanctions that are applied to youth who steal local cattle, they could just be tempting the youth to look further afield. Amongst the most important activity of elders is the constant negotiation that takes place between elders of different sections regarding the ever-changing availability of grazing. Cattle camps are ‘owned’ by particular sections, and they will usually graze their cattle in the same dry-season and wet-season grazing every year, but climatic factors mean that many groups are obliged to negotiate and share grazing when pasture or water is not available in their usual area. In particularly congested areas tribal committees meet at the beginning of every dry season to negotiate access. In Duk Padiet, Dinka Ghol leaders refused access to Lou Nuer when they requested passage to reach the *toic*, after their alleged involvement in the attack of 20th September 2009 where 160 people were killed (see AFP 2009).

O’Callaghan and Pantuliano (2007:4) note that in conflict situations ‘the most common strategy adopted by civilians is to escape through flight’. Jaspars et al (2007:13) describe how displacement can sometimes be the most effective as well as visible strategy in relation to protection threats, but that displacement, even if only temporary will have a direct impact on livelihoods. One informant stated:

‘... those who could manage to migrate up to displaced and refugee camps could cope [while] those least able to cope could not migrate to find safe places... and the community was generally poor because there was no-one left to support them...’

Another informant described how, in spite of fitting the definition of ‘vulnerable’ in local terms, she successfully fled to Mundri before returning to Jonglei and finding a job:

*Displacement as a strategy:*

Kolnyang August 2010: ‘ during the time of conflict in Jonglei, all the cows that my husband owned before he died were raided by Nuer and therefore my brother took my three children to Mundri (Equatoria) when the conditions became so critical in 1991... I remained here in Jonglei alone because I didn’t want to leave my crops that I thought would help me but unfortunately didn’t. That time, my life became difficult due to the fact that no one was caring for me because I lost my husband in around 1979 and I was left with his brother (*wen pandie*). So this fellow would only care for his family alone, using the resources that my husband had left with other people without any permission from me. This made everything so hard for me that I left for Mundri following my brother who was with my children.’

‘In Mundri, lives were not as difficult as in Jonglei State (Bor) because my group and I made a very big displaced camp (Kotobi) and immediately World Food Programme stepped in and gave some assistance like food, clothes, blankets, cultivation tools like *pangas*, hoes etc. This assistance continued from 1992 to around 1996 when it eventually stopped. For at least two years our usual difficult lives returned [but] we tried to cope with the situation and finally got the solution. This was done through cultivating large farms until no-one was thinking of WFP any more. We continued struggling like that until God helped our two daughters (my brother’s and mine) to grow up and [get] married with cows with those who had acquired their cows through trading and other means. My brother’s family and mine (which became a single family by that time) went to the cattle camp like other people [because of these cows] and this made Muro land (Mundri) a pastoralists’ land and our lives went back to normal.’

‘The CPA was signed when I was in Mundri (cattle camp) and the signing of the CPA made me do some positive thinking about our lives (both me and my family) [and decided after returning to Jonglei to send my two boys to a school that had not been there when I emigrated (including my last-born – a gift from the almighty who is now in Primary Four). The second son (the third-born of the family) is currently in University in Uganda and the first-born son is in cattle-camp keeping cows because he acts as the father (praise the name of the living God)... Finally I am in my homeland now working with the Ministry of Wildlife Conservation and I thank God for this because, old as I am, I didn’t know that I would manage the training’

If she had not been assisted by her original family, she could have appealed against the poor treatment she received at the hands of her in-laws.

ii) analysis (coping/containing/confronting – success or creating new probs?)

Since 2010, insecurity has increased, not only involving General Athor, but including cattle raids between Lou Nuer and Murle. Jonglei’s Governor announced that 27 people had been killed, 14,000 cattle stolen and 3000 families displaced in one raid in April 2011 (Sudan Tribune 3 May 2011), while others in June and August claimed upwards of 800. These figures are huge for peace-time, and local people still feel very insecure. The following case, which happened while we were doing our research in Bor, shows how, even small-scale attacks and abductions can increase the level of fear and cause massive population displacement:

## **Sudan: Jonglei: One person killed and a child abducted by gunmen**

Source: [Sudan Tribune](#)

Date: 14 Feb 2011

By John Actually

February 14, 2011 (BOR) - A group of unknown gunmen in military uniform launched an attack at Makuach village in Bor county, killing a woman and abducting a three year old girl on 13 February.

According to eye witnesses, the assailants invaded the village at 1:00am on 13 February, surrounded the home in which children were crying and set the house on fire after failing to break through the door. The assailants rushed in when door was opened by the victims and snatched a three year old girl, after killing her grandmother she struggled to free the child.

The abducted child, Akur Malual Maguek who was born in September 2008, is a granddaughter to Maguek Agot Bior, whose wife was shot dead by the attackers. Bior is a resident of Makuach payam (district), whose cows have been rescued from rustlers from the Murle ethnic group four times last year, has now lost both wife and the granddaughter.

The mother to the abducted child, Nyancher Kuol Duom, described the attack: "We were awake when they came and pushed the door three times but it was hard to break. They came behind the house and whispered amongst themselves before they set the house on fire. We cried for help but nobody came. The house was about to collapse when we opened the door and four gunmen rushed in by force: two men seized two babies of six to nine months but threw them back to us. They rushed behind the beds where my mother and daughter were hiding and grabbed the child. My mother resisted but they dragged her toward the door where she was shot dead and we all fled the fire", Nyancher explained the night attack to Sudan Tribune.

Kuol, confirmed to Sudan Tribune that the invaders who killed her mother-in-law and kidnapped her daughter were armed with AK-47s and were wearing Sudan People's Liberation Army's green uniform, carried spears and a sickle, and were speaking in Arabic. Kuol believed the perpetrators were from the Murle ethnic group. There is a long history of conflict between the Murle, Luo-Nuer, Anuak and Dinka Bor in the region.

Maguek Agot, owner of the home who was sleeping in a separate house, gave an account of what he had lost in the burning of the house:

"We lost SDG8,000 [US\$3,000], clothes, three beds, four mattresses, two 50kg sacks of sorghum and un-threshed sorghum."

The commissioner of Bor county, Maker Lual, condemned the attack but did not accuse a specific tribe or group for the attack.

Maker also said he has contacted South Sudan Relief and Rehabilitation Committee (SSRRC) through Civil Administrator (CA) of Makuach payam (district), Mabil Duot Jok to ask for assistance for the people affected.

In the face of disarmament of local populations, it seems doubtful that self-protection will ever be especially successful. As one person, interviewed in February 2010 in Bor said, "With a gun, one person can raid a whole village" – and the whole village will be scared of following if they are unarmed. The people of Jalle contributed cattle to build a fence, and this

is perhaps amongst the long-term solutions that will help to provide security together will a clearer demarcation of grazing and of access rights for outsiders, though a single fence will hardly make any difference in the short-term<sup>50</sup>. After any raid, local people set ambushes at various strategic places in the area, and these have had some success (for example recuperating two abducted children that had been taken from Guer near Paliau at the start of the rains in 2008 in an ambush at Pading about 90 minutes after they had been abducted during which 5 people were wounded). In the long-term, though, such strategies are just reactive – the longer term result of the abductions in Guer was that people abandoned the village (as well as the village of Ajija) and moved en masse to Paliau and three years later people still fear going back (*koc a rioc*). Therefore improved security will inevitably need to come from GoSS, despite their limited capability to police all areas of South Sudan<sup>51</sup>, and UNMISS must be pro-active in seeking to get involved in local security incidents, as discussed later in section 4.

### 3.2.3 Courts:

#### i)description of courts

As Leonardi et al (2010:14; 2010:34) describe, the vast majority of court cases involve disputes about cattle, sexual transgression and marital problems and the conduct of such cases can be extremely complex, as I discovered in my own fieldwork as court members spend days trying to establish and verify the cattle that have been exchanged and re-exchanged in further marriages before needing to be returned if a marriage should break down in divorce. Courts, including those practising both customary and judiciary law, play a vital role in providing ‘protection’ for local people. Customary courts also demonstrate a very ‘human’ and at times ‘humane’ interpretation of the law rather than following legal precedent to the letter; they are designed to resolve disputes and mediate rather punish. As one person in Makuac Payam put it:

‘courts and *alama* (chiefs) are important because they calm down the community by settling disputes and advising people to reconcile... the civil administration brings criminals to justice and arrests offenders in the society. (Makuac Payam Oct 2010)

The assignment that enumerators carried out on courts provided some of the most interesting data as it was just a pure account of what went on in the cases that were listened to by the enumerator rather than being part of an interview, as the following selected cases demonstrate. Enumerators were encouraged to concentrate just on adultery, elopement, impregnation and divorce cases, as previous work had shown that these were the cases where ‘protection’ issues would come up.

#### Divorce Cases:

##### Ajwong Payam July 2010: Court Case of divorce between Mrs. A and Mr A

It happened in a Boma Court that Mrs. A opened an appeal against Mr. A. She said that she

<sup>50</sup> Another respondent in Lith Payam recommended ‘making paddocks with fencing in order that raiders when they take cattle cannot escape and are easily caught’. Yet another respondent in Ajwong payam said that groups should be assigned their own area of the *toic* instead of mixing with other groups including the Nuer

<sup>51</sup> Saferworld (2010:2) note that ‘Southern Sudan Police Force (SSPS) who are tasked with maintaining internal security, are under-resourced and under-staffed’

wanted to divorce him “because every day he gets drunk and beats me - so I do not want to be his wife any more”.

Mr A was asked by the court judge to express whether he agreed to a divorce or not, and secondly whether he would stop drinking or not? He replied that he would stop drinking and Mrs A was asked for a second time but she refused to go back to Mr A’s family again. Also the lady’s parents were asked if they agreed with the girl or not? Then the parents said that they did not agree with her so were appealing to the judge to let her go back to her husband’s home. So the Court members asked the lady whether she had heard what her parents had said [regarding] going back to her husband’s home. Then she said that she still refused to go back to his home again so would chose the option of a divorce.

So the court judge told the two parties that they would take a decision on their own and after considering the case told the girl’s parents that [their ruling was]to separate them and since thirty cows had been paid as dowry for her and she had produced two children, then twenty cows will be refunded by the parents. Also since lady Aluel was the one who divorced Diing she would be fined with three months in prison.

#### 2nd Appeal at the Payam Appeal Court - Case of Divorce between Mrs A and Mr A

Mrs. A said that she was opening a second appeal against him because last time she had opened a case of divorce in the Boma Court charging Mr A that he used to beat her while drunk. So she had to divorce him. Then the court members asked Mr A if this was the case and he said yes it was, but he had told the court judge that he would stop drinking. So the court judge asked the girl’s parents if they agreed with their daughter or not? Then they said no, she had to go back to her husband’s home. Also the husband’s parents were asked if they took a common decision with their son and they said “we shall not divorce her”.

Then the court judge sent away the two parties and took a decision. They told the lady to pay the court fee of thirty two Sudanese Pounds before the announcement and the amount was paid. Then the court judges announced the ruling: “we have separated them so she has to go with her parents since thirty cows were paid as dowry and she has two children. Ten cows are deducted for the two children and twenty cows have to be refunded back to Mr. Diing’s parents”. Also the lady was fined three hundred Sudanese Pounds because of her disobedience to her relatives [but did not go to prison].

Duk County Oct 2010: [The woman wanted] to divorce her husband because they had stayed a long time without producing a child [while following treatment for diseases that could prevent them producing]. She went to the police, saying that she had been married [with bridewealth of fifteen cows] to her husband since October 2004 and that they had lived together without producing a child. She asked the police to call her husband so that they could go to court to divorce instead of staying without producing children [while doctors could not give a reason why this should be the case].

The police called him[and asked him to confirm these events] and then called him to appear at the Boma court of Duk Payuel on 4th October before the Headchief and the other chiefs. Here the police read out the case. Then the husband stated that no-one was to blame for not being able to have a child. The court asked for the wife’s statement where she stated that she would not stay with her husband. The Headchief asked [why] she wanted to go. She

responded that she would be called barren though she felt she was not barren. The Headchief asked how she knew she was fertile and her husband not – to which she replied that she had been disturbed regularly by menstruation [every month] during these years [which she felt proved her fecundity]. She added that if the court were not to separate them, they would still live separately whether the court wanted it or not. She said that her husband had presented her a *mior de dhueej* bull (about which one can compose songs – songs that proclaim that his wife was infertile). The court asked Bior if he was to be separated from his wife – to which he responded that he would not leave her whether they produced a child or not. Again the Headchief asked [why he insisted] when she had come to the court to [obtain a separation]. He replied that children were given by God the Creator and that in the lifestyle of his family they did not divorce.

So the Headchief asked his family (*dhien*) what they thought. One man said that they had stayed peacefully all this time following treatment therefore no-one was to blame, so the court should [do as it sees fit]. The court then turned to the father of the girl, who, after greeting the court, said that having children is the best thing in life [ie he was in favour of the separation], and if his daughter wanted to be separated, it was for the court to decide who is right. After deliberation, the court decided to grant the divorce, and when all the bridewealth cows had been counted 32 head of cattle were to be returned to Bior, which the father of the girl accepted to bring within 7 days. The woman was fined SDG500 because she had brought about the separation.

#### Adultery Cases:

Panyagor Town Court, June 2010: This case is about a woman who slept with three men and bore three children since the husband left her during the North – South Civil War in 1983. She waited for her husband to return from the war, however was impatient and slept with the first man and bore her baby. As that baby was old enough and the husband, who had paid dowries to family of this woman, did not return, she slept with two other men to bear her babies. She did a series of adultery in absence of her first man in marriage. This year, the man who had married this [adulterous] woman finally returned and decided to head to the court to re-claim the children, who were born out of wed-lock as well as in his absence.

#### Ruling(s):

When the case appeared before the court, according to both *cieng de monyjang* and customary law, the children were ruled to go with the legal father who would take the children for good to support and educate them; the woman was free to decide whether to stay with this legal father or divorce. The 2 year-old baby boy was to remain with the mother temporarily and the other two children would go with the legal father for support though [the biological mother and father] were free to visit, according to both customary and traditional law of Dinka-Bor.

Also the party who committed adultery had to pay a minimum of 6 cows according to the customary law. This legal father according to *cieng de Monyjang* is free to accept those 6 heads of cows as prescribed in the customary law of Dinka. All three accused parties, the men who had conceived children with this woman are thereof ‘losers’ or ‘*thon-e-gau-ic*’ in native Dinka language because they will not get anything in return, however to face the penalty (ies) they committed.



## Opinion(s):

The legal father whose wife committed adultery, was happy with the rulings thus far since sitting judge allowed him to collect his children. He had paid 500 Sudanese Pounds (SDPs) to the court when he came to open the case and this money were returned to him on spot after verdict was issued to collect his children and wife. The children will face disadvantages of not going to the biological father and technically children thereof may not be happy with the ruling.

Duk County Oct 2010: A wife [was accused of] committing adultery with a man. She had married her husband in 2007 with 30 cows, after which she gave birth to a child that passed away. She was taken back to her parent's house during the time of mourning during which she 'created a link' with a man until she fell pregnant. From there her parents discovered she was pregnant and called for her to explain how she conceived while her husband had been away while funeral preparations were being made. The parents decided to send her back to her husband as what she had done was complicated. When she arrived, the husband asked her if she was pregnant and she denied it until violence started and she owned up and told her husband everything. Then the husband called the elders of his section, where he said that he needed to kill the man who had committed adultery as he had caused the death of his child. His section told him to go to court, and he went to the police and accused the man of adultery and the case was rapidly referred to the court due to the danger of murder if it was delayed.

The police read out the case, after which the Headchiefs asked the husband to recount the events. They asked the adulterer to confirm whether it was true and he confirmed it, explaining that he had had 'a link' to the woman before she was married and the long time she spent with her parents caused the link to be resumed. He said that it had been a mistake for her to marry her husband as she had been forced by her parents while he was really her lover. The chiefs asked if he knew that she had been married with 30 cows, but he denied knowing [the amount] though he knew she was married. He also denied knowing about the death of her child. Then they asked whether he was resuming his former link or whether he was just playing, and why he had not just chosen amongst the many girls around him – to which he replied that he knew his conscience [ie he felt he wasn't playing].

When they asked the wife why she acted thus while she was someone's wife, she replied that she had been unwilling to marry her husband but had been forced by her parents. Then they asked why she had not divorced before committing adultery. She replied that nobody would have accepted the divorce as her husband had paid 30 cows. So they asked the woman who her husband should be. She replied that her current husband was her 'husband' but they did not live in harmony<sup>52</sup>. The headchiefs asked her parents what was their view and whether their daughter had been forcibly married. They replied that they had no view but saw her husband as their daughter's husband but said it was up to the court to decide. The headchief sent them all out of court before concluding that the lover would have to pay *aruwok* [adultery payment] of 6 cows to the husband and a fine of SDG1000 for the offence he had committed. The woman was to return to her husband.

Lith Payam Oct 2010: 'G committed adultery by sleeping with the wife of someone who was on the front line (*anyanya*), after which the [soldier's] relatives realised that the wife was

<sup>52</sup> Enumerators often referred to 'husband' when not actually married with bridewealth – 'partner' would strictly be more correct

committing adultery by staying in the house with another man; then they took a case to be handled by the police and the parents of the wife called for the man from the guerrilla *anyanya* [forces] to come for [his wife's adultery case]. So the man came from Panriar to Panyagor for the case of his wife. The court solved the case such that the boy who committed adultery should pay a heifer and young bulls plus 6 cows (*aruwök*) and 1000SDG... and the lady was fined 600 SDG pounds'

Kolnyang Payam Oct 2010: 'the man (adulterer) paid six cows (*aruwok*) and was [imprisoned] for three weeks [before being released]. The former husband of the woman later declared to the local court that he didn't want the wife any more hence resulting in a divorce. The local court invited the wife's parents and briefed the parents as to what had happened. Hence the couple were declared separated by the court. The husband neither accepted *aruwok* nor demanded the return of part of the bridewealth because they had three children with his former wife and he thought he could try to keep a good relationship with his former in-laws.'

Jalle Payam Sept 2010: Adultery Case: 'I was separated from my husband in 1983 when he was taken for training as a soldier in Anyanya. He didn't come back until the Nuer came and I ran to Torit [in 1991]. So we met in Torit but he did not stay long. Thereafter, I went with another man [with whom I bore] children. Yet I did not live in peace with the parents of my husband. Immediately afterwards my husband was taken back to the front line, and after three years I heard he had been killed. Then my dead husband's parents came to my parents to request me to go with them for the funeral but I refused. After I discovered what they were planning for me<sup>53</sup> I sneaked away with my children to Kakuma refugee camp in Kenya where my new husband got me.'

'We came to Bor (with our children) in 2007. Then I was taken to court by the brothers of my dead husband. The court declared that I had been married with cows and at the same time my husband had not divorced me. So they declared in the court that I should go back to my dead husband's home with all the children I had borne from my new husband. This new husband was fined six cows because he had committed adultery. With all the shame this brought upon me, I was forced to go back to the place I did not want to be'. She recommended that places be built to hide men who impregnate ladies so they can be secure until leaders settle the issues.

### Elopement Cases:

Duk County October 2010: A boy eloped with a girl from Maar [Paker Section/Anok Sub-section]. The people of Anok came after the girl to ask whether the boy was ready for marriage or not. The elder brother of the boy said that he was ready to do the marriage. According to Dinka custom, the first four cows are chosen [by the bride's family and are expected to be the best]. Thus the [brother of the girl?] chose a *dau nan-wut* heifer as the first choice for the marriage followed by another three. But the boy's brother did not agree with

<sup>53</sup> One could guess that this would be to be impregnated by another member of the family to have a child in the name of the dead soldier

the first choice and said he would change the *dau nan-wut* cow with any other cow.

When the Anok people heard this, they all said that they did not want any cow other than the one that they had chosen. At that stage the case was taken to the magak [sub-chief] of the *dhien* [lineage]. When the magak heard what they were saying, he agreed that they had the right to take the animal they had chosen. When the boy's brother heard this, he said that the Anok people should take their daughter back rather than have their first choice *dau nan-wut* cow. To this the Anok people replied that they wanted the *dau nan-wut* cow not their daughter back. At which stage the brother took the chosen cow to another village to hide it.

When the brother of the girl saw this, he went to the police to narrate the problem he had. The police took the case to the Boma court where they read out before the court the result of their investigation. The brother of the girl greeted the court members and his in-laws [*pan nyankai*] on behalf of the Anok people and explained the story of the *dau nan-wut* cow. The court asked what problem the brother of the boy had with the girl's brother, and he explained how he had been told in a dream by his father not to give the *dau nan-wut* cow to anyone else. The court came back to the family of the girl with this and they insisted that what they wanted was the *dau nan-wut* cow. At this the family of the boy said they would give the Anok people the *dau nan-wut* cow. The court members went out to analyse the case, and [when they returned] the Headchief accused them of making a large case out of a small case: the *dau nan-wut* cow was the right of the Anok people. It was felt that the court had upheld Dinka custom (*cieng monyjang*).

Lith Payam October 2010: 'My name is X from Adhiok tribe of Lith Payam. I am appearing with my Uncle's brother in court because we eloped with certain girls from Awulic [Awulian?] tribe and they stayed with us for a period of 30 days without being reported by our parents until [one of ] the girls became 2 weeks pregnant; because we were hated by the parents of the girls and the girls seriously love my uncle's brother, that is why we stayed with them 30 days until the lady became 2 weeks pregnant by my uncle's brother as a full wife.

So it came to the time that allegations were sparking out from the community about this lady staying in the house of Mr A, and we realised that people wanted to know our secret. Then I told my Uncle's brother that we should report the girls to their parents. When they realised that the girls were staying with us, we knew it would be a problem, and [our parents] were seriously annoyed and asked us if we realised that we had created a problem that may end up in us appearing in court because even if you want to marry her the parents will have been looking for 30 days. So our parents told us they would report the case to the police to avoid a conflict between us and them. The following morning we were taken to the police with the girls who were missing. After my father narrated the story to the police, they said that he had acted wisely and imprisoned us boys and the missing girls, so their parents should be informed and the case solved in court and the police station with a few soldiers standing around to avoid fighting between tribes.

On the other hand we appeared in court and started seeing ourselves as criminals. I started shivering, my mouth went dry and tears came out of my eyes. I started to be afraid as it was my first time to see such a case of elopement as a crime (because you haven't reported the case immediately and stay with the girls [until you go to the parents and tell them they must arrange a marriage]. So that was the day I experienced [for the first time] that elopement, adultery and divorce are all a crime that can lead up to you appearing before a court of law... I realised that I would be fined with money (or *thook bec*)- even a cow – because of my

staying with the girls for thirty days without paying a full dowry to the parents of the lady.

The court asked if the girls were with us for all these days and they replied [that they were with us] plus the one who had been with my uncle's brother as a wife for a full month and fifteen days [confessed] that she was now pregnant. After the judgement was made, they told [my] father that he was to bring 30 cows to the court to marry these girls and that we were to be fined by the court [by?] staying in jail until the case was over. So my father and my uncle and all the rest of my clan went back and were given 5 days to collect the 30 cows after which the parents of the lady took 30 cows as a price and, after paying a fine of 3000SDG, we went back with our [wives]. This is how I came to know the court and that appearing before the court is not simple.

### Impregnation Cases:

Baidit Payam June 2010: 'In 2007 I fell in love with a handsome man who I love very much. He impregnated me in the same year. I went to [his parents' home]. When my parents came for the bridewealth, they were told that my [proposed] husband's older brother was still not yet married. My father took me home to go and deliver according to Dinka custom. When I delivered in July 2008, my husband came and asked for me from my father claiming that nobody was fetching water for him. Finally my father let me go with him. After two months my child began to refuse breastfeeding. No sooner had my father got the message then he came to my husband and asked him to take me to his home, but my husband turned a deaf ear. Instead he took me to the village where my child got sick. My husband brought me together with my child to Bor civic hospital where my son died when he was eight months old. That is how I lost my firstborn son.'

'After the funeral of my son, the man whom I love ordered me to leave their home and chased me away. He brought me back to my father but my father told him to go back with me. A second time, the man brought me with his elder brother to our home. When my brothers saw that, they wanted to beat him, but my father ordered them not to respond to what the man was doing. My father told my husband that if there was something wrong, let his father bring me back to him. That was according to Dinka custom. The man took me to the prison where he imprisoned me. My father went to the prison and took me out of jail. He waited for them but none of them showed up. I stayed with my father until I was almost forgetting the man'

'After some time, the man came back and cheated me for the second time. I gave in because he was my husband and I love him very much. My father ordered me to join the police as one of the new recruits. Meanwhile, the man had already impregnated me for the second time. Later on it was discovered that I was pregnant. I left the training centre and came to my husband's home but the man who I love said that I had committed adultery. He took me and imprisoned me again... That showed he didn't love me... That is how our case reached the court'

'On the following morning, my father was summoned to come to the court for my case. The judge asked the man but he still stated that I had committed adultery. I told my husband that, if there was another man, I [would not have brought] that man's child to him who had mistreated me for so long. But the man didn't accept what I was saying. Eventually the judge

ended the case by giving me to my father with my second child since the man didn't want me. He was fined two thousand Sudanese Pounds. That was how I won the case.'

Q: What was your feeling about going to court and did the court solve your problem? Did you pay money?

A: 'I was very disturbed because I could not imagine that the man whom I really love would take me to the court. My problem was solved because the judge gave me my child since the man didn't want me. I did not pay money because it was my husband's plan to let me appear at the court'.

Q: Would it have helped if you had been more aware of your legal rights?

A: If I had been more knowledgeable about my legal rights about the law, I would not have allowed him to cheat me a second time. That was because he only wanted to exploit me and not as his wife.... The paying of bridewealth has made men to be more powerful than women – the community needs more awareness about human rights etc

Ajwong Payam July 2010: It happened in Paliu Boma court that a case was opened by father of a girl against [a young man]. The father said "I am opening an appeal against him because he has impregnated my daughter with a baby of three months old". So the court members asked the young man if it was true or not?

Then he replied "she is right the baby is mine, but now I do not have cattle". So the lady was asked by the judges that if she had heard what the young man had said, but she replied "he is my husband despite not having cattle". Then the girl's parents were asked "since you have heard it from your daughter that even if [the young man] does not have cows he is still her husband, what is your comment on this?" They said "if that's [the] case we [would] like the baby of our daughter to be given up".

Also the boy's parents were asked that "what is your comment concerning all these words you have heard?" They said "ours is like the statement of [our son] so she is our son's wife. So you the judge will be the one to take the decision". So the judges went and took the decision condemning the young man to pay five cows for the exchange of his baby and the girl would be returned to her relatives so she could be married to other man. And he was told to pay twenty two Sudanese Pounds for the case settlement.

Then they came and announced the case before the crowd. Then both sides were asked to express their thinking. The young man's parents said that they agreed with the decision. But the girls parents said "We disagree with your decision. Since he has no cows, we would like our lady's baby to be given to us with its mother and we shall ask to be given the appeal documents to claim ahead". They were given the documents to appeal in the payam's appeal court.

In the Boma court, the boy [had been] told to pay five cows for his baby's exchange. In the Payam's appeal court, he was condemned to pay none, and the lady was given to her parents together with her baby.

Q: Did the court resolve your problem?

A: Yes to the girls father as the court had resolved his problem. He had paid fifty five Sudanese Pounds for all the court.

A: No to the young man and the girl, the court had not solved their problems. “If I had been more knowledgeable, I would have not have gone before the law<sup>54</sup>.” Also they have learned that in [Dinka] culture, if you do not have cows then you will not be married to each other. “For me, [the young man], I will be appealing next time”.

Duk County Oct 2010: A girl was made pregnant by a boy in 2008. From there she went to his house as his wife and the boy and his parents sent a message to her parents saying that, before they accused anyone, she was with them. So her parents came directly and were welcomed by the boy’s parents and asked to sit down. They asked the boy’s parents to give them back their daughter, but they refused saying that they had accepted her into their section as their son’s wife. The girl’s parents asked them to show what they had [cattle] and then they could leave her as the boy’s wife. But his parents said they had only one cow (*dau nan amer*) as an *akol chok* [pre-settlement] but would prepare for a marriage in three months.

The girl’s parents agreed and took the heifer. After this they waited and waited, until two and a half years later the father of the girl went to see his daughter to confirm what had been agreed before, but found no-one there except an old female in-law of his daughter who he told to summon the elders to await his return the next day. But the next day there was no-one there and this was repeated on two other occasions, after which the father of the girl went to the police to summon the boy. After he had been summoned and reached the court, the police read out the reason that the two parties had come to court and asked both parties to confirm if this was correct. Then they asked the boy why he had had no communication with the girl’s father to explain the problem that was leading to such a delay. He said that he [had been] waiting for his father to come and sit down and see where to get cows because they had no cows except for the one that had already been given. They asked him whether he had thought he would get the cows in the promised 3 months. He replied in the negative, but said that he feared to tell the truth as his father was the one to say what they had and didn’t have as he was responsible for the boy and he was just a victim. The court was suspended for 1 month while the father was sent for. The father of the girl felt he had been loyal and frank to his daughter’s husband and feels he has followed the procedure according to the Dinka way but felt that nothing good had come from the boy as he had not told the truth.

### Harassment case

Kongor Chief’s court: A female complainant was harassed by the defendant who slapped her in the head and in the face as well. She said he was drunk and decided to bring this harassment issue to the chief’s court. When the chief heard this, he went immediately to the Police Department to arrest the man on behalf of the woman he was accused of harassing. The chief told the Police Department to prevent the man from entering the complainant’s house anymore. The accused was known in the community as troublesome since ‘he drinks a lot and causes trouble to people around him’ like this woman. He also had a multiple arrest record and should have been tried since he was dangerous to Public Safety and tranquillity in the community (ies).

<sup>54</sup> Leonardi *et al* (2010:29) quote a local person as saying ‘if you know the system you can go step by step and you will get your right’

**Ruling(s):**

As his case was referred back to the Town Court also known as ‘*Magara*’ court<sup>55</sup>, the sitting Town Court judge granted a verdict in favour of the woman and therefore the guilty man was sent to jail of Panyagor in Twic East County for six months.

**Opinion(s) on Case raised by Parties:**

The woman was happy with the rulings since the man was going to face a severe penalty and to serve 6 months span in jail; probably he would reflect and maybe by the time he got out of jail, he would no longer drink. The man, however, was not happy whatsoever with the ruling.

ii) analysis of whether local system effective or creating ‘protection cases’.

As part of the assignment, enumerators were asked to get people to comment of their court cases as well as give their opinion on the process. Some people felt nervous about going to court; others did not realise the seriousness of what they had done until they were in court; others did not feel the court had served their interests. However what is clear is that courts are doing an important job and that people are using the courts and feel as though the justice meted out in both traditional and judicial courts responds to local concepts of acceptable and unacceptable behaviour. Here are some comments:

Bor Town July 2010: Concerning the law, and improving the courts she said ‘these are paramount laws set by people whom [sic] we cannot change’ but she did feel that there could be better time-tabling of cases and that in cases like pregnancy they could be seen by the judge in private rather than letting [in] everyone which could ‘create conflict’.

Lith Payam Oct 2010: courts are playing a role [in cases where] young girls are being stolen or eloped with by a boy of another family [which] has no cows to compensate the girls as a dowry... [then] fighting breaks out between two families or two tribes that have a problem between themselves

[Courts also play a role in] solving cases of divorce... or if the boy elopes with a girl but the girl dislikes him, telling the parents of the boy [so that] it is solved as a case of rape in which the boy should be fined and detained in jail... or cases of adultery [where a man cannot pay bridewealth to have his own wife]

Comparison of County Court’s decisions with Town Court, and Payam Court: (View of enumerator) ‘Of course, there is a huge gap in decisions made in those courts since law books do not exist in all courts, only exist in County and Town Court. This might play an immense role when judges issue verdicts on given cases. I experienced this issue when I recorded those court cases. For example, in both County Court and Town Court in Panyagor, I saw a sitting judge referring back to the Penal code law if it was a criminal case and also quoting them when he granted verdicts.’

<sup>55</sup> The County court is staffed by a trained judge while the town court (*magara*) has a committee of 5 judges (who were being changed in November 2010) selected from each of the different payams and practices customary law. Both though have clerks and keep records. They are both in Panyagor – the *magara* under the trees and the County Court indoors. The county court often refers cases to the *magara* court (also noted in Leonardi et al 2009:35) and both work closely with the police who are armed and therefore able to force people to attend. Above this is the State High court in Bor.

‘And in Payam Courts, in which I attended, I recorded chiefs citing Customary Laws and Traditional laws of which nothing have been written in books whatsoever - only passed from generation to generation orally and chiefs have memorized them. As they granted verdicts, they quoted them a lot. These chiefs are becoming better and better in granting verdicts on civil cases, which reflected ‘*Cieng de monyjang*’. They know these Customary and Traditional laws by heart and as you sit down with them, to test them, you can be astonished how much they can remember, although they are not written in the books. When we compare decisions made in those courts, we can keep in mind that differences in judgements exist whatsoever since decisions still produced in these Payam and Boma courts are no longer up to date.’

Duk County July 2010: ‘There must be penalty to sexual assault cases’... ‘Laws must be enforced for citizens to encourage them reduce the crime [and is the] only way forward this community can assist’.

Jalle Payam August 2010: ‘the courts take control of cases of elopement and pregnancy, separation and divorce until the situations are settled and peace achieved in *dhiens* or clans that are in conflict... the *alama* [chiefs] handle cases... in a community perspective and according to the community laws and penalties’

Lith Payam Oct 2010: ‘If you have a good judge your needs are fulfilled by the court’... ‘for the courts to respond better [one needs to get rid of illegal] money given to the judge... which will talk later to the mouth of the judgement’... If the case is judged by someone who is related to the person who brings the case he will judge you wrongly

People were in general using the system of local courts trying civil cases by customary law. What was not so sure was that criminal cases were being adequately taken care of. These cases should in theory all be tried by judiciary courts but sometimes people prefer the judgement of local chiefs as wrongs are more likely to be compensated rather than ending in a prison term for the guilty party. Criminal and civil cases can often end up in violence and revenge killing between different sections (particularly in homicide and elopement cases and when there are clashes in cattle camps where young men are frequently armed) if the justice system is not seen to take care of the cases in a timely manner so police and courts often react rapidly to avoid an escalation of conflict. The Twic East Commissioner, for example, was moved to make a rapid denial that youth from Twic East had been involved in attacks on Pibor on 15th June 2011<sup>56</sup>. Even with interventions from the authorities though, as clashes in Wangulei described above show, if local people are not happy with the ruling of the court violence can break out anyway.

Leonardi et al (2010:5) refer to ‘forum shopping’ where people can take their case to the structure they feel is most accountable and best understood<sup>57</sup>. As the cases above showed, there are some cases where people feel their interests have not been served. That does not necessarily mean that there is another forum (even within the judicial courts) where individual

<sup>56</sup> Sudan Tribune 2 July 2011

<sup>57</sup> They also show how ‘forum shopping’ has been used since colonial times where young educated boys used the British courts as a way of getting round local marriage regulations; currently large numbers of bridewealth cases reaching court reflects how more couples are cohabiting before bridewealth is paid (Leonardi *et al* 2010:34); this also shows how culture is being continuously contested by local people even without outsiders trying to catalyse the process (*ibid*:26)



rights will be better served. Leonardi et al (2010:6) note that ‘local ideas of legal justice and legal rights are liable to conflict with international human rights norms, most critically regarding women and juveniles’. But they also note that ‘fundamental features of social and economic organisation cannot be modified simply by legislation, prohibition of particular practices or their removal from the sphere of local justice’. Most importantly they conclude that ‘such interventions are liable to set back the cause of human rights and undermine the legitimacy of existing dispute resolution systems, leading parties to seek alternative means of redress, possibly through intercommunal violence or vigilantism’.

What is clear from the cases cited above is that there are cases which are treated in a very ‘humane’ way as well as others where the letter of customary law is followed. Given the potential of some civil cases such as elopement to trigger violence, it is important to understand the role of courts in keeping the peace and representing a recognised and accepted forum for resolving the violence that can cause havoc for the majority of the population, instead of stressing only their failures when it comes to protecting some groups of vulnerable individuals. In some ways the local system with its stress on ‘compensation’ (and occasionally hostage-taking until the compensation is paid) has more potential to redress the damage done by violence as opposed to the NGO and UNMIS tendency of just getting both sides to attend a peace-conference and then not following up the promises made<sup>58</sup>. It is also a local system run by chiefs of limited power, whose credibility has resisted with difficulty the years of the gun and which needs supporting if the young men who still carry guns in this community are to be brought under control.<sup>59</sup>

Nor is it an unchanging system despite its reliance on traditions handed down from the forefathers, and the right of girls to marry who they wish will increasingly be taken into account as one of the most fundamental of individual rights (*ee yic* in Dinka) especially with returnees coming from refugee camps with new ideas. It is now said that, whereas before a man without cows could not ‘own’ his child, some men are going before Judiciary courts to claim children even when they have not paid bridewealth<sup>60</sup>. Another name for customary law is *wel guir baai* (literally the word that arranges the homesteads) and it is a system which is made by consensus and this is a consensus which changes as time goes by. These are not the inalienable rights of Western Human Rights law but much more socially-embedded rights that are earned and negotiated by interactions at a personal level in a social system and can depend as much on ‘behaviour’ as a standard ‘rule’ laid down in customary law. One could argue that the responsibilities that come with rights are felt at a much more personal rather than at an anonymous ‘societal’ level, but then one is dealing with a much less anonymous society in South Sudan than in Western Europe or North America and perhaps accountability to people is more appropriate than accountability to institutions that don’t even yet exist. The local court system thus has the ability to be flexible and to adapt to changing social practice. It should be strengthened and encouraged rather than replaced by a system that operates according to more western legal principals

<sup>58</sup> Schomerus & Allen (2010:78) quote the Aweil North commissioner as saying that ‘it is often unclear who is responsible for implementation and follow-up’

<sup>59</sup> Schomerus & Allen question the usefulness of chiefs in peace-building and describe how undermined they became being unable to provide protection during the war. They see the focus on chiefs as opposed to other levels of local government as part of a ‘fetishisation’ of chiefs – but this denigrates the integral role chiefs play in the justice system or the inability of local government to even be present in most places where chiefs operate

<sup>60</sup> The County Court presided over by a Shilluk was seen [falsely] by the same person as a place run by people who don’t marry with cows

A concluding case describes how the existing system, when it is working well, does protect the vulnerable and in particular those that act in a way that follows Dinka culture, as will be described in detail in the next section, but the courts are sometimes prepared to bend the rules and defy some of the traditional practices and thus has the potential to adapt to changing practices and times:

[This court case was witnessed by the author in Ajwong payam in 1998.] ‘The case concerns a widow with 4 children who had lost her husband on the front. She decided that she did not want to take someone from the *dhien* [lineage] of her husband with whom to have more children [the practice known as widow inheritance] but she still wanted to stay with the *dhien* of her husband. She worked hard and got 5 cows. Then a member of her husband’s *dhien* (*wen ë wunlen* – the son of her late husband’s paternal uncle) wanted to get married so asked the woman for her cows. He then stole a big cow and hid it. At the same time her younger daughter got sick. While away in Panyagor seeking treatment, the *wen ë wunlen* took the remaining cows and hid them – and though he denied doing this, there had been witnesses, so she threatened him with prison. At this stage therefore he confessed but said that his father (the uncle in law of the woman) had given cows for her marriage with her ex-husband and therefore he wanted three cows. She took the case to court, saying that she only wanted the cattle for the maintenance of her children. The court asked why she didn’t want to help with the marriage and she replied that she was *nyop* (weak/vulnerable) with *miith aber* (orphans) but that he was *ril* (strong). In addition the uncle of her husband had paid her bridewealth cows for a girl that was not from his *dhien* but that now that girl was part of his *dhien* he was asking for them back. At this the man felt ashamed [as his behaviour had not been *adueng* or polite]. She said that he would receive his share in good time when her daughters married – the daughters for whom he had not even helped with their hospital fees. The court decision was easily made because she had shown her commitment to the *dhien* by staying within even after the death of her husband and had proved herself by working hard.

### 3.2.4 Culture & kinship:

#### i) description of family/community self-protection strategies:

As Leonardi et al (2010:29) note much of the dispute resolution in Sudan is decided by family mediation according to Dinka tradition (*cieng de monyjang*) that never makes it to the court. The bad behaviour of an individual reflects badly on the whole family, therefore most issues are resolved within rather than exposed to the public glare of the court<sup>61</sup>. They see this as the forum where ‘untold numbers of quarrels and offenses’ are subject to informal mediation and restorative justice. It is not a forum that outsiders could dismantle and rebuild in their own image without destroying most of what makes Dinka society function.

When people act in a way which clearly goes against the way that people are expected to behave, the local court system is often used to uphold the rights of those who have been affected, and restate the behaviour that is expected of people, and which families are supposed to uphold, as the following example illustrates:

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<sup>61</sup> Some women interviewed wanted court cases to be seen in private

‘A young boy wanted to marry but his uncle refused to help by paying one cow to the marriage of the son of his brother until the case was referred to the *buluk* [sub-chief] of that clan. When the *buluk* [sub-chief] realised that the uncle had refused to pay a cow, he referred the case to the *alama* [headchief], where all the issues were discussed until a solution came out, saying that his uncle was wrong [and should] pay 2 cows for the marriage of the son of his brother even if [that left him] empty-handed with no cows’ [*alama* later says that *buluk* should have been able to judge this case as it was a clan matter] (Lith Payam Sept 2010)

Within the customs of *cieng monyjang* there are norms and behaviour expected of family members and rules that order the conduct of family life (such as how many cows go to which relation in a marriage). Behaviour that goes against *cieng monyjang* is frowned upon, while people that are mistreated within the family will be protected as long as they have behaved according to *cieng monyjang*. One could therefore see *cieng* as the rights framework within which local people operate, and family mediation and the court structure as the institutions that protect their rights if they have behaved ‘properly’. Here are a few very selected examples of how it is operating, which show how most problems are addressed at the family level, only reaching the court (as in the case of adultery) when there is a serious danger of violence breaking out with another family (clan), whereby the intervention of the court is needed to mediate between the two families and avoid them taking matters into their own hands.

Jalle Payam Sept 2010: ‘In a case of divorce, if a woman decides to leave her husband, the *dhien* [lineage] tries to convince her to stay with her husband. Sometimes the *dhien* sit down to see the cause of the divorce. If the cause is hunger, they (husband’s brothers) bring a cow from amongst their cows (*wɛɛt bɛɛi* – meaning sons of the household) to feed the child/children. *Wɛɛt bɛɛi* sometimes take responsibility if they see the weakness of the family comes from the side of the husband (their brother)... If she refuses to agree with them, the case can be referred to the parents of the lady to ask in detail why she is ‘misbehaving’ in her family, with her husband and *wɛɛt bɛɛi*. This is done to make the parents of the lady aware of the indiscipline of their daughter in the family and towards her husband’s relatives. They advise the lady according to how they feel to convince her to accept to go back to her husband with a cow of compensation for the husband (*bene möc wääc piou*). If she refuses to listen to her parents’ advice, the *alama* [chief] will judge the case in the lady’s home [village]. If the case is declared to be a divorce, the lady is normally given a certificate of divorce so that she can easily be married to another man as without a certificate the man who married her could be accused of adultery and all children born to him given to the first man.’

‘In a case of adultery, a man who committed adultery can be beaten by the wife’s husband or *wɛɛt bɛɛi* when caught together with the lady and he can be taken to the *alama* [chief’s] court ... and fined with some money or a big bull. Traditionally both the man and the woman who committed adultery could have their buttocks warmed by fire (*ayeke biör liil ee mac*) and six cows released for the husband’s compensation [he also owned any child born after adultery]. A lady who committed adultery can be fined with some money but the husband normally pays that’

‘In elopement cases (*mateeng diär*), sometimes the two parties fight one another... this happens in the case of a lady who has one [suitor] who wants to marry her aside from the man who eloped with her. The parents and relatives of the lady might destroy houses, crops,

beds, home utensils and even take money that they find. All this property, after being destroyed, cannot be refunded or paid back if requested by the parents of the man. They in turn can be arrested and beaten if their son escapes with the girl for some days. This is done so that the boy's parents reveal where the girl and the boy are hiding. [Alternatively] the parents of the boy can take their visitors [the girl's family] to the cattle camp to see their cattle, and thereafter, if they accept the cattle in marriage, a marriage can be conducted in the cattle camp... The relatives of the girl can send emissaries (*dutuuc*) with all the information they wanted to communicate and a male goat can be slaughtered by the boy's parents for these emissaries and a promise of marriage sent [to the girl's parents].

'a man who impregnates a lady can be fined with a big bull for the community leaders who are handling the case and if he refuses to accept the lady he can be fined with a cow and a calf (*amaat thar/ amaat yoomic*)... if he accepts to keep the child he can be fined with five cows for the child payment (*ruök de meth*)... a lady who has been impregnated but goes back to her family is called *ayol yöm/ abeer dhiëc* and she can't be married by a young man so she will be given to an old man for a marriage and the child she carries is called beads (*guet*) and is a form of compensation for the man who married her for her lost virginity. If the parents of the girl did not get a man to whom they could give their daughter, they can decide to stay with her and her child. The child is owned by the grandmother/grandfather and maternal/paternal aunt/uncle'.

Duk County Sept 2010: In the family, the Mother 'acts as a manager... she provides ready food for the family'. The father provides 'security' and 'brings food from external [sources]' ... 'children lack their mother's love in case of separation or divorce since the children are for a man in Duk community'

Anyidi June 2010: some cultural practices still persist 'such as giving of a girl in marriage to a young man who has no cows if there is an agreement between both parents... trusting that they will bring wealth in the future' or *yuir* – 'where you give a bull to a weaker member of the society and he gives you a goat as a guarantee. He will make business with the bull for some time until he is strong and then he gives back your bull'

Anyidi June 2010: 'marriage has changed nowadays compared to the time before the war: people marry with cows and money at present unlike previous times when it was cows only'.

Makuac Payam July 2010: 'there is an increase in the cattle demanded in marriage by which people pay 100 cattle for one wife while before the maximum was 30 cattle'

Lith Payam August 2010: before girls could not choose [their] husband in Dinka culture, but now peace came in and every body have right to choose his right things'

Makuac Payam July 2010: one way of helping the poor is 'by giving them a dowry...by marrying a daughter from a poor family' ... 'money is also used for paying marriage dowry – *thiek weu*. It happens during the sharing of wealth [that there are family disputes over cattle], when the father has 5-6 sons and one daughter that will not bring enough cattle to complete the marriages of the sons'.

The period since the CPA has been a veritable 'marriage-festival' as all the betrothals and promises that had been made in refugee camps are being settled. Obviously as more marriages

are being settled, more new marriages can be agreed, and there has been a generalised restocking and redistribution of cattle amongst different families (although high status families and those with girls will usually be the greatest beneficiaries). With this restocking, the cattle-pool in Bor, Twic and Duk Counties has become an ever greater temptation to cattle-raiders. The two came together during a curious episode which occurred to one of the enumerators:

Kongor Nov 2010: The groom from Kongor was marrying a girl from Duk county from the family of the most senior chief of the Nyaraweng. As the Chief's family was big, the bridewealth had been settled at 43 head of cattle for close relatives, though it was likely that he'd have to give more later. All this had been brokered by the groom's head-chief, his uncles and his father while he sat at the back (and of course there would be a commission for the headchief). The wedding was to take 3 days, but on the night of the first day, the cattle that had been brought together in a family *luak* (byre) were taken<sup>62</sup>. All the men of the family had run immediately to the place but had found nothing except the body of the man who had been guarding them, with a cross placed on his chest. The wedding was suspended. But after a few days, all the cattle had wandered back home to the *luak* and the wedding was able to continue. No-one really understood what had happened but it was suspected that the robbery had been committed by local boys who had either returned the cattle when they saw the markings because they realised they belonged to someone from their own clan or abandoned them because they had not intended killing anyone. While there was no robbery, there was a murder – and the victim was a local headman; but when asked if the family had reported the case to the police or the courts, the reply was negative – for as long as they did not know the identities of the robbers, they could not go to the court and bring a case.<sup>63</sup>

Bridewealth continues to be at the centre of Dinka social and family life. It is the cause of disputes within the family (when sons want to marry and fathers want to take another wife, for example<sup>64</sup>) and alliances between families. The so-called bridewealth (*ghok ruai*) actually means the cows of relationship, and is matched by a reciprocal gesture (known as *arueth* or *alok thok* in Bor) which is given back to the groom's family. It is not what is popularly understood as bride 'price'<sup>65</sup> nor is it 'dowry' though it is often referred to as such (the latter being the transfer from bride's family to groom rather than viceversa). It is the cause of much misery in society (for example for boys unable to marry because their families have no cattle<sup>66</sup> or poor families who have such low status that they must marry off their daughters for only a few cows and have difficulty finding brides for their sons). It is also a means by which families that have no resources can climb out of poverty when its daughters marry. It is probably at the heart of much violence that takes place in Dinka society as it controls access to reproduction (something considered so sacrosanct that there is one word for dying and

<sup>62</sup> I was later told that people consider a *luak* to be less safe than a cattle-camp (*wut*)

<sup>63</sup> Leonardi *et al* (2010:32) note how it is the plaintiff not the state that brings the case. Pantuliano *et al* (2008:57) note how no criminal charges were pressed when 7 Murle were killed in Bor Town's hospital in 2008.

<sup>64</sup> Or when individuals help themselves to the family herd for a marriage in the absence of another family member

<sup>65</sup> 'Bridewealth' is the only English word that adequately describes the 'non-monetary' nature of the transaction [itself a monetary term], but it is only really used by anthropologists. In regular conversations in English in Sudan one can hear people ask 'how much did you pay for your wife' but the Dinka idiom does not have this monetary element. On another occasion quoted above local people refer to abducted girls as 'stolen'

<sup>66</sup> In one interview it was referred to as 'winning [the] tough competition in marriage of women' (Jalle Oct2010)

another word for dying without children, as noted in the footnotes above, which literally means ‘perishing’). It is also, though, the means to legitimise the family unit, protect girls from sexual advances and give rights (and inheritance) to the children within it, and unite different tribal sections that would otherwise share no blood relations and have no disincentive to fight. By paying bridewealth, it becomes the means by which a husband’s opinion is respected and listened to in the family of his wife. It is, and has been for some time, the key battle-ground for young men and women who want to change the way Dinka society operates (an end to arranged marriages, an acceptance of ‘love-matches’<sup>67</sup>) and those that consider it is fundamental to the Dinka way of doing things (*cieng monyjang*). This is a healthy debate that does not need to be driven by outsiders. It is also a debate that will be influenced by the level of access people have to contraception in the years to come. However, no understanding of ‘protection’ in Dinka or other cattle-keeping Nilotic societies is complete without taking into account the kinship links created by exchanging cattle.

ii) analysis of whether local system effective or creating ‘protection cases’.

It appears that women who, for some reason (widowhood, divorce, etc) are caught between the protective structure of their husband’s family and their own family do not get sufficiently protected – and this affects their children too. Others who cannot have a family or who are part of a very small family are similarly vulnerable. There are also clearly parts of the rules and regulations of membership of the local community (and the rights before local courts that this conveys) that would seem to serve some women and children poorly. Other aspects of customary adultery, divorce and custody law seem at odds with the ‘best interests of the child’ as defined in the 1989 Convention on the Rights of the Child.

But given that these events are all occurring deep in the intimacy of private lives, the question is what outside agencies can do. The presence of most International Agencies on the ground is minimal, even those like Unicef or Save the Children that take the CRC as the basis of their programmes. The complexity of each individual story stems from the complexity of social life in general and would suggest the dangers of outsiders intervening when there is no National Social Protection Framework to act as a fall-back if one were to suggest dismantling parts of the existing safety-net with all its self-evident faults. A zealous desire to rid the culture of bridewealth and cattle dependency for example, would bring down most of the local structure that protects the population in general and provides a route out of poverty. Similarly, expressions such as the ‘proper behaviour of a wife’ might seem distasteful or outmoded but must be seen within the context where gender roles are extremely binary<sup>68</sup>. Also families function economically and socially in a context where mother/father roles and the roles of maternal/paternal relations are not interchangeable – hence the vulnerability that affects a family that have lost either the father or the mother. Such different roles are integral to a patrilineal society where cattle are inherited from father to sons - defining the tense rather formal relationship a son will have with his paternal relations and particularly his father from whom he will inherit; this is in contrast to the warm affective relations he will have with his maternal relations and particularly his mother’s brother. With that in mind, the following are some particularly worrying social ‘protection’ situations:

<sup>67</sup> It was said in one interview in Paliu (Nov 2010) that ‘now some ladies are *choosing* their husbands’

<sup>68</sup> For example after they reach a certain age, men cannot collect water or milk cows (ie they become *aparak*- an age group term that means simply ‘cannot milk’); also with housebuilding, men collect the poles and do the heavy work while women collect the grass, and the same applies to farming.

## Forced Marriage

Marriages that are arranged by the parents of a girl or boy without their support are more likely to end in divorce. This is particularly true if either partner already has a 'sweetheart' before the marriage as a few of the above examples illustrated. Arranged marriages in general, have both advocates and opponents, but most arranged marriages are not forced on either party. Forced marriages might be imposed on a girl who has a poor boyfriend because the family does not want to lose the cattle that her marriage will bring in. As there might be other brothers who depend on their sister's marriage in order to marry themselves one can see why 'love-marriages' to a poor boy are not viewed positively by the rest of the family. Sometimes a poor boy will seek to get his girlfriend pregnant to present a *fait accompli* to her parents – though they can call his bluff and fail to recognise his paternity if he cannot pay the *aruwok* cows. This is currently a hotly-contested subject and likely to be the locus of a great deal of change as South Sudanese society opens up to the outside world.

## Divorce

A boy can obtain a divorce by returning a girl to her father and reclaiming his bridewealth. For a woman, it is much more complicated, especially if her own family do not want to repay the bridewealth. She will also be fined for requesting the divorce which seems unfair; she might have difficulty reintegrating with her family, especially if they have opposed the divorce; she will also lose custody of her children if her ex-husband has paid the bridewealth. She might end up neither protected by her own family nor by the family of her husband. Her children might be poorly treated if they have a step-mother who puts the priorities of her own children above those of her step-children. This potentially causes a protection risk. In the long term, though, staying with the father means a boy can claim the right to cattle from the family herd for his marriage, so these custody rules are in his interests as far as inheritance is concerned.

## Bridewealth

One local woman (educated in a refugee camp) criticised bridewealth, because she felt it led to men feeling as though they 'owned' women. It potentially traps women in unhappy marriages if a woman's father is unwilling to return the bridewealth in the case that she has not had any children. Local people were astounded that some marriages were breaking up after 5 children, as this is usually the stage at which the woman has gained authority and respect within her husband's clan and has a bit of independence. However, it is also the stage at which a woman can divorce without her family's approval as they will not have to return any bridewealth (as the bridewealth is more than made up for by the children she has produced). This indicates how much bridewealth acts to make it difficult for women to divorce unless they are determined to court the wrath of their own family. If the children are grown up, there will be less of an issue of having to abandon them with her husband's family.

## Underage Marriage:

The local civil administration in Twic East has been campaigning against this. However, the views of one local woman illustrate how good intentions are not always enough. She said that the 'underage marriage' of young girls that the civil administration was referring to, is not actually underage marriage but a 'booking system' (called *mei ko* or as Howell (1951) calls it '*ce nya mac ko*'), where 5 or so cows are left with the parents while the girl comes of age.

This is designed to stop the girl going off on her own and ending up with a person with no cows. She said this had become more common because of ‘the boyfriend system of international people’ and symptomatic of an era where girls are more worldly than their mothers had been. However, she felt that parents were acting in the long-term interests of daughters by doing this rather than trying to exact material benefit from an ‘underage’ marriage.

#### One sided adultery rules

A wife who commits adultery can be punished, while a man who commits adultery is not. The man who sleeps with the wife has to pay the husband *aruwok* of 6 cows, but there is no fine for a married man who sleeps with another unmarried woman. There is therefore a greater premium placed on the marital fidelity of women, but in some ways this can be explained by the lack of birth control use.

#### Girls being claimed by elopers

In Ajwong payam, local people were complaining that young men were being encouraged to impregnate young girls and then not pay for their upkeep (their mother’s brother would have to step in and take responsibility); however they would re-appear on the scene, in the case of a girl child, when it was time to collect bridewealth.

#### Husband’s custody of children born out of adultery

Automatic custody in divorce cases by legal fathers of children born to their wives – even if they are not the father – seem to go counter the right of a child to be with its biological parents. One of the cases above described an infertile man being able to claim the three children his wife bore through adultery as legally his own (the biological fathers even had to pay a fine). Biological fathers are not even acknowledged when an infertile man asks one of his brothers to impregnate his wife (*lo yut*). While the second case is unlikely to create protection problems, the first case could cause problems with the father mistreating the children if he feels undermined by the adultery.

#### Widow Inheritance

The objective of this institution is to make sure that the children of the marriage remain within the lineage and further children can be conceived if there are few. It seems that there is an element of choice in whether a woman chooses to be ‘inherited’ though refusing will cause tension with the members of her late-husband’s family. There are also issues with a brother just taking the resources of his deceased sibling and not taking care of his wife and family – or else jealousy by his existing family causing the widow’s family to be ostracised.

#### Barren Women

A further scenario in which the difficulties women face are further increased is when she is unable to have children. Men are able to ask a family member to step in on their behalf but this is not the case for women. If the woman is from a rich family, she can have a woman married and impregnated on her behalf – an institution known as ghost marriage. But in general, if she is poor, she will be divorced by her husband and have to return to her own family.



### Conclusion on Local Protection Strategies:

There are clearly some cultural practices that appear ‘exotic’ in western terms, but that does not mean that they should necessarily be assumed to be a ‘protection problem’. There are established solutions within the family for many of the family dilemmas that, in the west, have no established solutions (short of calling on government social protection programmes or social workers); there is also a ‘flexible interpretation’ of customary law based on the particularity of each case. If family mediation does not work, there is recourse to the courts which will try to establish whether people have behaved according to *cieng monyjang* but also whether behaviour has been *adueng* (polite or honourable in Bor Dinka) – whereby shaming mechanisms can achieve what the formal system cannot. The system has some disadvantages in terms of freedom of the individual, but advantages in terms of being a recognised system of resolving disputes which has legitimacy by being handed down from the ancestors. It is difficult to judge whether the former outweighs the latter, but the absence of government in most of the places where these disputes happen mean that it must be recognised as the de facto system that protects people in most cases. Having said that, there are parts of the system where government and local people, especially newly-returned refugees and members of the diaspora, are starting to argue for change and that is a process that can be supported. *Cieng monyjang* is something that is constantly reasserted in most court cases which can continue for days while everyone has their democratic right to repeat in ritualised speech through the court spokesman (*agum long*) their subtly changing interpretation of *cieng*. This is not the system of unchanging individual rights and adversarial litigation in the Western model but a restating and reformatting of collective values (by individuals) that is at the heart of reconciliatory law. This reconciliatory model was seen by an aid worker from an international agency with a protection mandate in Juba as imparting ‘impunity’ and this is perhaps typical of the way local solutions are seen in relation to international law. For this reason, the agency for change must come from inside by people who know and use the local protection structure every day, rather than from outsiders who have a theoretical western template for how things should work.

## 4. GOVERNMENT/ AID AGENCY/UNMIS PROTECTION STRATEGIES (current and recommended activities):

The following section illustrates how the local protection system as described above is supported or undermined by outside actors. It contrasts the support given in the area of security – mainly by GoSS and UNMIS – with the support given by humanitarian actors. It describes the unease felt by humanitarians about restricting their programmes to assisting the majority with services and livelihoods programmes rather than focusing on a minority with protection programmes. Local people, meanwhile, are generally failing to get the protection they need from either GoSS, UNMIS/UNMISS or aid agencies and rely on self-help more than anything.

### 4.1 Government:

#### i) description

Kongor June 2010: The Government (*Hakuma*) helps by providing food in times of drought. Government also sent some armies to see the problems which are going in some areas and deal with it. Government provide medicine to people and government sends some people or troops to provide security to people in places which are in threat.

The GoSS did not take over the administration of South Sudan with a clean slate in 2005. The Civil Administration had started to take shape ever since 1994 with the separation of the Civil Authorities from the Civil Military authorities which administered SPLA-controlled areas. As well as collecting taxes and army recruitment, one of the main responsibilities of the civil authorities – though the County Commissioners – was to ensure law and order. Another responsibility – through the SRRA (and in the SSIA controlled areas the RASS) – was to liaise with humanitarian relief agencies. With the signing of the CPA in 2005, there was therefore an established *modus operandus* which in some ways has not radically changed. There are new people who have returned to Sudan from the diaspora<sup>69</sup>, but many of the old fighters were rewarded with positions in the local authorities even though they lacked training and experience in civil administration. This was probably a necessary repaying of the service that these people had provided but it meant that the civil administration was for a long time bloated, full of ghost workers and lacking the experience necessary to face the challenges of rebuilding south Sudan. Development agencies such as UNDP were more than willing to provide some of this expertise, through secondments and capacity-building but the end result was to produce relations with outside agencies which left GoSS rather ‘beholden’ despite GoSS receiving most if its funding from the wealth-sharing agreement in the CPA. Nor has it resulted in a government that, on the eve of independence, is capable of surmounting the development and security challenges facing South Sudan without outside help.

In some ways this was not much different from the days of Operation Lifeline Sudan. The Government lacks the infrastructure to provide services to the people so need aid agencies, and are thus perhaps less critical of the performance of agencies than the new era would merit. Besides, it allows GoSS to concentrate on their major concern – ie security. This means making sure that veterans are taken care of, current soldiers paid, potential rebel factions re-

<sup>69</sup> For example the Commissioner of Twic East Dau Akoi who returned from Australia

absorbed and building up army capacity should there be a return to war. When possible, it also extends to building up the capability of local administration and rolling out coverage of the judiciary, but both these areas have been slow to take off – with the Local Government Act only signed into law in 2009 and a lack of trained judges slowing down establishment of judiciary courts. As a result, administration and justice have had to rely on the old system of traditional chiefs, while local security has been left in the hands of a nascent police force that does not yet have sufficient number of trained policemen to ensure safety. Jonglei State Governor Kuol Manyang indicates that of the 8000 police and wildlife forces in the state only ‘2000 to 3000 have guns’ (UNMIS 12 May 2011). The SLPA/SSAF have become more concerned with issues of national security than local issues. Schomerus and Allen (2010:62) describe the GoSS’s ‘reluctance to involve the SPLA at the local level as it could prove counterproductive for the army by exposing the SPLA’s inner tensions’. The same view was expressed in an interview during the current research, and the importance and difficulties of building up a ‘national’ army must not be under-rated. Saferworld (2010b:9) also note that ‘SPLA forces are not being used for the protection of communities against predatory groups’ and that ‘communities are thus left vulnerable’. Attacks take place more or less with impunity, with insufficient security protection to prevent them and local courts not having the authority to follow-up cases across County boundaries. It is therefore no surprise that people should take the law into their hands and make revenge attacks, thereby escalating the level of insecurity. This is now a serious concern of the government but their ability to ensure internal and external security is seriously stretched – both because they are a relatively young administration and because many of its fighters (at least the ones I saw returning from the battle with General Athor in Jonglei) are old and tired.

ii) how local people see help received (success?)

Kolnyang Payam June 2010: ‘there is no communication completely with those in charge. This means that our safety is not protected, [there is] no relationship with the security forces, they treat us badly in case we raid our enemies and there is no policy that those in charge have for dealing with insecurity in the area.’ [He recommends] the government of southern Sudan to be more serious on the case of the disarmament process (not to disarm one tribe and leave the others).

July 2010: ‘Misuses of power by leaders in the government and others who are applying military rule rather than democracy, which many lead to a split of the [movement] into many parties - hence opposition and other parties can have a chance to challenge the ruling one which can also lead to rebellion by some leader which are being oppressed in the ruling government’

Makuac Payam Oct 2010: ‘our community is still in the poorest life since the signing of the CPA; we do not see any change from our government and people; there is peace but there is war [within] the civilians’

Given what has happened with General Athor, the comment from July should be taken into account even if that does not mean they justify his rebellion. As for the impact of government in preventing insecurity, one person in Bor put it that ‘people know where the government posts are, so can just attack elsewhere’. In other words the government cannot be in all places at all times, and given the number of people carrying weapons and the size of Jonglei state,

neither the army (which also has external security concerns) nor the police (which are limited in number though they are generally liked) have the capacity to patrol the whole state<sup>70</sup>.

iii) how relates to own strategy

Jalle Payam July 2010: “*kuär kuo a ke ye roth muk au yike roth dop apieth ku ka ke ken piyi, ye ño ye pioc gam koc*” – (Our grandparents knew how to live well, they used to behave well, take care of themselves – but they were not educated nor did they know the importance of education) ‘if government don’t grant help or improve our education system by constructing more schools or increasing the teaching staff by training more teachers we don’t mind as we have land and soil for cultivation if the government improves the security of our communities’ – primary 6 schoolchild [teacher?].

“It is good if our children do not go to school as they will help us in keeping the cattle, goats and sheep that we have at our homesteads, while we do other things for survival such as digging and cultivation of crops and building of houses”

Lith Payam August 2010: ‘Police are actually trying to assist in time of insecurity and came to be involved in fights and some of them are killed with the civilians; GOSS has not employed so many police around the community so it would be better if the policy was for many to be deployed around some of the Payams’

The first comment illustrates the long-standing importance of ‘self-help’ in local communities – which has always extended to ‘self-defence’. However, the escalation of the level of fighting during the war and the asymmetric disarmament following it, has left local people unable to defend themselves and yet unable to rely on government to provide security.

iv) how could govt do protection better

Duk County June 2010: Govt: recommendations:

1. Disarming communities with illicit arms, especially Youth from neighbouring communities
2. Introducing local community policing and crack down of those who abduct, raid and kill innocent people at large in each community.
3. Empowering police forces to pursue law breakers
4. Those found guilty should face a sentence or long term to jail to discourage killing and attacking neighbouring people
5. Government must do some workshops to discourage hostilities
6. Opening up some projects will reduce poverty to the population and hence creating employment. For instance, livelihood activities, extension of workers, should be trained in opening polytechnic schools and to engage youths for self-reliance.
7. Digging and building dams to avoids water conflicts
8. Government must build permanent roads linking all neighbouring districts to enable them to carry out business and this will significantly enable them to live in friendship.
9. Government can give loans to enable youths to get capital to start proprietorship for businesses.

<sup>70</sup> Small Arms Survey (2007 :6) call the SPLA ‘overstretched’

<p>Makuac Payam June 2010: wishes that the authorities would be concerned with ‘1) Security in the urban and rural areas... kidnapping of children on way to school 2) basic attention to cattle keepers as it is an economic activity for illiterate people</p>
<p>Jalle Payam July 2010: ‘Government should give guns to the communities for security purposes or else government should provide police in every boma to secure people... Government should create more activities for the youth to be involved in to reduce the rate of cattle-raiding.’... ‘we contributed our cattle and mobilized our children to join the SPLM yet the government don’t appreciate us’... ‘we express our grievances to one another [but] there is no freedom to speak in public or to government’.</p>
<p>Lith Payam August 2010:</p> <ul style="list-style-type: none"> <li>-By mobilization of some youth and arming them</li> <li>-Creating of awareness information about the insecurity</li> <li>-By requesting government to arm community police and deploying in every Payam</li> <li>-Government bringing some of troops of soldiers from the state level to the places where the insecurity is occurring to secure the situation of civilians in the particular payams</li> </ul>
<p>Lith Payam Sept 2010: recommends ‘deployment of security forces in the most effected areas... deployment of local trained police in target places such as <i>apiir</i> , dams and wells [to prevent the enemy attacking]... ‘there must be armed youth in all the payams [that can be deployed] around the communities... local government need to train some of the youth to become police and give them guns which will prevent communities being afraid...</p>
<p>Kongor Payam Sept 2010: ‘It would be better if Government can bring in arms to the people so that they can distribute them to the right people’... [However someone else replied] “Having guns is something that is not good. You see, people can get drunk and shoot themselves up”.</p>
<p>Jalle Payam Oct 2010: ‘over-crowded grazing areas needing creation of more pools (<i>geem</i>) and allocation of cattle camps by local authorities’</p>

It is the role of the GoSS to protect its people: in fact not only is this its role but it is part of its function – and more than a few people within the government recognise this because they see delegations every day requesting better security. They are also sometimes intimately involved in local power struggles and the creation of ‘ethnic fiefdoms’ according to Schomerus and Allen (2010:38). For the government, this is a role for which they are accountable to an electorate (which is not the case with UNMISS) so there is political importance attached to being seen to take the security of one’s constituents seriously though that does not necessarily extend to the rights of neighbouring constituents. There are, of course, other yardsticks on which governments are judged politically, and, amongst others, these include the treatment being meted out to the most vulnerable political constituencies. These are groups that are sometimes considered to be the constituency of international human rights and humanitarian organisations, but it should not automatically be assumed that this is either in the best interests of these people or the best interests of the country. Nor should it be assumed that these groups are vulnerable because they are being oppressed – rather than simply being vulnerable because they are living in a place which is suffering the effects – both economically and politically – of over 20 years of war. It is also important to recognise that a society that does not take care of its own vulnerable individuals is not a fully-functional society, so aid

agencies should be working with local structures and local society, and with the majority rather than just focusing on the marginalised. The whole country needs peace, time to recover from multiple personal traumas and strength to cope with the cultural dissonance of being thrust into the modern age after 20 years of isolation and frozen traditions. Until the basic structure of the state and security is in place, there is little sense in carping from the sidelines, though in an ideal world it would be preferable to build up the state, the accountability mechanisms, freedom, democracy and rights all at the same time, and have them function efficiently right from the start.

#### Government/SPLA as source of threat?

Protection analysis includes, as the quote from Jaspars et al (2007:17) above described, an assessment of the ‘type and pattern of abuse’ that is practiced on different risk groups. For Sudan, Keen (1991:163) argued that donors need to examine ‘the local structures that shape famine’. The current interest in protection stems in part from a desire to engage with the factors behind complex emergencies and not just to treat symptoms. Despite the danger identified by Macrae (1998:16) that ‘peace-building’ activities risked becoming politically-driven rather than ‘politically-informed’<sup>71</sup>, there has been overpowering pressure from many directions to get involved in what Duffield (1998) sees as a political vision of conflict management and liberal democratic transformation. This threat was identified when the SPLA was (unfairly) blamed by the international community for the 1998 famine in Bahr el Ghazal (see Harragin 2004). Articles in 2011 in the Washington Post (March 8), AP (March 11) and Christian Science Monitor (March 15) appealed to UNMIS to hold the SPLA accountable for civilian casualties in the fight against General Athor. A recent article by Refugees International urged ‘the Security Council as well as bilateral donor governments to condition security sector assistance on the SPLA’s respect for human rights’ (Refugees International 2011). Clearly UNMISS needs to hold GoSS accountable for its responsibility to protect civilians, and UNMISS must not be seen to side with the SPLA/SSAF<sup>72</sup>; The GoSS is not a model of liberal democracy, but UNMIS was not going soft on its mandate when it omitted to engage in a kind of ritualised criticism of the SPLA (in fact that would be an easy role for the Khartoum-based UNMIS to play and criticising the SPLA would have allowed it to adopt the default position of most peace-keeping missions and blame both sides<sup>73</sup>). The SPLA/SSAF is a rather easy target given that it still resembles more a rebel army rather than the national army of independent South Sudan and thus suffers ill-discipline, internal splits and lack of training. However, UNMIS in general avoided identifying the insecurity in South Sudan as the result of ‘abuse’ by the SPLA: not providing security perhaps, not being able to absorb the political ambitions of competing warlords perhaps but not the root cause of the insecurity especially in the areas studied for the L2GP.

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<sup>71</sup> See Collinson (2000)

<sup>72</sup> UNMIS was accused of acquiescing in a so-called no fly request by the SPLA when they were going after General Athor (AP 2011).

<sup>73</sup> In fact this ‘sitting-on-the-fence’ is the default position of almost all outside actors including the current author either because we lack the knowledge and insight to actively take sides or are being scrupulously neutral.

## 4.2 Aid agencies:

### i) description

Duk County Sept 2010: ‘the government put down the structures that protect and provide peace and unity among the community members... [and] protect people from external enemies’... ‘agencies provide services wherever [there is] need from the community eg shelter, food, safe drinking water, medical care etc’
Kolnyang Payam August 2010: “I would suggest that International Organisations should always take quick actions because local people say that most of the interviews have been made [ie the talking has been done] and no improvement happens in their lives”
Kolnyang Payam July 2010: CRS built a maternity clinic in 2007 at payam HQ and, though it is still functioning, ‘services are inadequate due to lack of motivation for skilled workers’ ‘they are not salaried’. SMC/UNHCR/ADRA built PHCU’s from 2008-2010 in Pariak, Malual Agoorbar and Cueiker ‘but there are no qualified doctors due to lack of motivation’
Kongor Payam Sept 2010: “[There is a ]lack of ‘seriousness’ now in construction of certain schools in the Counties or in other academic institutions in the country such as in Duk County, particularly in Pajut, etc. Some NGOs are not serious because they are slow in the speed of construction: It would be better if they can speed up the construction when they [have] started so that they can finish their projects on the schedule” ... “Most of NGOs are headed by ‘foreigners’ which is challenging to the government; so we expect NGOs to be led by local citizens because they are located in Sudan and natives need representation since they can speak the local language.”
Ajwong Payam Sept 2010: Construction of health centres: ‘it happened that some of the hospitals were built with inferior materials and even in some places no health centres were built’... ‘with road construction, some of the roads were constructed with soil, but not built with ‘murrum’ so they used to get ‘soggy’ with water easily’... “as for the regional [peace] conference: It happened that a peace conference was done only in some places while leaving other areas without a conference”.

The objective of this section is to describe humanitarian practice rather than humanitarian principles. In practice the compound where most of the work for this study was carried out contained 3 broken-down Toyota Landcruisers, a solar power system that wasn’t working, a generator that was about to pack up (borrowed from another NGO), Thurayas with no credit and non-functioning Codan car radios. In practice that didn’t prevent the organisation from functioning as there were two cars which did work, there was still fuel for the generator and security rules were not so strictly implemented that travelling without communications was prohibited. But the ability of organisations to adapt and make-do does have limits. In practice the activities of aid agencies in Sudan are characterised by huge turnover of staff, poor co-ordination between agencies and a lack of capacity faced with the enormous development

challenges of South Sudan<sup>74</sup>. This leads to highly piecemeal interventions that show precious little long-term impact once the funding cycle has come to an end. Responsible positions are invariably filled by foreigners and the only institutional memory of the organisation resides in the lower echelons of organisations with long-term Sudanese staff who have no decision-making power. This condemns organisations to keep proposing the same kinds of projects even if they have been seen to fail<sup>75</sup>, and not establishing any long term trust with local authorities nor building up any momentum (inertia is more of a problem than termites in Jonglei!)<sup>76</sup>. When asked what kind of interventions aid agencies should carry out, local people (including local authorities) feel it is safer just to propose more of the same rather than risking saying what they really need as this might cause aid agencies to leave if they cannot get funding or expertise for that kind of intervention. When asked to critique agencies, they focus on the quality of the building materials rather than whether agencies have chosen the right kind of project. And, despite a seeming plethora of organisations, they do not want aid agencies to leave as local people depend on them as much for jobs and internet connections as the programmes that they carry out. For this reason the following analysis is supplemented by the author's direct investigations as well as local views.

It has already been mentioned how local people appreciate concrete interventions such as the Twic East Dyke or building schools. They also have no trouble seeing aid agencies as providers of services though aid agencies would have more trouble seeing themselves as 'utilities' or 'services' – accountable for providing a minimum quality of service to an outside body and sanctioned for non-compliance rather than being self-policed<sup>77</sup>. In Sudan at least most would refuse because none would pass the test. There are usually valid excuses so agencies prefer to be judged on 'process indicators' rather than 'output indicators'. In Twic East for example, CARE built the clinic in Paliu but the government is supposed to supply the drugs. In two visits in 2008 and 2010 there were no drugs available (in 2008 that had been the case for the past 5 months) and people were told to purchase them on the market. This is not necessarily the fault of CARE, though they could be accused of having unrealistic expectations of how such a 'partnership' would function especially regarding who funds what. Health staff though were on hand as CARE was paying allowances. The State government in Bor was supposed to undergo a process of payroll rationalisation so that they would be able to pay staff but this had still not happened and CARE only had the funds to

<sup>74</sup> In Bor, the UNDP post as head of police has been empty for six months according to a colleague. The same person described how UNPOL are taught the art of visiting a police station, signing the register and then going back and picking up their DSA without completing any work. As UNPOL's role is capacity-building rather than deployment, this will not greatly increase Sudan Police Service's capacity. UNMIS were also on the point of handing over the Stock Patrol Unit to SSPS – further reducing their deployment capability.

<sup>75</sup> See the book title of Terry (2002) *Condemned to Repeat? The Paradox of Humanitarian Action*. NY: Cornell

<sup>76</sup> The 5th Jonglei Jonglei Rule of Law Meeting was opened by the State Minister of Legal Affairs and Constitutional Development with the words 'It seems as though we are just starting out here even though we are 6 years into the CPA'. His introduction was followed up by a presentation from the UNDP Rule of Law Officer who had been in Bor for just over 2 months (but had been in Malakal before). The recurrent theme of the meeting was that 'all this needs to be taken to the payams' rather than being discussed in the State Council of Ministers Hall

<sup>77</sup> It would be almost impossible to make agencies accountable for their failure to protect people's rights to basic needs in situations of conflict where factors beyond their control can 'legitimately' be claimed to mitigate their failure – but only local people can gauge whether such justifications are legitimate and whether security levels that are often issued from UN headquarters are appropriate. Aside from security, agencies can also claim that they are not solely responsible, and that poor co-ordination between different agencies involved (which is difficult to pin on any one side) was to blame (see also O'Callaghan & Pantuliano 2007:14 about a 'lack of nucleus of responsibility'). In fact only prickly 'host governments' seem to be able to apply much leverage over agencies, though usually the sanction only applies for agencies that have offended them (often for exposing human rights abuses) and who they ask to leave the country.



keep paying allowances until November 2011. Given that the government are stretched and has the major task of providing security which is far from being achieved, one needs to ask whether aid agencies should have access to contingency funds to ensure that services function how they are supposed to. Beyond this, in poor remote locations, agencies should be prepared to play the role of service provider that the community sees them as playing and be accountable for providing a minimum quality of service.

One reason why this is difficult for aid agencies is the insistence (seen in the quote above about Peace Conferences in Ajwong) that the same services are provided to each payam. This reflects the fact that a place like Twic East - while being populated by one group, the Twic Dinka – is divided internally into different sections which compete amongst themselves. Even within sections there is competition and such competition can be violent (as the fighting in Wangulei described above illustrates). It is, thus, one of the political priorities of the government to try to make sure that there is parity of service for all payams (as well as between Twic East County, Bor County and Duk County<sup>78</sup>). NGO's have been told by the local authorities to provide coverage of all payams and have been told to set up their bases in different payams for improved service and to allow local people local employment possibilities (NPA in Nyuak Payam, LWF and Save the Children in Kongor payam, CARE and JAM in Lith Payam etc). This kind of territorial coverage means that there is rarely overt competition between agencies as there is plenty of work for all of them, but their projects are spread very thin and it makes it difficult to co-ordinate activities and avoid duplication (as agencies sometimes end up running the same kind of programme for different areas). It also means that they do not shame each other into performing better or allow the donor to chose between the more effective of the two agencies in the same location.

ii) how local people see help in providing protection:

Kongor Payam July 2010: 'For Safety purposes, NGOs have no authority, but NGOs can provide transport when asked by community leaders. Of course, on other issues such as livelihoods and rights of people, NGOs are doing their best.

'For security/safety of people purpose, NGOs are not effective since they do not have role in providing protection. There have been multiple instances, in which NGOs did not help people on the side of safety whatsoever'.... The interviewee felt that NGOs are not capable of ensuring safety, protecting the livelihoods and rights of people should the country return back to war. 'NGOs can't do that, but only the Government can do that, since they are just operating in the country to sustain people's lives. This is not enough. For instance, there have been some examples in which NGOs heard of insecurity in an area, but did not provide protection, but only came to evaluate.

iii) how relates to own strategy

Jalle Payam June 2010: ' International organisations 'didn't help people's safety, livelihoods or rights because they said they don't have a source of protection with them but the community provided protection to them by guards. They also said security belongs to the government not to them. They said they don't have enough finances to help them provide security'.

<sup>78</sup> This is usually unsuccessful as agencies have tended to congregate around the State capital

One man said (*a propos* of cost sharing) ‘we can’t give these few cattle that we have [to provide services] as they are for the marriages of our children, feeding of our babies during absence of food and as the source of our prestige – not to be used to build schools, health centres, shops and better houses which is contrary to our beliefs.

iv) Analysis of how agencies could better aid protection

Various agencies (including ICRC, Unicef, UNHCR, OCHCHR) have mandated protection roles (Actionaid 2009:28). However many other agencies have recently entered the field of protection<sup>79</sup>. They do not all, however, understand ‘protection’ in the same way. The most commonly-used definition of protection, originally adopted at a 1999 workshop of the ICRC (ICRC 1999) and used by the Inter-Agency Standing Committee (2011:5), O’Callaghan & Pantuliano (2007:5) and Actionaid (2009:15) is:

‘all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (ie HR Law, IHL, refugee law)

O’Callaghan and Pantuliano note how this definition focuses on the legal entitlements of citizens, rather than ‘the threats that civilians face (protection from what?). This is why this study has emphasised the local view of the threats from which people need protecting before coming round to engaging with the way humanitarian agencies define and provide protection.

Even with this agreed definition, DuBois (2010:3) sees ample room for confusion in the different meanings given to the term: it can be ‘protection as a legal framework, protection as a set of activities to promote respect of that framework and protection as activities designed to stop violence’. He says that [humanitarian agencies] have ‘lost sight of the fact that protection of civilians during periods of violent crisis (in the sense of providing physical safety) is not our job’. In Sudan the presence of UNMISS means that is doubly not the job of aid agencies to provide the physical safety that people are crying out for. That does not mean that there are not overlaps – with UNMISS undertaking a certain amount of humanitarian work and aid agencies concerned with various issues of safety and security. But in general, it is UNMIS who need to address local requests for improved security.

Du Bois uses the example of a man being attacked in the street, and asks which of the following would be considered ‘protection’:

1. Run across the street and stop the attacker.
2. Keep walking. Lobby for better street lighting.
3. Run home and write down everything you witnessed as a report for publication.
4. Visit the family of the victim to offer replacements for torn clothing.

While this somewhat simplifies a complex debate<sup>80</sup>, it clearly illustrates how all four can be seen as part of ‘humanitarian protection’, while outside the humanitarian world, the man or

<sup>79</sup> Staff of DCA explained how donors are pushing for a ‘protection component’ to DCA’s watsan programme and were therefore keen that I explain to them what that meant. As Dubois (2010) puts it: ‘the humanitarian community, with enthusiastic support from major donors, has gone about building a protection bureaucracy’

<sup>80</sup> And perhaps confuses ‘defend’ and ‘protect’

woman in the street would invariably see only the first as ‘protection’ and might see the others as not protection at all – ie that the real meaning of the word ‘protection’ had been lost. In the end therefore concentrating on ‘humanitarian’ protection ‘may contribute to undermining the rights of people [the Protection of Life as defined in the Universal Declaration of Human Rights or the obligation to spare civilians in the Geneva Conventions for example as well as the humanitarian imperative to deliver food, water and healthcare] while trumpeting the value of a protection-based approach’. DuBois contrasts the protection that people need with the protection that people actually get from humanitarians and identifies the gulf between the two. This mattered, he continues:

[because ] the illusion...that crises were being dealt with, camouflaged the lesser truth that they were being dealt with only superficially. Yet it now seems that, having delivered the message that aid [eg reliably delivering food relief] is not enough, we humanitarians have substituted a specialised notion of protection of rights for actions designed to provide *directly* and forcefully for the safety of people. We have seized upon the language of protection, colonised it and made the calculated decision to recast even the most mundane of aid activities *as* protection. The provision of a blanket takes on the garb of protection work; distributing sacks of corn flour equates to protecting people’s right to food [and appearing to tackle the root causes of food shortage rather than the symptoms]. (DuBois 2010:3)<sup>81</sup>

O’Callaghan & Pantuliano (2007:18) found in their fieldwork that there was ‘a high degree of confusion about protection and how it should be approached’. One of the difficulties of implementing protection is the lack of definition about whether one is protecting people from internal or external abuse. However, there is enough distinction such that the role of humanitarian agencies in security can be seen as an observer, well-placed to advocate for improvements in the performance of UNMISS as the entity aside from GoSS with the mandate appropriate mandate, but from a neutral perspective.

So if local people are crying out for physical protection that should be supplied by GoSS with the assistance of UNMIS, does that mean that humanitarian agencies should be concentrating on the basic humanitarian inputs or ‘protection’ defined as the activities aimed at obtaining full respect for the rights of the individual in accordance with human rights law, International Humanitarian Law and Refugee Law? Perhaps the answer is that it is not an either/or issue. There is clearly a role for the mandated agencies to continue fighting for protection defined by humanitarian law (with each one having a slightly different niche). Some agencies have the machinery and experience to deal with the intensely political repercussions that confronting abuse produces (Jaspars et al 2007:21; O’Callaghan & Pantuliano 2007:19); but there is also a need for neutral humanitarian assistance that is just humanitarian assistance not dressed up in a protection garb<sup>82</sup> - what DuBois (2010:3) refers to as ‘distributing sacks of corn flour that equates to protecting people’s right to food’. In other words, if agencies are not carrying out their existing roles competently, moving into ‘protection’ (and particularly second-order protection rights) defined in accordance with human rights law is just ‘mission-creep’ rather

<sup>81</sup> In one interview as part of the current study a person stated: ‘In particular WFP do provide food to returnees and vulnerable – that is their great support in protection terms’

<sup>82</sup> It is not a time for bean-counting in Sudan but a time to continue investing assistance so that some of it sticks and acts as the framework for more sophisticated future programming. Even a generous relief package, rather than one which is meagre based on the illusion that all is now fine in Sudan, builds up a buffer zone around people’s livelihoods which while not strictly ‘protection’ in legal terms, give people ‘margin’.

than improving their performance<sup>83</sup>. Neither is this doing ‘protection’ nor humanitarian assistance any good: ‘protection’ needs to remain a clearly defined ‘legalistic’ concept carried out by qualified agencies rather than become a ‘catch-all’, while humanitarian assistance needs to remember the humanitarian imperative, its imperativeness and doing its job better. ‘Protection work’ needs an understanding of local society and culture that very few outsider organisations have so they should concentrate wholly on that rather than have protection as an ‘add-on’ to existing programmes. Both would be helped by being made more accountable to what people actually need and should have the ‘right’ to expect. Instead they rely too much on assuming the humanitarian definition of ‘protection’ to be a universally-understood concept.

A statement by a child-rights agency in the run-up to the referendum put it that ‘all actors must uphold the rights of children to receive humanitarian assistance’; as such this message derives from the agency’s institutional interest in children, but the focus on children should not be allowed to distract from the rights of *everybody* to humanitarian protection by just concentrating on one institutional constituency – above all with an event such as the referendum that could have had security implications for all. During the same period, the agency’s response to northern returnees coming back to Lakes, was to create ‘child-friendly spaces’<sup>84</sup> and conduct workshops on Child Rights and child protection (because South Sudan is a different context from the North according to the Assistant Manager who ‘appealed to the local community to be hospitable to returnees’). This emphasis on Child Rights programming contrasts with the emphasis on helping children ‘in the context of their families and their communities’ which was current in the same organisation in the early 1990’s. It is difficult to oppose the idea of child rights, but as one lawyer in Bor said in February 2010, ‘I agree with stressing child rights but could we please try to address the issues I face every day when I go to court (eg lack of trained judges)’. In the same meeting, the head of the Community Safety and Arms Control added that ‘we know that if we don’t take care of our children we will be accused by our neighbour’. Such an emphasis also goes against the concept that the majority of people should be trusted to bring up their own children even in poor countries - and that poverty and insecurity should be identified as the main enemy rather than local cultural mores. Like much of the rights debate, there is a cultural confrontation taking place behind the veneer of polite universal values<sup>85</sup>. Encouragingly, though, the former statement stresses child ‘survival’ rather than just child ‘protection’ so the prioritisation in terms of first-order and second-order rights are correctly weighted<sup>86</sup>. O’Callaghan and Pantuliano (2007:10) note how Unicef moved from a focus on child survival to one on child protection with the adoption of the Convention on the Rights of the Child in 1989, and conclude:

‘Institutional prioritisation of certain vulnerable groups, such as women and children, is ...problematic as it distracts from a wider analysis of risk. Protection activities that focus on the population as a whole, rather than on the most visible victims, have barely begun’ (O’Callaghan and Pantuliano 2007:13)

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<sup>83</sup> As is UNMIS work in schools

<sup>84</sup> The author saw the Child Protection centre in Mareeng in Duk County – a container on blocks with a big padlock.

<sup>85</sup> O’Callaghan & Pantuliano (2007:13) note Save the Children’s definition of protection as ‘freedom from violence, injury or abuse, neglect, maltreatment or exploitation

<sup>86</sup> If the 1948 Universal Declaration is not being enforced, it makes enforcing child rights difficult – and saying it is just about a humanitarian division of labour makes precious little legal sense as the CRC stresses the rights of children to be protected from armed conflict

A slogan of Lutheran World Federation<sup>87</sup> – ‘Upholding the Rights of the Poor and the Oppressed’ – is another, of countless possible examples, where aid agencies have taken on board protection analysis (monitoring and reporting rights violations), and applied it only to the ‘oppressed’ minority rather than concentrating on their humanitarian imperative towards the more humdrum ‘poor’ majority and the way their rights are being threatened by hunger and insecurity<sup>88</sup>. One local person in Kolnyang payam asked *a propos* of abduction:

“If there are human rights, that includes the right to produce your own child; then why is it that we are producing children [for] the Murle?”

Another man, in an interesting twist of roles, asked why ‘if human rights law [actually the US declaration of Independence] says all men are created equal, then [why should] aid agencies give their assistance to certain vulnerable individuals rather than sharing it out equally?’ If this is because they are trying to find convenient constituencies of operation because they don’t have the means to address the needs of the majority, this needs to be made more explicit. Also if aid agencies are trying hard to ‘do no harm’ (such as to avoid creating a dependent population<sup>89</sup>) they need to be sure that the policy debates taking place far away in Western capitals are actually true in practice rather than in theory and are relevant locally and do not distract agencies from the provision of basic humanitarian services<sup>90</sup>.

‘Protection’ can only become accountable when the rights enshrined in human rights law are actually ‘rights’ – to be protected by mandated duty-bearers who will be subject to sanction if they do not carry out their duty to the letter of the law – or are actually universal – where they are implemented in the same way everywhere. Responsibility to Protect (R2P) has legal status through Resolution 1674 of the security council but it but is limited to the four crimes of genocide, crimes against humanity, ethnic cleansing and war crimes (Williams 2010:20). O’Callaghan and Pantuliano (2007:17) note that ‘humanitarian agencies might not have the requisite skills or capacity to be involved in specialist protection programmes’, though that also depends on whether they are involved on the side of rights (in which case they must be prepared to refer to ‘legal entitlements’) or more practical aspects of ‘safety’ (*ibid*:24). As agencies often do their work in areas not subject to the rule of law, where international agreements are ignored with impunity by non-state actors, it is not correct to claim that what people have are ‘rights’, they are just vague objectives for the future. The same applies to humanitarian relief, which, in spite of IHL, is so deeply associated with the concept of ‘charity’ that to call humanitarian assistance a ‘right’ as opposed to a ‘gift’ is dissimulation<sup>91</sup>.

<sup>87</sup> Other LWF project documents talk of commitment to ‘gender, human rights and good governance’

<sup>88</sup> This analysis leaves unanswered the question ‘oppressed by whom’, for the implication of portraying aid agencies as the saviours of the oppressed is that it leaves the role of local leaders, local men, local customs as being uniquely oppressive – a patronising and reductive simplification of complex reality for the sake of a fundraising mug slogan.

<sup>89</sup> See Bailey & Harragin 2009 for a critique of the idea that aid is creating dependency in Sudan

<sup>90</sup> It is difficult to distinguish between an agency that ‘downs-tools’ in order to avoid supporting a warring party, an agency that become so introspective in trying to avoid child-abuse by staff that they have difficulty functioning on an everyday level or one that does nothing because of massive diversion of funds. While ‘abdication of responsibility to protect’ would seem to have a legal imperative, ‘do no harm’ has a moral element often requiring complex moral decisions on what the greater of several harms (say for example disarmament) might be (and the intentionality of the person doing harm and whether it might just be harm to the reputation of the agency) and who is doing the defining. In some ways this explains why ‘Do no harm’ has been more popular than R2P. It also explains how the Global Centre for Responsibility to Protect (2011) can issue an update for Sudan that is more a lobbying document than a legally-binding report of failures of parties’ R2P obligations

<sup>91</sup> In some ways humanitarian assistance is also a ‘privilege’ to be earned by appropriate behaviour rather than a service that the humanitarian imperative dictates that agencies must deliver to all-comers (even oppressors).

For if that were the case, it would imply that humanitarian assistance actually belongs to the beneficiaries as their right in a real rather than symbolic way and that would amount to a tectonic change in control over the process and imply an duty to act (Darcy & Hoffman 2003:24 quoted in O’Callaghan & Pantuliano 2007:8). That would also require minimum standards to be reduced to a level that is could be implemented and for which they will be held responsible, but accepting lower standards would also expose how little aid is currently achieving on the ground and this would have a disastrous impact on the Western public’s perception of humanitarian aid. So it seems likely that the protection discourse will not be subjected to real accountability but exist for its rhetorical power in western capitals, though this should not be the case. Also agencies will most likely give in to the pressure to implement protection programmes because donors are asking for them to do that. O’Callaghan and Pantuliano (2007:1) make this stark warning:

‘Pressure to engage in protection has led many agencies to deploy protection officers to emergencies, but without clear institutional policies and guidance and with little success’<sup>92</sup>

At a local level, agencies will need imagination and lateral thinking rather than prescribed ‘identikit’ solutions from head office, in order to have programmes that run in parallel with local people’s own strategies but without seeking to co-opt or replace them<sup>93</sup>. They will also have to accept that in trying to make use of local mechanisms, they might well find the whole edifice collapses as it loses local ownership<sup>94</sup>. In order to make people safer, Oxfam’s report from DRC advocated ‘supporting access to livelihoods’ (Oxfam 2009:35). In Sudan, the safety of the people is intimately linked with the safety of livestock, and livestock play a fundamental role in the lives and livelihoods of the people. International agencies have underestimated the role of livestock for too long, and by systematically downplaying these roles, failed to understand why it is both the source of much insecurity and the social lubricant that keeps the society working. In terms of protection though, the current study would recommend that protection remains the domain of the current mandated agencies and that they be held accountable to their legal mandates while other agencies be held accountable to the humanitarian imperative to address the livelihoods insecurity that haunts so many households in Jonglei.

### 4.3 UNMIS:

#### i) description

Local information about UNMIS in the current study comes predominantly from people who knew UNMIS only as a cloud of dust behind a rapidly-disappearing lorry rather than a patrol-log or a comprehensive incident report. These local people were not going to hold UNMIS accountable to a mandate they have never read<sup>95</sup>. Nor were local researchers who conducted

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<sup>92</sup> As someone who was deployed in that capacity to Sudan in 2000, the current author has no difficulty agreeing with this statement

<sup>93</sup> Such an approach is also more representative of the remoteness of aid agencies from the intricacies of people’s everyday lives in spite of their claims to be ‘grass-roots’.

<sup>94</sup> Leaving exposed the patronising foundations that underpin ‘helping people to help themselves’ (luckily people help themselves whatever they’re told to do by outsiders though they often lack the means).

<sup>95</sup> One UNMIS staff member said ‘UNMIS mandate is not clear – maybe it includes cattle raiding, but mainly it is SAF [Sudan Armed Forces] and CPA issues’.

the rest of the L2GP research able to get access to internal UNMIS data. Therefore for this section, the views of local people are supplemented by investigations by the author and interviews with UNMIS personnel, and supplemented by published sources.

#### UNMIS as seen by four people in Twic East County (Dec 2010):

A local citizen said: “I saw UNMIS soldiers back in 2005 when the CPA was signed, but I never saw them again. I did not ask why they were here for; perhaps they came for peace building. UNMIS were only stationed [for a short time] in Panyagor Town, but did not walk to this village here in Pawel and I did not know whether they headed to other villages rather than this village of ours. I was so curious to see them and maybe greet them or shake their hands if they had come to our village.”

A local woman said: “On my way to Panyagor, I saw 2 big trucks carrying UNMIS soldiers heading to Pawel Town probably to Bor Town, 2 Vans and 1 tank [APC?]. Of course, they might be monitoring the referendum since people are voting either for secession or unity of Sudan.”

An SPLA Major stationed in Panyagor Town said: “I saw UNMIS delegation and forces as well heading to the office of the referendum, but we did not have joint activities to protect civilians. Of course, they are working; however Twic East County commissioner knows more about UNMIS delegation in the areas now and before. I have seen them and greeted them as well. It was one time when I saw them with their vehicles and tanks heading to the Ayod county past Duk County.”

Twic East County Commissioner asserted: “I always meet with UNMIS delegation with their forces and even today had a contact with UNMIS in person. For instance, on the 9th of January 2011, around 7 UNMIS delegation stopped by my office and of course, they come regularly before and even now during the referendum in protection of local people. Of course, UNMIS delegation can't do anything with domestic issues such as livestock raiding, child abduction. It is none of their business and only local police forces can do that to protect and report what is happening in the ground with the civilians. Perhaps UNMIS can only report it if they happen to hear the problem.”

In a follow-up interview (Feb 2010) the commissioner added: “I once asked UNMIS what they do in an attack, but they replied that they do not intervene – saying ‘our role is only to report’ ... they're always asking political questions about George Athor”

Q: “Did they have a base in Panyagor for the referendum?”

A: “No – they wanted to set up a base but they never came [On seeing a copy of the UNMIS mandate] “I've never seen this before; perhaps next time I will tell them [about the Chapter VII Protection of Civilians obligations]”

#### UNMIS as seen in Bor County:

‘local people in Jalle payam saw UNMIS soldiers during the registration periods of the election and referendum, as well as the final days of vote-casting in each. They also saw them whenever their enemies attack or when there is cattle-raiding in the area. They (UNMIS soldiers) did not talk to people as a group but to certain individuals’

‘people I [enumerator] interviewed said that they nicknamed them “*wun de mith*” because of their sincere concern whenever there is an attack or raiding of cattle... when cases of child abduction are reported [they go] to interview the parents of the child and witness for themselves’.

‘they viewed the UNMIS soldiers as cowards because of their reservations about getting involved in the fighting when raiders wage war against the police and the few community youth who follow them up.... Others call them ‘agents of protection of no help’ due to the lack of UNMIS soldiers at the payam level rather than in Bor town. So their protection to the community is not effective and efficient when demanded urgently in the villages of Jalle payam’.

ii) How local people see help received:

Oxfam (2010:20) in their study on UNMIS peacekeepers, note that ‘in almost every interview... communities requested more information from and communication with the relevant mission’ as all they knew about the mission came from the radio; but Oxfam question whether ‘peacekeeping personnel have the necessary skills’ or ability ‘to bridge the language barrier’<sup>96</sup>. For those who had had contact they noted ‘that they are repeatedly questioned about security threats without seeing any change’. They continue that ‘many of the mechanisms put in place by peacekeeping troops are about extracting information from the community for the purpose of analysing or reporting’ (Oxfam 2010:21).

Anyidi Payam June 2010: ‘UNMIS should provide gunship helicopters to catch thieves

Duk County July 2010: UNMIS should ‘patrol the county’ when the level of insecurity rises

Jalle Payam July 2010: ‘UNMIS should train security personnel and distribute them in payams – even to the boma level

Lith Payam August 2010: Things could be improved ‘by making some of UN peace-keeping forces to stay with some of the state, county, payam with their armed troops’

Bor Town August 2010: ‘the UN should provide security to the country’

Lith Payam Sept 2010: recommends ‘deployment of UN keeping forces to securitize the situation in times of trouble and insecurity... UN accessing the area with helicopter and capturing photos so that rest of the people in the world can see what is happening in this location’

Given that protecting cattle is one of the foremost priorities of local people and something frequently demanded of both UNMIS and SPLA, it is surprising that it is only in 2011 that, with much fanfare and a launch by the Deputy Governor a ‘pilot’ Livestock Patrol Unit should be established in Kolnyang Payam in Bor County (UNDP 2011).

<sup>96</sup> My own experience of trying to speak in English to Indian UNMIS troops (not officers) in Panyagor is that they did not understand even my simple greetings.



iii) AnalysisA Lack of Field Presence and failure to understand the nature of non-CPA violence:

David Gressly, UNMIS Regional Co-ordinator for Southern Sudan, in a press conference on 29th March 2011, described UNMIS as having both a ‘monitoring’ and ‘protection’ role (UNMIS 2011). The monitoring role was interpreted in terms of monitoring the CPA. The protection role was seen in terms of ensuring that security forces ‘adhere to certain principles’ of Human Rights, and that is what is meant by ‘protection of civilians’. He notes that the entity with ‘the primary responsibility for protection of civilians is the Government of Southern Sudan or the state government’. This is undoubtedly as it should be: but it means that the role of UNMIS was effectively monitoring of the CPA and monitoring of the GoSS’s provision of protection. If, as was inevitably going to be the case, the provision of security in a place as big as South Sudan was going to stretch the SPLA, UNMIS’s input need not have been restricted to monitoring that lack of local capacity or advising the government on the ‘corrective action required’, or even offering to ‘mediate’ between warring groups, but in intervening. What we saw, and what local people described in this study, did not appear to be a Peace-keeping operation pushing up against the upper limits of its mandate but more a passive group of observers, hoping that security would somehow miraculously be supplied by an inexperienced government and counting on ‘UNMIS’s patrolling and presence, to deter violence’ (UNMIS 2011). But it is not this rather limp interpretation of their mandate that people interviewed for the L2GP study noticed – it was the sheer lack of presence of permanent UNMIS troops at the county level– that very presence that was supposed to have had a deterrent effect on violence.

All this advice on Human Rights principals to the SPLA, as well as training and mediation seemed to presuppose that local violence that takes place in South Sudan is either Human rights abuses by the SPLA or just mindless tribal violence that just requires peace-conferences rather than real local issues which need understanding and long-term engagement. In an Internal Memorandum about UN support to the Jonglei State Stabilisation Plan, dated 5 July 2009 written by the Special Representative of the Secretary General Ashraf Gazi, it was stressed that the aim of patrols was to ‘gain information of threatening violence to allow for responses before the actual occurrence of violence’. However anticipating violence would require an understanding of the dynamics that drive conflict in South Sudan which could only be obtained by field presence rather than by a ‘patrol’. The UNMIS patrol, mentioned above, that had stopped in to investigate clashes that had occurred between sections in Wangulei village in Twic East had not found any of the chiefs in so had carried on their way. The chiefs had been in a week-long Committee meeting trying to arbitrate a solution to the clashes but UNMIS were unaware of this committee. A week later 20 people were killed in Wangulei as the clashes reignited. Nor can field presence be obtained by sending in a helicopter, counting the bodies and writing a report 48 hours later decrying the incident and reminding GoSS of its obligation to protect its citizens as if UNMIS were just observers and the protection mandate of UNMIS remained unviolated by its failure to prevent violence breaking out:

## Ban urges end to South Sudan fighting

Source: [United Nations Radio](#)

Date: 11 Feb 2011

Renewed fighting in Southern Sudan between the Southern People's Liberation Army and the rebel forces of General Athon has resulted in at least 100 casualties.

Clashes broke out in the town of Fangak on Wednesday after the rebels reportedly attacked an army base.

Jocelyne Sambira reports.

Secretary-General Ban Ki-moon has expressed concern over the fighting that has claimed the lives of 100 people, including civilians.

Fangak county in Jonglei State, where the violence erupted, is near the rebel faction's base.

Mr. Ban is calling on both General Athon and the SPLA to stick to the cease-fire agreement.

He also reminds the Government of South Sudan of its responsibility to protect civilians.

Outside of Abyei, UNMIS were not being shot at, bombed or mobbed. They patrolled, but the majority of the patrols of UNMIS in Bor were around the perimeter of their own compound around the airstrip<sup>97</sup> as if they were themselves a major target of hostile activity (Oxfam (2010) noted UNMIS's lack of contact with the population when they entitled their report on peacekeeping in DRC and Sudan *Engaging with Communities: The Next Challenge for Peacekeeping*). The UNMIS State HQ in Bor greets visitors with a mounted machine gun trained directly at the space between the sandbags the visitor has to walk through. As Duffield notes, it is ironic that after decades of war 'these militarised buildings are the first material or built expressions of 'peace'' (Duffield 2010:454). Meanwhile humanitarian staff wander alone into villages, sleep overnight without protection and realise what UNMIS in their bunker mentality could not realise – that the best way of ensuring security is to be present in the villages and so understand and be able to anticipate events especially if peacekeepers claim only to have had the weapons appropriate for a Chapter VI mandate (Craze 2011:55).

Peace keepers have been based in State headquarters where they were not needed and have failed to profit from the positive environment towards the UN by deploying in the counties (this was first promised in 2006, reiterated by SRS Gazi a few years later (UNMIS pers.comm). Then, with the referendum looming, a plan to place 70 Referendum Support Bases in counties was unable to muster more than 10 bases for what was supposed to be the highlight of the 6-year CPA process). One can understand that foreign soldiers do not want to put themselves needlessly in the line of fire in a country that is not theirs, but then one can ask why aid agency staff should be prepared to go unarmed into the areas where soldiers fear to tread, and because of the absence of UNMIS in these areas, sometimes pay with their lives as the death of a WFP field worker in Duk on 22 April 2011 illustrates. As was reported in 2008,

<sup>97</sup> A witness to the events in Abyei in 2008 noted 2-3 UNMIS tanks patrolled the airstrip without the soldiers inside getting out (pers comm.)

one gets the overall impression of ‘a UN presence that has yet to fully establish itself in Jonglei beyond the UNMIS base, located outside Bor Town and guarded by UN personnel’ (Pantuliano et al 2008:75).

This is particularly true of the failure of UNMIS to have established a permanent base in Pibor beyond the Temporary Operating Base they established in 2009 following the deaths of more than 700 people in clashes between Lou Nuer and Murle. An UNMIS base in Pibor had previously also been requested by Murle to the Presidential Peace Advisor (Pantuliano et al 2008:60). UNMIS (2009:1) put it that ‘due to current organisation of support structures it remains difficult to sustain [ToB] interventions [in Pibor and Akobo]... due to operational and budgetary constraints’. The pacification of the Murle at the start of the 20th Century, described in section 2.1 above, would seem to have some lessons both for the GoSS and UNMIS (see Collins 1960). Pibor is still cut off from the outside world during the wet season, so if the Murle are to be governed, then government has to be present on the ground assuring law and order throughout the year. UNMIS’s continued use of short-term deployment in Pibor – in the form of Temporary Operating Bases and Long Range Patrols – indicated that they were unfamiliar with the military history of Jonglei. Of course, it is the GoSS not UNMIS that had immediate responsibility for the security of the population. However, with Pibor as a former GoS garrison, GoSS has a complex job assuring the loyalty of former GoS supporters such as Ismael Konye who rejoined the SPLA/M in 2006, so a permanent UNMIS presence in this sensitive flashpoint only 190km away from their State headquarters would have been indispensable.

#### Poor deployment decisions:

Instead of taking advantage of long periods of relatively good security for internationals to undertake greater outreach, one has the impression that South Sudan was seen as an easy-ride for peace-keepers where they would not be shot at and would rarely be called on to intervene. Not only that, there has been a lack of flexibility about deploying peace-keepers to where they are really needed, for example Alain le Roy former head of DPKO refusing to redeploy troops to Abyei (see the statement to Reuters of 6th Nov 2010) in the run-up to the referendum in spite of an estimated 50,000 people displaced in previous clashes in May 2008. This was also in spite of Security Council Resolution 1870 of 30 April 2009 (Security Council 2009) specifically ‘[requesting] UNMIS to make full use of its current mandate... [and urging UNMIS] to deploy, as appropriate, sufficient personnel to the Abyei region to improve conflict prevention efforts and security to the civilian population’<sup>98</sup>. It was also in spite of Security Council Resolution 1919 of 29 April 2010 (Security Council 2010) which called on UNMIS to make ‘full use of its authority and capabilities to provide improved security to the civilian population’ as well as urging the Mission ‘to enhance its presence in areas at high risk of localised conflict’.

One should therefore note the irony of UNMIS sending a further company of troops to Abyei on 3 March 2011 to reinforce the 4 companies already there (UN News Service 2011), and another 125 Indian soldiers in May 2011 and ask why those decision were not taken in November 2010 before 149 people died and tens of thousands were forced to flee (Small

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<sup>98</sup> Sabarthes (2009:6) notes in a report on UNMIS that peacekeeping operations rarely have adequate military capacity to uphold protection responsibilities but, given that the security council in resolution 1870 had specifically called for “flexible deployment” additional troops could have been redeployed from within Sudan

Arms Survey 2011)<sup>99</sup>. Even these increases brought troop numbers to only 500 in Abyei – seen by many as too little too late (Craze 2011:56) especially compared to the 3200 Ethiopians proposed for the Interim Security Force for Abyei on 20th June 2011. Almost all that applies to Abyei, applies also to Jonglei<sup>100</sup> in that both have been recognised since the signing of the CPA as flashpoints (though UNMIS would perhaps have claimed that because Abyei came under a different line management responsibility because it is in the North that renders it different); Jonglei if anything has received even less attention despite even higher numbers of deaths because the clashes were not considered until recently to be threats to the CPA.

A protection mandate lost in confusion and management structures:

(UNMIS Mandate extract) [Acting under Chapter VII of the UN Charter] UNMIS is authorized to take the necessary action, in the areas of deployment of its forces and as it deems within its capabilities, to protect UN personnel, facilities, installations, and equipment, ensure the security and freedom of movement of United Nations personnel, humanitarian workers, joint assessment mechanism and assessment and evaluation commission personnel, and, without prejudice to the responsibility of the Government of the Sudan, to protect civilians under imminent threat of physical violence<sup>101</sup>

A fairly self-evident aim of UN Department of Peace-Keeping Operations (UNDPKO) is, according to one DPKO official quoted by Lie and Carvalho (2008:9), ‘to provide secure environments for civilians’. Callaghan and Pantuliano (2007:3) put it simply when they see protection as ‘about seeking to assure the safety of civilians from acute harm’. Unusually for UN peace-keeping at the time, ‘Protection of Civilians’ was part of the mandate of UNMIS – though it did not prevent the ‘beyond-our-mandate’ excuse being used – for example with regard to cattle-raiding. The Commissioner of Twic East was surprised when I showed him the actual mandate with its Chapter VII authorisation to take ‘necessary action’ ‘to protect civilians under imminent threat of physical violence’ (he had not been aware of this, but said he would tell this to UNMIS next time he met them)<sup>102</sup>. But it was a wasted opportunity to use a robust mandate in a safe environment<sup>103</sup> to test the relatively new PoC concept, and, once and for all see whether it will ever work.

The findings of this study have shown that local people see better security as an opportunity to invest in the livelihoods mechanisms that give them more resilience in difficult times. This

<sup>99</sup> Of course UNMIS did not kill these people, and the disarmament of Zambian peacekeepers on 13th Jan 2011 and slapping of UNMIS soldiers in Difra Abyei show how thin on the ground and vulnerable these troops are and how little credibility they have. However the robust reaction of Ghanaian soldiers in that incident where they got their guns back by surrounding their attackers pointing their RPG’s towards them, shows what is possible when soldiers are prepared to be resolute rather than complain about their lack of resources (UNMIS Pers.Comm). It also shows the difficulty of having to negotiate rules-of-engagement with individual force-providing countries rather than across the board (Sabarthes 2009:6)

<sup>100</sup> The UN support plan to the Jonglei State Stabilization plan (see UNMIS 2009) was elaborated as a first (to be followed by Lakes and Warrap – see APG Sudan 2010:19) in recognition of it being ‘one of the most strife-ridden regions of Southern Sudan’

<sup>101</sup> My highlighting

<sup>102</sup> Oxfam (2010:32) note that ‘in focus groups in southern Sudan ... while men seemed clear on UNMIS’s mandate (‘they are here to monitor the peace’) women were not, stating that they were not clear what they were there for, had never met them, and that their only experience of the mission was that its personnel drove through the area without stopping’

<sup>103</sup> For aid workers not for locals

resilience and the margin which successful livelihoods activities bring is effectively what ‘protects’ people together with the SPLA/SSAF and their own rather flawed self-protection mechanisms rather than any outsiders. It is therefore possible to conclude that the \$1billion spent annually on UNMIS<sup>104</sup> could have been more profitably used in the interests of helping local people. However in the interests of the Protection of Civilian mandates that are being more regularly given to peace-keeping missions including UNMISS, it is worth drawing some lessons from the local experience of one such PoC mission. One of the main lessons to be drawn from UNMIS is that, without strong leadership and management structures, the tendency of any bureaucratic structure is to suffocate itself into inactivity if there is the merest hint of ambiguity in its purpose. In the case of Sudan, such ambiguity concerned what ‘Protection of Civilians’ meant in relation to the CPA-monitoring function, and that ambiguity was shared in the understanding of PoC by the aid agencies, journalists and other observers.

Sabarthes worked within UNMIS in Abyei in 2009, trying to operationalise the PoC concept in the aftermath of the July 2009 Decision on the Abyei boundaries by the Permanent Court of Arbitration in the Hague. What she sees as innovative in the PoC activities is that they prioritised ‘preventative initiatives over reactive ones’ and had PoC as a mandated activity that was to become part of the rules of engagement and that went beyond self defense (Sabarthes 2009:1). However, she describes ‘differing interpretations of the PoC mandate of UNMIS at different levels of HQ, Mission and troop-contributing countries’ meaning that for years until 2008, there was no common understanding of PoC until a document called the PoC Security Concept was drafted that tried to clarify what expressions such as ‘imminent threat’ and ‘within capabilities’ meant. This document stated that ‘banditry and local violence’ was below the threshold for triggering an UNMIS intervention ‘unless it had the potential to derail the CPA’ and that ‘an imminent threat of violence’ was to be between SAF and SPLA or their proxies (Sabarthes 2009:3). The clause ‘within capabilities’ could easily limit the level and commitment of the mission and ‘justify inaction’ (*Ibid*:6)<sup>105</sup>.

Another UNMIS document entitled the *PoC Strategy and the Political Concept of Operations* aims at operationalising PoC. This, confusingly, uses the term ‘violence against civilians’ as defined in SC Resolution 1919 (Security Council 2010) –and also seems to contradict the lower-threshold discussion above, defining violence against civilians as including CPA-related incidents, LRA and other militia or armed groups attacks on populations, tribal and localized armed confrontations and forced civilian disarmament initiatives’. Protection from such physical violence initiatives range from ‘assurance through passive presence’, ‘pre-emption including patrols designed to deter potential threats’, to ‘intervention including active use of force’. PoC strategy is to have ‘five distinct components’ (Civil Affairs, Political Affairs, Human Rights, UN Police and Rule of Law) and hence the potential for confusion of responsibilities and overlap, and difficulties in co-ordinating representation of each of these components in State Protection Task Force and Protection Clusters. In some States, State Protection Task Forces are not yet functional, while in others UNHCR which is supposed to lead the Protection Cluster is not present<sup>106</sup>.

<sup>104</sup> APG Sudan 2010:19. They also argue that ‘UNMIS is seen to do little in relation to its massive resources’

<sup>105</sup> Oxfam (2010:25) describe how even more explicit than the guidance given by the *PoC Security Concept* is the direction provided in various Security Operating Procedures (SOP’s) and FRAGO’s (Fragment of an Order) covering ‘everything from maintaining a standing capacity for joint patrols to providing a safe-haven for fleeing civilians’. Such FRAGO’s though are aimed at the military rather than civilian side of UNMIS, and the only guidance discovered by Oxfam (2010:32) for civilians in UNMIS dealing with a mass influx of fleeing civilians is tellingly to ‘Prepare draft statements of UNMIS success in managing a mass influx of fleeing civilians’

<sup>106</sup> For more detailed analysis of UNHCR and the Protection Working Group see Phillips 2011

Even more confusingly a decision was made at the end of 2010 to ‘mainstream’ PoC – allegedly because three bosses at UNMIS could not decide where it belonged so just ripped up the organigramme (UNMIS pers.comm). The onus of DPKO PoC has been left to the State and Sector Coordinator’s. If this all sounds confused, then maybe that’s because it is. SRSG Ashraf Gazi wrote in the Internal Memorandum in 2009 quoted above that ‘confusing management structures must be clarified’, but there is no evidence of that being successful. Nor was co-ordination between different components within UNMIS effective. Craze (2011:56) reports that ‘UNMIS-Abyei are largely in charge of their own units and, especially in the case of the Egyptian contingent, do not answer to the UNMIS chain of command. The UNMIS/RCSO Humanitarian Affairs Analyst (a civilian), when asked if I could see the trip report of a recent Long-Range Patrol to Duk and Ayod, said that the UNMO’s were in the office next door but that their trip reports ‘would not inform [me] about anything’<sup>107</sup>. Oxfam (2010:17) note that despite having patrols by Joint Protection Teams in DRC made up of civilians and military, they could not really be effective if report findings were not shared or followed up. They also mention the ‘crucial cultural gap between military and civilian cultures’ and describe how civilians with UNMIS would sooner inform the GoSS State Governor of a security incident than UNMIS military personnel a stone’s throw away<sup>108</sup> (Oxfam 2010:20). Here are the views of one UNMIS person who was interviewed:

“On PoC, UNMIS has signally failed over the six yrs of CPA and continues to do so. Did we learn from the mistakes of Abyei in 2008? - no, not at all, if anything the mistakes were covered up and we are no better prepared now than we were then...it is about staffing and logistics but only in the sense that UNMIS hasn't been able to organise either to be able to do what we should be doing. We do have a problem of staffing but it is as much because everyone knows that UNMIS is a mess and so they don't want to work here (and also because [Sudan] is not a comfortable place) but they seem to be able to recruit and retain huge numbers of admin and support staff who take up most of the room and the assets and do very little in terms of admin and support. That is where it all falls down - Mission Support Division has only one word that is applicable to what they actually do - Division - they manage to divide us all into different factions so that we cannot work effectively together! On "intelligence" gathering unfortunately the worst ones at this are the military (UNMOs) who know nothing (mostly) and care less (mostly). There is no such thing as community outreach in UNMIS - most people want to keep as far away as possible from communities, which means that they neither learn nor understand anything”

If PoC seems to work so badly with UNMIS in Sudan, does this mean that the PoC concept is flawed or just its interpretation in Sudan? Probably one should conclude that it is a bit of both: The concept of PoC is so broad that it becomes almost meaningless as a mandate. It is being interpreted in widely varying ways from Libya to Ivory Coast to DRC, and its interpretation depends as much on the policies of troop-contributing countries in each mission as on the mandate. A document referred to in a recent Presidential Statement to the Security council

<sup>107</sup> There is a legion of people within UNMIS whose main role is to write reports but amongst those reports that are made public or those that I have seen, one must wade through such a firestorm of acronyms that one loses all sense of what the report is about (eg ‘reserve and position 3 sets of 60-day LRP equipment, SOP for prioritising systems on SFR, MOP and CMR, and transfer GISS capacity’ UNMIS 2009b)

<sup>108</sup> Also loss of information due to high turnover of staff and territoriality between sections (Oxfam 2010:23)

(UNSC 26 Aug 2011) doubted ‘the extent to which peacekeeping missions can be used as instruments of innovation in the application of international law and norms’ due to problems such as obtaining the consent of States (such as Sudan in UNAMID’s case), and a lack of agreement on the use of force by troop contributing nations and mission-funding countries. There is a current trend towards a more muscular interpretation of ‘physical protection’ from Western countries but where troops on the ground come from non-western countries their buy-in to this more robust interpretation will be required and cannot be taken for granted. In Sudan, this kind of ‘physical protection’ from insecurity is what people were crying out for (if not from UNMIS, at least from their government). But the difficulty in Sudan is to answer the question ‘protection from whom’: the CPA monitoring part of UNMIS’s mandate clearly concerned the parties to the CPA, and yet most of the insecurity in South Sudan was either only indirectly or not-at-all related to the CPA. The biggest disappointment of UNMIS was that it did not leave its bases in the State Headquarters to understand and engage with the issues that local government and the GoSS deal with on an everyday basis – the local issues that are fuelling armed violence at the level of the village, the section and the cattle-camp in the security-vacuum that UNMIS-supported disarmament campaign created. It would seem a phenomenal waste not to have adapted the peace-keeping operation to local reality. But that would only have been possible if UNMIS had left the State headquarters and set up in counties where they would have been in the right place to implement SRSG Gazi’s aim of responding ‘before the actual occurrence of violence’. This protective capability would only have existed if UNMIS had been considered as a credible deterrent to violence and banditry but this was not the case.

It could be argued that by focusing on PoC, one is not judging the operation by a fair criteria, given the constraints of troop numbers (around 10,000), the size of South Sudan and logistics capacity. One could always argue that in Sudan, UNMIS’s main role is CPA monitoring, but there is little proof that it was the kind of monitoring and report writing, as described by witnesses above, that led up to a peaceful referendum especially as they only put in place 10 of the 70 planned Referendum Support Bases<sup>109</sup>. It is perhaps only donor countries and the Security Council, privy to confidential reports that are not publicly available, who could really weigh up the cost and benefits. But one could at least hope that such donors will feel that their taxpayers deserve more accountability unless business as usual is to continue with UNMISS - the successor to UNMIS for South Sudan<sup>110</sup>. One suspects that everyone was aware that UNMIS was not really pulling its weight but the same people worried about the prospect of there being a security vacuum or an absence of human-rights monitoring should peacekeepers be withdrawn. Extending the mandates of peacekeepers therefore seems the safer option. A March 2010 report for the All Parliamentary Group for Sudan in Britain that recommended that the UNMIS mandate should cover ‘responsibility to deal with ‘internal’ or ‘tribal’ violence’, and reported:

‘UNMIS was mandated primarily to monitor the CPA, but has always had a Chapter VII component to ‘protect civilians from the imminent threat of physical violence’. However, UNMIS has received criticism for its mixed record around civilian

<sup>109</sup> According to one source UNV’s had been recruited but could not get visas in time. As of July 2011 at the end of UNMIS’s mandate, they are finally rebuilding/upgrading ten county support bases for Unity, Warrap, Jonglei and Upper Nile

<sup>110</sup> The mandate of UNMIS was renewed until July 9th (in a Security Council meeting lasting three minutes) with the recommendation that UNMIS be replaced by a new mission after this <http://reliefweb.int/node/398790>

protection, with accusations that UNMIS leadership and other international stakeholders have not viewed civilian protection as a priority for the mission. These allegations have arisen chiefly in the context of ethnic violence and the incursions of the LRA. UNMIS has been seen to be slow to grapple with the protection challenges and to redeploy accordingly' (APG Sudan 2010:18)

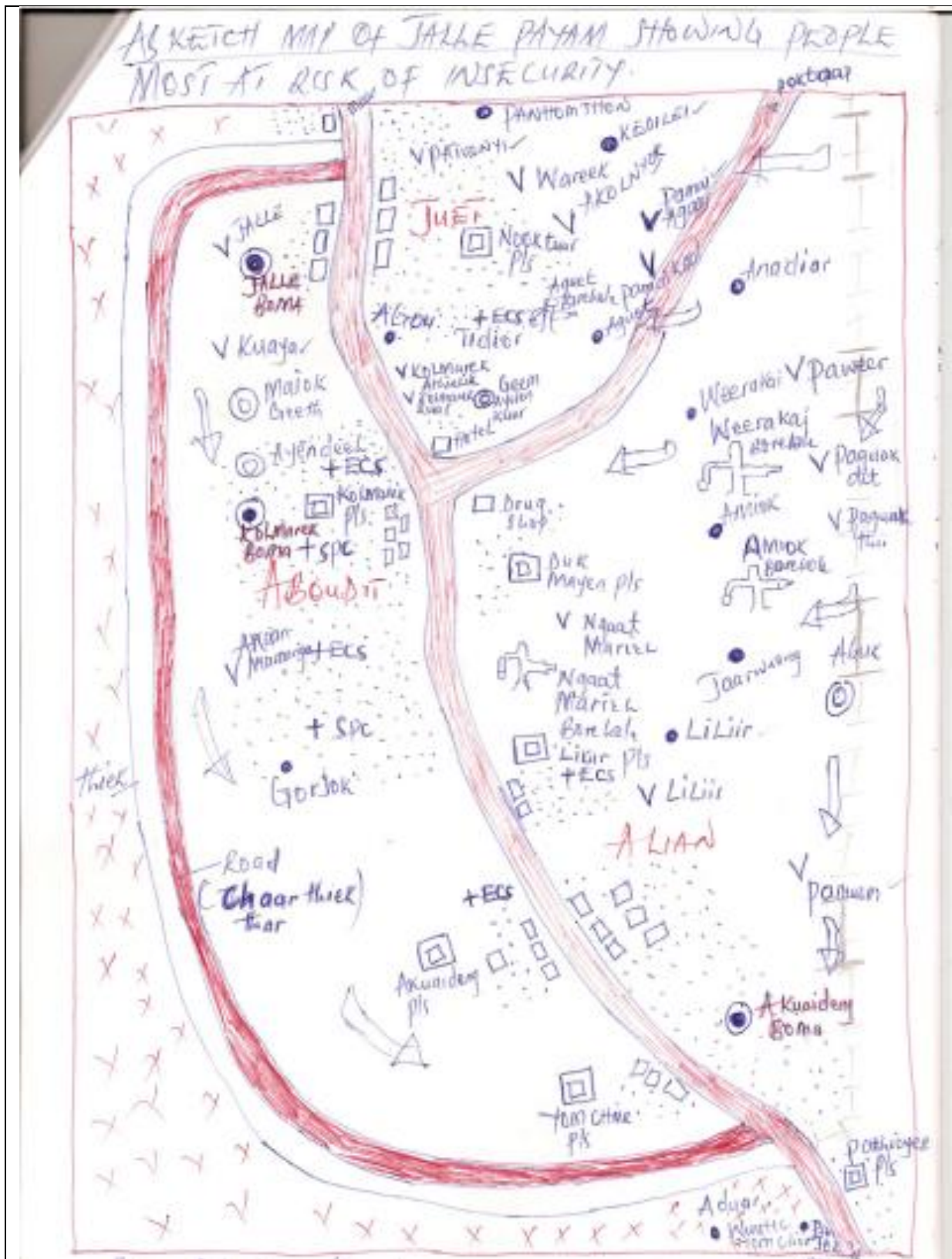
Given that such internal 'South-on-South' violence is likely to be a feature of post-Independence South Sudan, it is hoped that all actors involved in peace-keeping, particularly the new UNMISS, will make it a priority to locate themselves in the villages and 'grapple with' the complexities of local violence.

#### Conclusion on Activities of GoSS/Agencies/UNMIS:

Protection is defined in humanitarian work as 'activities aimed at obtaining respect for the rights of the individual in law in safety'. In this strict humanitarian definition, neither UNMIS nor the aid agencies have been carrying out their legal obligation to protect. The GoSS does not have the capacity to hold agencies accountable nor do they have the capability to implement the 'rule of law' at a local level. As a result local people must depend on the small amount of benefit that self-protection brings to their security and rely on the social protection that comes from membership of their local community and call upon their 'right' to protection through local courts and the kinship structure as a member of that community. This is not the same as the individual rights to protection that are advocated by human rights law, and sometimes goes in direct opposition to Western models. However, that does not mean that the best interests of the vulnerable would be served by aid agencies adopting a protection mandate for the minority while ignoring the broader 'protection' needs of the whole community – from insecurity and hunger. Nor should local voice be ignored when it demonstrates a lack of 'universality' in concepts such as protection of rights that are part of the humanitarian division of labour but not part of everyday reality for many or reflecting their real needs.



Appendix – Local map of Jalle Payam showing security incidents:



In Juet boma incidents normally occur in Akolnyok, Wareek, Weerakai, Patuonyi, Kedelei, Aguet, Amiok, Abuk, Jaarwong, Panhom Thon and Anakdiar where people have been

displaced by Murle since 2008 – some going to Bor Town, some within the payam. In Abordit boma, incidents occur in Titdior, Kolmarek, Ayendeel, Maranga and Gorjok. In Alian boma, incidents were frequent in Lilir, Akuaideng, Aduar and Pamuom. In general then it is all areas on the east and north-east, with some other incidents from the toic on the west. Looking up these places on CDE Bern's map, only a few of these places are shown. This is most likely the map that UNMIS are using, so do they know where any of these places are – surely Stage One of providing security. On the same map is a place called Bor Dinka, a label for the Nyaraweng Dinka which is completely out of place in territory belonging to the Twic Dinka and many place names are just the name of the section that live there (often same as boma names) rather than place name (eg Daicuek).

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