

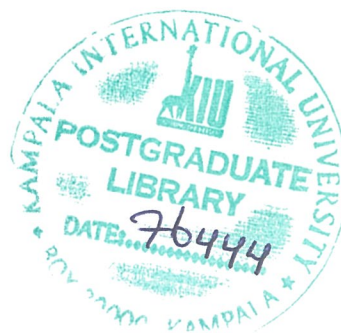
**PARTICIPATION OF CHIEFTAIN AUTHORITY  
IN GOVERNANCE OF THE NUER VILLAGES  
IN POSTCONFLICT SOUTH SUDAN**

A THESIS SUBMITTED  
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August, 2010

## **DECLARATION**

### **DECLARATION**

I, Mr. Albino Gaw Dar, declare that the work presented in this thesis is my original work, except in parts where I acknowledged. It has never been submitted and examined in any university as a partial academic fulfillment of the requirements for any award.

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## APPROVAL

I confirm that the work reported in this thesis was carried out by the candidate under my supervision.

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**Dr. Mwaniki Roseann**

Date: 25 / 09 / 2010

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## ABSTRACT

This thesis is a modest academic attempt to assess the participation of the Nuer Chieftain Authority in the postconflict governance of the Nuer villages in South Sudan. It aims at establishing the forms of participation the Nuer Chieftain Authority undertaking in governance of the Nuer villages. The study assessed the functional areas of chiefs, administrative sensitivity they exhibit and challenges they encounter in the governance of the Nuer villages.

The study employed descriptive design and purposive sampling methods. Questionnaires and interview guides were used for data collection. The researcher utilized frequency, percentage and content analysis techniques in analysis of quantitative and qualitative data.

The research findings report that chiefs are sensitive in the postconflict governance system despite underestimation of their roles by local government inspectors and scholars. In establishing this argument, the study assessed family disputes; criminal offenses and disputes over natural resources chiefs resolved in the Nuer villages. The study found over 90% of these dispute cases were redressed by chiefs. Thus, the study concludes that chieftain authority is not by itself insensitive but other factors including lack of salary, office facilities and widespread of small arms in civilian hands are factors daunting chiefs' participation in the governance of the Nuer villages. Therefore, the researcher recommends to GoSS to provide services lacking in the NCA. In addition, the researcher recommends to researchers to carry out investigations on structural challenges affecting chieftain authority.

## ACRONYMS

**CPA:** Comprehensive Peace Agreement

**GoSS:** Government of South Sudan.

**NCA:** Nuer Chieftain Authority.

**NCP:** National Congress Party.

**SPLM/A:** Sudan People Liberation Movement/Army.

**INCS:** Interim National Constitution of Sudan.

**ICSS:** Interim Constitution of South Sudan.

**SSLGB:** South Sudan Local Government Board

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# **CHAPTER ONE**

## **INTRODUCTION**

### **1.1 Introduction**

This chapter presents an overview of the problem and its scopes. It presents background of the study, statement of problem, purpose, objectives, questions, scopes and significance of the study.

### **1.2 Background to the Study**

With the ending of colonialism in Africa in the early 1960s, debates brewing among scholars over what could constitute the local governance system in the postcolonial states. Some academics argue that “traditional structures of governance that have endured to the present in some derivation of their original form are legitimate and must be incorporated” into the local governance system (Osabu-kle citing in Carlson 2006). In contrast, other scholars suggest that the “indigenous form of government is a corruption of the original form of chieftaincy, because colonial rulers exploited and modified this traditional form of government to suit their strategy of indirect rule” (Crothers citing in Carlson, 2006). Duany (1992a) argues that chieftain authority exhibits “administrative insensitivity.” It is incompetent and corrupt when dealing with administrative issues. In this way, the Nuer Chieftain Authority is no exception to debates.

Nuers' contact with Europeans, the Great Britain, in the early 19<sup>th</sup> century gave a prospect to the evolution of a new institution unfamiliar to the Nuer. In 1937, the British colonial authority had established a chieftain institution in the Nuerland, molded it along the Western institutional construction. The aim of the establishment of this institution was "to establish links between the rules governing the relationships among people in a community of interest, the maintenance of public order, and the civil administration. Claiming the right to govern embodies the claim to authority in law and the prerogative of administering the accepted system of order" (Duany, 1992a).

In the Native Court Ordinance of 1931, the British colonial authority issued directives appointed chiefs with the aim to 'sit in British courts for the purpose of judging cases' and 'to assume executive powers that were territorial in scope' (Duany, 1992b). The chiefs, who are the official functionaries of the colonial authority, were formally recognized to dispose of cases and settle local disputes through the use of native customary law. It was from this period that chiefs officially came as official designates assuming judicial and administrative tasks involving the settlement of the local disputes provided that the Nuer native laws and customs they employed are not contrary to justice, morality or order of the European legal pursuits.

The Chiefs' Court Ordinance 1931 had irreversible consequence on the Nuer governance system. It changed the methods in which the Nuer resolve local grievances. In *Neither Palaces nor Prisons: The Constitution of Order among the Nuer* (1992b) Duany observed that the colonial authority strove hard to "eliminate the contestation and argumentation in

process of conflict resolution; introduce capital punishment in terms of imprisonment; impose collective fines as deterrent; eliminate right of vengeance of the relatives of the slain and redefine several forms of homicide that for the Nuer warranted compensation” (Duany, 1992b). But the colonial authority was not aware of the indigenous procedures Nuer used to resolve local conflicts.

Decolonization of the Sudan in 1956 portrayed a new shift in the transformation of the traditional chieftainship. The post independent institutional arrangement brought change interrupted the participatory roles chiefs had undertaken during the colonial period. This is because the Sudanese elites who had championed the independence for the country saw chiefs as functionaries of the colonial authority and chieftainship as “anachronistic vestige of the past tribal governance system that had no place in the postcolonial political landscape” (Khalid, 1990). The ruling elite, who became autocratic and authoritarian leaders in the successive governments, could not share the power with chiefs. They dispossessed chiefs from position they held during the colonial rules.

Disregard of the participation of chiefs from the postcolonial governance system by the ruling elites was miserably carried out in the North than in the South. In the North, the *Local Government Act of 1971* had introduced an administrative reform intended to remove the obstacles hindering the implementation of the decentralization scheme. In the process, the scheme reform had excluded the participation of chieftain authorities and other traditional institutions from the postcolonial local government (Khalid, 1990). In

short, the 1971 Act failed to integrate the chieftain authorities in the North into the local government. But in the South, chieftain authorities were considered as the party to the local administration; they were charged with the responsibilities involving the settlement of local disputes and administration of local justice. For instance, the Nuer chieftain authority remains a custodian of the Nuer customary law during the North-South civil war, 1983-2005.

In the mid 1980s and early 1990s, the administrative and judicial position of chiefs came under sudden change when the waves of civil war intensified between the South and the North. During the civil war, the authorities of chiefs were drained to military organizations operating all over the South. In this way, the presence of rebel movements, Government of Sudan military units and organizations in tribal areas and the pressed “need for civil laws to be subordinate to martial law in order to meet operational military imperatives has greatly diminished the ability of the chiefs to exercise power. The diminution or subversion of the Chiefs’ authority has brought with it limitations on their ability to execute the law and a consequent weakening of traditional customary systems” (Jok, Leitch & Vandewint, 2004).

In 2005, a new phase of the governance system was reintroduced when the SPLM/A and the ruling NCP signed the CPA ending the Sudan’s long running civil war between the South and the North. The CPA provides the governance framework adapting decentralization with significant devolution of power to local level (CPA, 2005, INCS, 2005, ICSS, 2005). In essence, the Local Government Board was established with an aim

to integrate chieftain authorities into the local governance system. The chiefs are recognized as the custodians of native laws. But their position within the local government system is not adequately articulated; the functions they would perform and the services they would be provided with are not clearly elucidated.

Results analysis of the minutes of the Nuer chiefs' conference held in 2007 in Fangak County, Southern Sudan, reveals that chiefs had grievances expressed against the county administration. They had complained that the County Commissioner had not provided them with services such as payment of monthly salary. In addition, they argued that their responsibilities were taken over by the local administrators employed in the villages. This analysis results suggest that participation of chiefs in the local governance system is not adequately harnessed. Hence, it is against this background that the study would assess the participation of Nuer chieftain authority in the local governance system.

### **1.3 Statement of the Problem**

Even though the Government of South Sudan (GoSS) ushers the decentralization in the governance of South Sudan following the signing of CPA in 2005, the integration of indigenous institutions into local governance system has not been fully articulated. In fact, the GoSS has established Local Government Board (LGB) in 2005 with an aim to recuperate the participation of Southern Sudanese traditional authorities in the modern local governance system. The LGB has put in place institutional framework by employing staffs, setting up branch offices at the level state and providing basic services including salary for employees. Unfortunately, none of these services have been provided to chiefs because local government inspectors consider them as corrupt and insensitive in administration of local justice. But leaving out chiefs' participation in the local governance system will make the communities in villages more vulnerable to widespread postconflict disputes.

#### **1.4 Purpose of the Study**

The overall purpose of this study is to assess the participation of chieftain authority in the settlement of the postconflict disputes in the Nuer villages in South Sudan.

#### **1.5 Objectives of the Study**

1. To establish the forms of participation the Nuer Chieftain Authority undertaking in the postconflict governance of Nuer villages;
2. To assess the areas of participation the Nuer Chieftain Authority functioning in the postconflict governance of the Nuer villages;
3. To assess the administrative sensitivity the Nuer Chieftain Authority exhibiting in the governance of the Nuer villages;
4. To examine the challenges the Nuer Chieftain Authority encountering in the governance of the Nuer villages.

#### **1.6 Research Questions**

1. What forms of participation the Nuer Chieftain Authority undertaking in the governance of the Nuer villages?
2. What areas of participation the Nuer Chieftain Authority functioning in the postconflict governance of the Nuer villages?
3. What administrative sensitivity the Nuer Chieftain Authority exhibiting in the governance of the Nuer villages?
4. What challenges the Nuer Chieftain Authority encountering in the governance of the Nuer villages?

## 1.7 Scope of the study

The scope of this study is limited to geographical, content scope and time scopes.

### 1.7.1 Geographical Scope of the Study

The study was carried out in the Nuer community in South Sudan. The Nuerland is located between latitudes 10 and 7 degrees N and longitudes 32 and 30 degree E (Howell, 1954). The Nuerland has seasonal rainfall recording at 800 to 1,000mm between May and November. It is dead flat, sporadically wooded territory with clay soil and high grasses during rainy season. The Nuerland is traversed by large rivers and streams which flood annually. It is also subject to abrupt drought when rain ceases in dry season (Evans-Pritchard, 1940). Nuerland comprises of three regions; the Western, Central and Eastern Nuer. The Nuer on the west constitutes by lineage sections of Western Jikany, Leek, Jagei, Bul, Nyuong and Dok. The Nuer on the centre comprises of Laak, Thieng, Gawaar and Lou. And the Nuer on the east comprises of Gatjiok, Gatguaang and Gatjaak. In addition, Nuer speak one common language, *thok Naath*. They also adopted a minimal government, an acephalous type of governance system (Duany, 1992).



## Map Showing the Area of Study

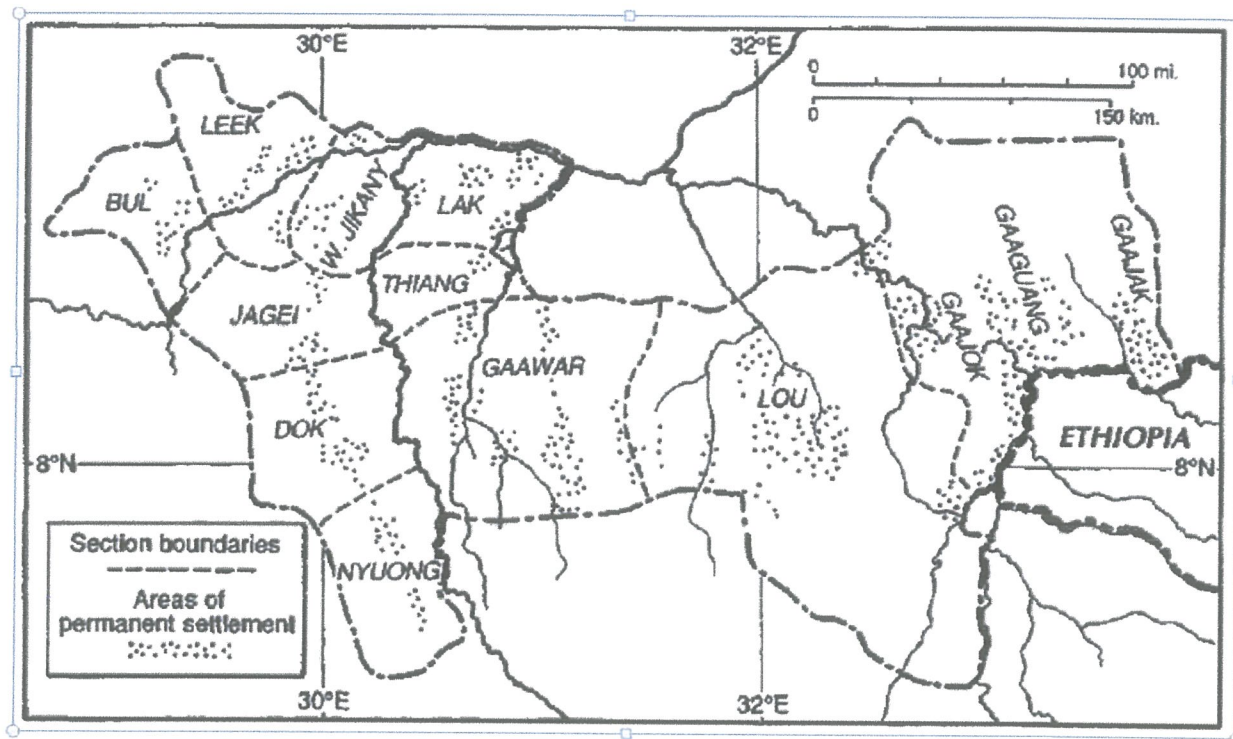


Fig.1: Map of the Nuer Villages

### 1.7.2 Content Scope of the Study

Content scope of the study was limited to governance and participation. The scope of governance is limited to system of values, rules and regulations embody in the institution under which collective decisions are taken. The scope of participation is limited to roles chiefs play in the settlement of postconflict disputes involving family disputes, disputes over natural resources and criminal offenses. It is with the judicial, political and administrative aspects that this study was concerned.

### **1.8 Significance of the Study**

This thesis would enable me to fulfill requirements needed for the award of the masters' degree in Human Rights and Development at the Kampala International University in 2010. Upon the receipt of this degree, I will be able to expand my employment opportunities or continue to pursue further study.

In addition, it will benefit the chieftain authority as the research finding may reveal the challenges the chieftain authority encountering in the local governance system. Moreover, it will be useful to policymakers in the Government of South Sudan to understand the challenges affecting chiefs in local governance system. Furthermore, the thesis is believed to contribute to general academia by debating out the underlying factors affecting chieftain authority the in local governance system. In doing so, it will pave a way for further study.

## 1.9 Operational Definitions of Key Terms and Concepts

The following key terms and concepts are operationally defined according to the context of this study.

**Administrative sensitivity:** refers to fair procedures authority follows while settling disputes through judicial methods.

**Chiefs:** refer to office bearers in the Nuer Chieftain Authority.

**Local governance system:** refers to system of values, norms and rules in where a society relies upon for making collective decisions.

**Nuer:** are Nilotic people who live in the Nuerland in savannah areas of the Upper Nile, South Sudan.

**Nuer Chieftain Authority:** refers to Nuer's traditional authority.

**Nuer villages:** refer to corporate homesteads in the rural Nuerland where people share a sense of social belongings.

**Nuerland:** refers to territory occupied by the Nuer people in South Sudan.

**Participation:** means taking part in social activities where collective decision is taken.

## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### **2.1 Introduction**

Literature review is defined as “the part of the thesis where there is extensive reference to related research and theory in your field” Ridley (2008). It is the ongoing process involving coherent synthesis of information, main points, issues and methods emerging from the review of the early research findings. Therefore, it is the purpose of this chapter to review literature in line with the purpose and objectives of the study.

This chapter is divided into five sections. The first section defines the key terms, concepts and presents conceptual framework of the study. The second section describes areas of participation of chieftain authority in the local governance system. The third section examines challenges chieftain authority encountering in the local governance system. And the fourth section concludes the chapter.

#### **2.2 Key Terms and Concepts**

This section defines the key terms and concepts of the study. The concepts defined are governance, chieftain authority participation, and administrative sensitivity.

### 2.2.1 Governance

Governance is an inclusive concept. It includes a wide variety of political, economic, legal, cultural and social aspects. This all-inclusive form makes it difficult for scholars to pin it down into a single definition.

*Oxford Advanced Learner's Dictionary* defined governance as “the activity of governing a country or controlling a company or an organization; it is the way in which a country is governed or a company or institution is controlled.” It refers to body of rules governing affairs of an institution. But this definition gives much emphasis only to the responsibility as a key element describing governance. There are other elements to consider as well. In order to understand governance, the factors determine its application in day-to-day activity must be incorporated into the definition.

Brinkerhoff, Johnson and Hill (2009) defined governance as ‘the processes and rules through which state and nonstate actors in a society wield power and authority and how they influence and enact governmental policies and decisions’ (Brinkerhoff, Johnson & Hill, 2009). This definition perceives governance as a process concerns itself with how state and non state actors participate and how they fulfill a sense of responsibility in governing society.

Jenkins (2002) puts this point further by perceiving the governance as the ‘prevailing patterns of the exercise of power in a given society.’ It is a way in which power is structured among different social units. Governance is not seen as a set of technical

governed by “the Constitution of Order” and not by an “ordered anarchy” as Evans-Pritchard suggested (Duany, 1992). There is a system of rules governing this society. In short, the Nuer has social institutions where there are institutions of family, religion, polity, judiciary and economy which function in a way that maintain social orders. In this study, governance of the Nuer villages refers to manner in which governmental institutions discharge their proper roles in redressing public grievances.

### **2.2.2 Chieftain Authority**

Chieftain authority is defined as ‘an institution or body holding power or right, permission derived from office or character’ for administration of a community (Cheka, 2008). According to *Osborn’s Concise Law Dictionary* (1976: 40), chieftain authority ‘is a body charged with power and duty of exercising prescribed functions’ (Osborn cited in Cheka, 2008). More specifically, the definition identifies chieftain authority as power received and handed down or over from generation to generation.

Scholars, however, speculate over the usage of an adjective ‘chieftain’ by the colonial power to describe ‘authority’ (Cheka, 2008). They argued that the usage of an adjective “chieftain” seems to downplay powers the indigenous institution wields. Moreover, the notion of ‘chieftain’ degrades the position indigenous institution assumes in the local governance system. For Mbouil (1970) ‘the use of the term “chief” (authority) instead of “king” by the colonial masters was meant to denigrate African rulers’ (Mbouil cited in Cheka, 2008). Crowther and Ikime (1970) also assert that the word ‘chief was a distinctive diminutive colonial term meant to reduce the status of great African Kings like

the Obase of Benin, who in colonial times considered themselves and were considered by their people as “Kings” (Crowther & Ikime cited in Cheka, 2008). All these queries regarding the definition of the chieftain authority revolve around the issue of legitimacy. Scholar also perceived chieftain authority from the legitimacy point of view. Max Weber (1978), a well known classical sociologist, perceived chieftain authority as “an institution whereby acceptance of the right to rule is based on the long established tradition or custom” (Weber cited in Calrson, 2006). It is upon it that people from the same background comply with long established rules, norms, and standards derived from their culture. In this way, chieftain institution is defined as an institution that regulates the behavior of peoples, punishing those people who fail to observe generally accepted norms of society.

Chieftain authority can also be identified with what has been termed as a “minimal government” (Duany, 1992b). The concept of minimal government refers to a series of self-governing units that have authority to exercise power in relation to maintenance of public order. In a broadest sense, minimal government denotes authority found in social institutions which form the moral basis of community. For instance, the authority of family institution, legal institution, polity and economy serve as a valve regulating behavior of community members.

Perception of chieftain authority as a minimal government can be identified with ways people share common understanding of values and norms. In community, “there are rules and a common understanding of these rules. Persons are conscious of the existence of

rules as rules” (Duany, 1992a). In this instance, every community member becomes well aware that if their behaviors deviate away from generally accepted norms, it should be met with negative reaction by a minimal government. Hence, people become self-conscious of the existence of social norms and comply with these norms under authoritative supervision of the minimal government.

Furthermore, minimal government by itself cannot regulate behavior of people without enforcing agents. There must be people who would assume a position of leadership in society. In *the Nuer concept of covenant and covenantal relationship*, Duany (1992b) argued that minimal government among the Nuer is remarkable for the reason that “certain persons function as leaders because they are respected. These are elder members of community. People will listen to what they say because of their age and wisdom...” (Duany, 1992b).

Duany’s perception of the minimal government is all about informal ways through which social agencies informally participate in the maintenance of public order. In other words, he overemphasizes an informal mannerism where elder members and spiritual leaders of Nuer community assumed administrative and judicial functions in the governance of villages. But in today’s case, the Nuer governance system completely changed from this informal system to formal arrangement where chieftain authority becomes overall authority in the administration of local justice. The Nuer institutions of religion, family or council of elders do not longer command formal and executive, administrative and



judicial responsibilities in redressal of local disputes. It is a chieftain authority that settles such disputes. Hence, conception of minimal government refers to chieftain authority.

Under the usage of this study, the chieftain authority is defined as an institution that draws its legitimacy, whether wholly or partially, from cultural values of a group of people that share them and has participatory roles in local governance system. It is a minimal government with power reflecting the values, norms and rules involving in the administration of local justice.

### **2.2.3 Participation**

Participation is a human right concept with varying definitions and applications. The way scholars defined it depends on the context in which it occurs. For some scholars, it is a matter of principle; for others, it is a means; and still for others, it is an end in itself.

Participation is perceived as a principle of acting or becomes involving in activities or events which take place in a society. *Longman Dictionary of Contemporary English* (2005) defines participation as “the act of taking part in an activity or event.” It is a means enabling a social actor to be involved in social activities. This definition emphasizes the fact that an individual person is an active social agent who has a role to play in social activities. But the definition has given a little clarity to the contents of this social undertaking; its links to social structure, social interaction, and social context where it takes place.

Westergaard (1986: 14) defined participation as a “collective efforts to increase and exercise control over resources and institutions on the part of groups and movements of those hitherto excluded from control” (Westergaard cited in Brinkerhoff, Johnson & Hill, 2009). It is the means of doing activities. It is an instrument upon which an individual actor or social institution acts in a manner that collectively fulfills the realization of communal needs. In short, it is a tool enabling social actors take part in the fulfillment of communal expectations.

Other scholars still perceived participation as an end in itself. It is defined as a purpose or an aim. Mawa (2005), amongst other scholars, defined participation as an end in which social institution “have a share in the realization of common good of society and also that ability of acting together with others which allows the realization of all means from communal acting” (Mawa, 2005). In other words, participation is an aim an institution pursuing in order to fulfill the needs of people, mobilize means to achieve those needs and educates people to feel sense of ownership over the achieved communal needs. Indeed, the definition is wider in scope; it links the social actor to social structure, interaction and context where it takes place.

In fact, there is no unified ground comprehensively defined the participation. Ordinarily, participation is a means in which a social institution takes part in activity that governs social affairs. That is to say, it is an instrument that provides driving force for institution

to undertake certain roles in the local governance system. In this study, participation is a means in which the authority takes part in the local governance system.

#### **2.2.4 Administrative Sensitivity**

Administrative sensitivity is a recent concept rooted in the administrative and legal discourses. In a simple term, the concept denotes the authority's timely response in redressal of public grievances. It the authority's responsive promptness in settlement of local disputes or in carrying out reconciliation among hostile people through fair procedures.

In a western legal discourse, the meaning of the administrative sensitivity is much more associated with the principle of 'natural justice' where a process of decision making in a court is assumed to be prompt, fair and reasonable (Public Sector Agencies Fact Sheet No. 14, 2000). This assumption emphasized that every decision-maker in courts should impart justice without judicial bias. The decision maker must respect the rights, interests and expectations of individuals.

Administrative sensitivity is a legal principle safeguards "any person whose rights, interests or legitimate expectations will be affected by a decision or finding is entitled to an adequate opportunity of being heard. In order to properly present their case, the person is entitled to know the grounds on which that decision or finding is to be taken" (Public Sector Agencies Fact Sheet No. 14, 2000). The determinants the Public Sector Agencies Fact attributes to administrative sensitivity are timeliness, consistency, impartiality and

absence of bias in legal process. In short, administrative sensitivity is a manner in which an authority promptly, fairly and reasonably redresses disputes without undue delay. These are the most salient features characterizing the administrative sensitivity authority should exhibit in the process of disputes resolutions.

In this respects, time factor exhibits the sensitive authority demonstrates while settling disputes. In *Guide to rebuilding governance in stability operations: A role for the military (2009)*, a study carried out in Afghanistan, reported that the timeframe allotted in resolution of disputes exhibits the sensitivity of any authority which participates in a process. It emphasized that “there is general agreement that in the short-term rule of law lines of effort that directly support the restoration of security are the highest priority....” (Brinkerhoff, Johnson & Hill, 2009: 34). This information suggests the authority charged of dispute resolution and justice delivery has to be time-conscious. The sooner the time allotted of settling disputes the greater the chance to redress a large number of cases.

Furthermore, time factor as a determinant of administrative sensitivity is demonstrated by traditional chiefs when settling disputes. In his seminal work, *the politics of inclusion and exclusion of traditional authorities in Africa: chiefs and justice administration in Botswana and Ghana (2008)*, Dzivenu observed that in chiefs’ court, “most disputes are settled at a single day’s sitting with a verdict announced on the same day...the court convenes within few days after a complaint is lodged, when the facts are still fresh in the memories of all the parties and witnesses” (Dzivenu,

In contrast, other scholars argued that conflict resolutions conducted through the chiefs' court do not reflect the administrative sensitivity. They argued chiefs are not sensitive to dispose of cases that require an urgent intervention. In *neither Palaces nor Prisons: the Constitution of Order among the Nuer* (1992), Duany argued that chiefs are not time conscious in settling disputes that fall at their disposal. They exhibit 'administrative insensitivity' (Duany, 1992). Most often, they could not give sufficient time to attend to every individual problem and this insensitivity leads to mounting number of unresolved cases. "The result was that many persons who would have been found innocent were convicted. In many cases, the corruption of the chiefs was the cause of the miscarriage of justice" (Duany, 1992).

Administrative sensitivity can also be understood from a viewpoint of fair procedures authority follows when it settles disputes. According to Weatherford (1992), the prospects of demonstrating administrative sensitivity "depends on properly diagnosing and addressing public grievances, a process that will be most effective if the views and political ideals of society are clearly understood" (Weatherford, 1992 cited in Carlson, 2006). In other words, authority can become more sensitive if the methods and procedures it uses in disputes resolution are held by the people.

One of the indigenous mechanisms traditional authority employ in settlement of disputes is indemnity. An indemnity is 'something of value given by a person or group to another person or group as compensation for a wrong' (Radcliffe-Brown, 1952:210 citing in Scott & Douglas, 1972). The indemnity of the person wronged is conducted through the

payment of cattle. The person who has done the wrong or committed an act of deviance or the wrongdoer is required by the Nuer customary law to pay cattle as compensation for the person wronged. But the number of cattle paid depends on the gravity of crimes committed. For example, the compensation of the homicide case is fixed at rate of fifty head of cattle and adultery at six cows (Howell, 1954). In addition, the compensation of other crimes warrants similar procedures.

Indemnity is a judicial method of conflict resolution aiming at repairing the social relationship that has been derailed by the crime committed. The purpose of “the payment of indemnities is aimed directly at the restoration and strengthening of the web of social relations that are disturbed by the deviant act” (Radcliffe-Brown, 1952:210 citing in Scott & Douglas, 1972). The compensation of the person wronged does not necessarily mean the imposition of vindictive or punitive punishment on the wrongdoer unless circumstances necessarily mandate such a solution. Thus, “the primary purpose of justice in the chief’s tribunal is to promote harmony and reconciliation between parties. The ultimate aim is the restoration of social equilibrium which had been disturbed by the offensive conduct” (Dzivenu, 2008).

While the indemnity is aimed at the disputes resolution and the re-establishment of relationship between the contending parties, its method used does not go well with the objectives of statutory courts which “usually administer justice and make their awards and decisions solely on the basis of the facts accepted and the law as it is applicable thereto” (Dzivenu, 2008). That is to say, the state perceived judicial procedure in a form

of law and not in a substance applying for handling disputes. It emphasizes the integrity, legitimacy and validity and uniformity of the state law regardless of different methodologies that indigenous communities may use in the course of disputes resolution. Such state approach does not take into account substances which “reflected the means by which order is established and maintained in the societies” (Griffiths, 2004).

Among the Nuer of South Sudan, the indemnity is clearly spelt out in the customary law. The Nuer customary law is collection of the Nuer values, norms and mores codified into the native law by the British colonial authority in the early 1940s (Howell, 1954). It is upon it that the Nuer settle their own disputes. For instance, in Nuer chiefs’ court, complainant has to open a statement of a case against the defendant before court officials. Shortly afterwards, the court officials issue a warrant order calling the defendants to contest the statement in a court sitting. Subsequently, the chiefs cross-examine the evidences and data provided by each contending party and then pass a decision of judgment ruling out the winner or loser of the case. Such decisions passed are legally binding and enforceable.

Some scholars, however, argued that the disputes disposition carry out in the chiefs’ court does not reflect a fair justice because the institution of chieftainship in charge of judicial process has been corrupted by the colonial state and by the clientelism of the despotic postcolonial state and is, thus, no longer subject to accountability to the populace” (Zack-William, 2002, Kilson 1966 citing in ECA, 2007). These scholars hold the view that population under traditional authorities live as subject rather than citizens of the state and

democratic governance would not be achieved while such systems continue to exist (Mamdani, 1996, Ntsebeza, 2005 cited in ECA, 2007).

### **2.2.5 Conceptual Framework**

The diagram below depicts the study variables. The study variables are classified into three categories, namely independent, dependent and intervention variables.

Participation is an independent variable. It is a mean in which an institution takes part in the administration of social affairs. Under usage of this study, participation it is an instrument for institution to undertake part in the local governance system. The postconflict disputes comprise of the family disputes, civil related cases and homicide. The family disputes involve divorce, rape, and adultery. The civil related disputes include cattle theft, disputes over water, grazing land and fishing sites. And the criminal offences included cases of homicide whether intended and unintended and the death cause by a sustained injury.

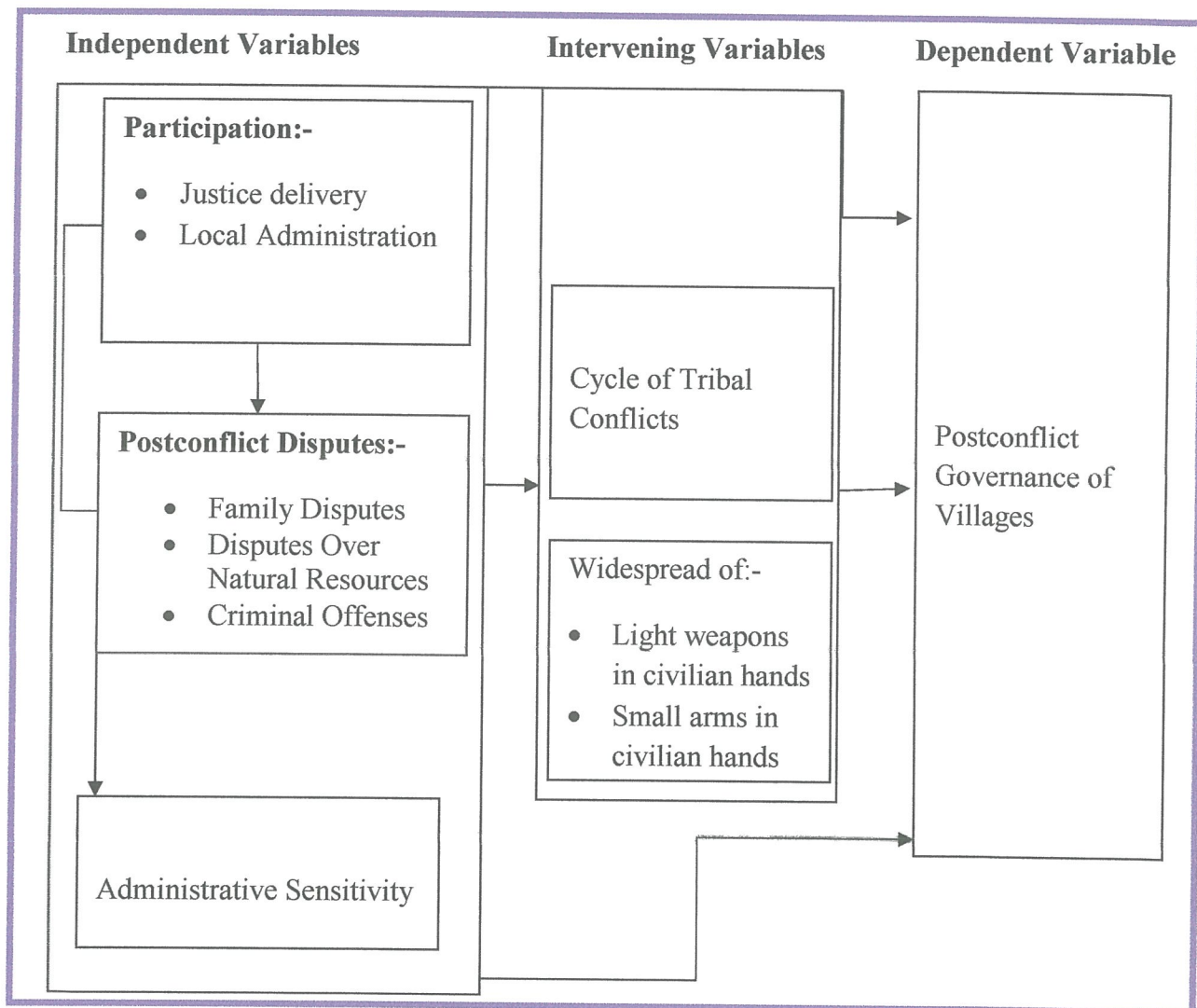
Governance is a dependent variable. It is collective set of values and norms embody in an institution upon which collective decision is taken in more transparent, accountable, participatory, responsible and responsive manner. Thus, the study assumes that participation of the Nuer Chieftain Authority in disputes settlement has influences on the governance system.



Intervening variable are the cycle of tribal conflicts and the widespread of light weapons and small arms in the civilian hands. The cycle of tribal conflicts refers to the frequent incidences or attacks occurred between communities after the signing of CPA in 2005. In *Jonglei's Tribal Conflicts: Countering Insecurity in South Sudan, 2009*, International Crisis Group reported that tribal conflict is one of the exacerbating factors affecting the local governance system. It fuels the state of lawlessness in the rural areas of South Sudan. Hence, widespread of light weapons and small arms in the civilian hands threatens security in the rural areas.

To control these intervening variables, the researcher held the factors found in the independent variables constant. The researcher assumed the judicial and administrative roles chiefs play in local administration do not change in courses of the happening of unpleasant events such as occurrences of tribal conflicts or spread of weapons

### The Diagram Showing the Conceptual Framework of the Study



**Fig.3: the Conceptual Framework of the Study**

### 2.3 Areas of Participation of the Chieftain Authority

The Nuer Chieftain Authority like other chieftain institutions in Africa “can provide the bedrock upon which to construct new mixed governance system structures since chiefs serve as custodians of and advocates for the interests of local communities within the

broader political structures” (Sklar, 1994, Skalnik, 2004 cited in ECA, 2007). Given this fact, the Nuer Chieftain Authority plays important roles in settlement of family disputes, disputes over natural resources and criminal cases in the Nuer villages.

### **2.3.1 Settlement of Family Disputes**

Rules governing the family affairs have been in place since time of immemorial. Nuer society has customary law that specifically address issues relating to family disputes such as rules redressing divorce, adultery and rape cases.

Family disputes frequently arise from the trivial issues at the familial level. Among the Nuer, family disputes are seen as a source of social disintegration whose consequence affects every members of the family. Nuer hold a strong view that when such unpleasant events occur in the family, the members of that family would immediately seek intervention of the immediate relatives otherwise seeks chieftain authority for redressal. The intervention of chiefs into settlement of such disputes depends on the gravity of the problem. Now Nuer face three major types of family disputes: divorce, rape and adultery.

Divorce is one of the challenging incidences affecting the family integrity. It is caused by infidelity, neglect of family duties by either party, gross misconduct showed by wife, impotent of husband and physical cruelty at side of man (Howell). These are the common grounds prompt either party seeks for divorce.

General principle of divorce among the Nuer is to return “bride wealth”. Given the complexity of providing “bride wealth”, particularly cattle, the logistics of returning the wealth often causes severe friction within families and is a strong force militating against divorce (Jok, Leitch & Vandewint, 2004). The situation is much more complex because the payback of bride wealth is made in the form of cattle where offspring produced in the interim are counted. Cases of this nature take longer time to settle. “Sometimes frustrated complainants take law into their own hands by seizing cattle they believe belong to them. An action of this nature could trigger more violence resulting in further blood feud” (Wassara, 2007).

Nuer chiefs’ court intervenes in such cases. Firstly, the appellant goes to chiefs’ court to open a statement against defendant. The chiefs respond by calling upon the accused otherwise the chiefs issue warrant order to seize cattle from the side of bride for the bridegroom. This is purely done when the accused person is not voluntarily ready to make a bride wealth payback accordingly or is unable to fulfill the obligation as court ruled it (Howell, 1954).

In resolution of rape case, the chiefs’ court follows the same procedures applied in divorce resolution. However, in the process, chiefs pronounce punitive punishment against the wrongdoer paying two or three cows as compensation to the father or parents of the person raped plus the court fine. Thereafter an imprisonment sentence is also imposed on the culprit till further review of the case (Jok, Leitch & Vandewint, 2004). In

an adultery case, the chiefs' court detained the person committed crime and he is obliged to pay six head of cattle and some more for compensation of a husband and others for the clearance of court fine (Jok, Leitch & Vandewint, 2004). The chiefs' final decisions in the resolution of such disputes are binding and enforceable.

While the resolution of the family disputes by chiefs' court seems to be indigenous-based methods, it shares similar procedures with the Sudan's state statutory of 2003. The statutory laws require that a culprit must be punished because of adultery and rape crimes he committed. And fine imposed on the wrongdoer justifiable (Jok, Leitch & Vandewint, 2004). In this respect, both customary law and the statutory laws consider the compensation for suffering at the side of the victim or person wronged and punishment of wrongdoer as best deterrent and restitutive methods.

### **2.3.2 Settlement of Criminal Offenses**

Criminal dispute emerges when a case of homicide arises between individuals within the community. It occurs when a person is killed by another person with intended or unintended motive or because of the old wound sustained a victim over long time after the fight. Such incidences result into response of kinsmen of the slain to carry out vengeance act of killing a slayer or any member of the kinsmen of the slayer. When these feud cases are not resolved in time, they develop into a state of hostility.

Resolution of the homicide cases is previously conducted through traditional spiritual leaders and chiefs. In the past, a leadership found in “leopard skin chief” often performs mediatory role in resolution of homicide disputes (Howell, 1954). The legitimacy of leadership lies on spiritual and hereditary attributes hold by specific clans on priestly basis. The symbols of their offices are the spear and the leopard skin which the Nuer bestow with considerable respect.

Roles spiritual leaders play involves sacrifice of animal and oath takings by disputants as a process of mediation of conflict. This exercise is meant to compel contending parties to tell truth during deliberation and be bound by terms of resolution after deliberation (Evans-Pritchard, 1940, Howell, 1954, Duany, 1992, Hutchinson, 1996). However, the spiritual leaders have no executive power binding the disputants to the decision reached in the settlement of blood feud. They have no authority enforcing the resolution. Nuer only bestow high respect to these leaders on a moral basis. Hence, this spiritual leadership is insufficient to settle such blood feuds in postconflict period.

Nuer Chieftain Authority plays important roles in the resolution of blood feud. The Nuer Chieftain Authority is a “judicial, executive and administrative body” unlike the spiritual leadership (Howell, 1954). It has executive power to resolve blood feud and enforce the resolution reached.

There are three types of homicide disputes Nuer Chieftain Authority redresses in the Nuer villages: the intended, unintended and delayed homicide cases. Each of these cases is resolved according to the circumstances upon which it was committed. In this way, 'the criminal intent' and 'time factors' are the qualifications to determine the rate of cattle required for compensation (Howell, 1954).

Intended homicide refers to an action occurred in circumstances in which a man has been killed intentionally. "The killer has intent to carry out the action" (Howell, 1954). The unintended homicide is an act of murder in which the slayer has no intention to carry out the acts. Such act may occur by 'accidence' (Howell, 1954). But it warrants for compensation because of the question of life lost. The delayed homicide refers to death occurred upon the victim as a result of wound the slayer inflicted and that 'wound is sustained over long time' (Howell, 1954). Their rates of compensation vary significantly.

Variety of reasons has been given as to why homicide cases warrant for different rates of compensation among the Nuer. One reason given is that circumstances upon which an act was committed would reflect 'the criminal intent' (Howell, 1954). For instance, chiefs' court make an assessment of weapons used to carry out the act. If the investigators' finding indicates that firearms, spears and other fighting weapons were involved during the commission of the act, the case would fall under category of an intended homicide. It then would deserve for full compensation. But if the finding is otherwise, the case would be an unintended case. Both unintended and delayed homicide cases do not require full

compensation. The suspected slayer pays minimum number of cows just to seal off grievances of the deceased's kinsmen because of question of life being lost.

The fundamental ethos of compensation is to achieve conciliation between the wronged and wrongdoer in the villages (Howell, 1954, Jok, Leitch & Vandewint, 2004). The Nuer customary law has “a philosophical outlook, rules and procedures manifestly different to Western law or even southern Sudanese statutory law” (Jok, Leitch & Vandewint, 2004). In settlement of homicide case, it focuses how to achieve a sense of justice and resolution amongst the disputing parties and in turn to restore or maintain social stability.



**Table Showing Three Main Forms of Homicide and Rate of Compensation**

Local name	Translation	Rate of Compensation
<i>Thung ran</i>	intended homicide : a slayer has intent to kill	50 cows
<i>Thung guacka</i>	unintended homicide: a slayer has no intent of killing	20 cows or less
<i>Thung nyindit</i>	delayed homicide: death caused by wound slayer inflicted on victim and sustained over long time	10 cows or less

**Table 1: Three Main Forms of Homicide and Rate of Compensation**

### **2.2.3 Settlement of Disputes Over Natural Resources**

Postconflict disputes over natural resources have been a feature in the Nuer villages after the CPA. The origins of these disputes are many and varying but invariably attributed to usage of natural resources: land, water, animals and other property. For instance, it has been observed that “competition and conflict is hardly surprising among a predominantly pastoral people living in a country where resources are often scarce” (Jok, Leitch & Vandewint, 2004).

Moreover, “as the size and expectations of the population has increased the chances of conflict over finite resources as increased” (Jok, Leitch & Vandewint, 2004). This is particularly true amongst the Nuer communities whose people’s livelihood is based upon

livestock and farming and specifically cattle and food crop productions. Hence, the most types of postconflict disputes in the Nuer villages are disputes involving cattle theft, disputes over grazing, water and fishing sources.

Cattle theft is one form of the postconflict disputes challenging the Nuer community. The cattle theft pervades many areas of rural South Sudanese. It occurs when individual elements within or out of the Nuer communities engage in cattle stealing for different purposes; a man steals cattle either to “sell them out in market for money or keep them as his property” (Howell, 1954). In a recent past, cattle theft was not pervasive as it is today and the gravity of cattle rustling was not serious. This is because of “a shared understanding that stealing somebody's animal will meet with violent retaliation if the thief is discovered. The force of common mores sometime compels a thief to return stolen cattle if he wishes to continue residence in his own community” (Duany, 1992).

Although the crime of cattle theft becomes pervasive phenomenon in the postconflict areas of the Nuer villages, Nuer chiefs' court devised formal mechanisms to punish wrongdoers. When a man stolen another man's cow or ox and is caught in the process, the Nuer chiefs' courts obliges wrongdoer to pay restitution fees twice equivalent to the value of animal or property appropriated (Howell, 1954, Duany, 1992). Moreover, the New Sudan statutory law also supports this method. It supplements it with punishment on the wrongdoer; the imposition of terms of imprisonment, payment of compensation fees and punishment or fine. But one wonders how deterrent and restitutive approaches would curb these pervasive challenges in the Nuer villages in postconflict periods.

Disputes over water sources, grazing and fishing sites become frequent phenomena in the Nuer villages after the CPA in 2005. Scholars identified that most conflicts in South Sudan “are associated with watering of cattle, but also with fishing... Tribes or segments of tribes own pools and ponds that contain fish. Trespassing these pools and ponds result in serious disputes that often lead to violence” (Wassara, 2007). It has to be argued that factors such as drought can also exacerbate the occurrences of incidences over natural resources.

Resolutions of disputes relating to water, grazing and fishing sources is often connected with chiefs. In the Nuer villages, chiefs have authority to regulate the usage of water, grazing and fishing sites which often spark communal conflict. Chiefs know better when and how people should access to water sources, grazing and fishing sites during seasonal cycle. For instance, they know better how the “rights in land, grazing, fishing and drinking pools are held by those who are considered to be the descendants of the original occupiers of the areas” (Howell, 1954: 181). Sometimes, the intruders override the rights of the rightful owners of the resources and wish to use resources by force. This may trigger communal conflict.

The mechanism chiefs employed in resolution of disputes relating to water, fishing and grazing lands is the Nuer customary law. This customary has spelt out the “concept of ownership of land” (Howell, 1954). Given this stipulation, the specific community members have rights to use the land (or water) for a “specific purpose, such as grazing,

fishing and farming that is fundamental to Sudanese practice and customary law” (Jok, Leitch & Vandewint, 2004). As a consequence, the conception of land ownership stipulate in the Nuer customary land law enable chiefs to determine whether a wrong has been committed with respect to the property owned or legally possessed by another person and to deal with the consequences.

Land in the Sudan is regulated through the Land Settlement and Registration Act 1925, which remains extant and the Unregistered Land Act 1970, repealed by the Civil Transactions Act 1983(Jok, Leitch & Vandewint, 2004). The latter is particularly important in that it deals with the concept of state and private ownership. In this respect it declares that ‘all waste, forest, occupied, unoccupied and unregistered land is deemed to be Government property and to be registered under the Land Settlement and Registration Act 1925’ (Land Settlement and Registration Act 1925 cited in Jok, Leitch & Vandewint, 2004).

Nuerland comprises of two features of geographical categories namely ‘homestead’ and ‘*toch*’. Each of these categories has important attachment in life of the community. The former means ‘village land’ where villagers build permanent settlements and use it for agricultural activities. The latter refers to low and swamp areas with good pastures for cattle and abundant fishes and game animals villagers supplement for their dietary needs.

In the customary law, the *toc* is considered as ‘communal property’ and the ‘private rights in this area are deemed subordinate to communal rights’ (Jok, Leitch & Vandewint, 2004). In the village land, the private interests in land or rights are recognized and respected. Communal ‘ownership’ of *toc* or its other tribal equivalent is achieved mostly through historical conquest and continual use (Howell, 1954).

The legal importance of these categories is that disputes arising over usage of products of land are resolved through traditional mechanisms taking into account the rights of dwellers of the lands. Formally, chiefs consider rights of the original occupiers to exclude other intruders from accessing the land products (Howell, 1954, Duany, 1992).

#### **2.4 Challenges Affecting Chieftain Authority**

Challenges affecting the Nuer Chieftain Authority in the local governance system are quite multifarious. One problem has been an elite bias viewing the chieftain authority as ‘anachronistic vestige’ of the past colonial regime that had no place in the modern political landscape (Khalid, 1990). Moreover, scholars argued that chieftain authority has inherent drawbacks ‘often harbor dysfunctional practices such as discrimination on the basis of gender...’ and it does not ‘evolve in response to changes brought in from the rest of the world’ (Dia, 1996).

Scholars focus their critique on indigenous customs and values chieftain authority practiced in governance of communities. These values are contrary to the universal practice of human rights. Scholars argued that “some of these customs to be at odds with

contemporary and internationally accepted standards of human and individual rights’ (Jok, Leitch & Vandewint, 2004).

Within the Nuer society status of women is seen as a reflection of functions that ensure cohesion a family. The male is a head and breadwinner of the family. The role couples play demonstrates social patterns that “cementing family ties through ‘bride-wealth’ and of producing children” (Jok, Leitch & Vandewint, 2004). In this respect, scholars whose culture advocates the rights of the individual see the status of women from point of view of property possession.

Property possession means property ownership. The Nuer people have specific ways specifying modes in which property are owned among family members. The Nuer customary law like other South Sudanese communities’ customary laws has specifically spelt out ‘property entitlement and inheritance’ (Howell, 1954). It states that ‘where a person dies intestate shall go to the following persons may be heirs:’ wife (or wives) and children parents or brothers if there are no wife (or wives) and children” (Jok, Leitch & Vandewint, 2004). This stipulation indicates that women are rightful persons in the ownership of property ownership when it comes to property inheritance.

Furthermore, scholars pointed out illiteracy as one of the challenges daunting chiefs from participating in governance of the Nuer villages. The first challenge cited by many scholars is that chief lack literacy skill. This lacks of educational skill in turns hinder

them to carry out their administrative responsibilities. An assumption has been made that chiefs who cannot read and write are unable to handle court proceedings, write tax report and decode official correspondences (Duany, 1992b). In such situation, chiefs cannot ensure the flow of administrative correspondences within the local governance system.

It has been observed that during the 1990s the ‘nonliterate Nuer chiefs often felt profoundly vulnerable to arbitrary intrusion of ‘political force’ beyond their control through the medium of writing...’(Hutchinson, 1996).

Given the drawbacks highlighted above, it can be argued that illiteracy found among chiefs in recent years cannot be a primary factor daunting them to take part in judicial and administrative functions at this time. Even though chiefs were nonliterate in recent past they have evolved over time as the case in the CPA postconflict period. In addition, spread of primary education in South Sudan might influence some court members to acquired basic skill either in their own dialects, in English or in Arabic languages so as reading and writing.

## **2.5 Conclusion**

A number of points found in the literature review help this researcher to explain the participation of chieftain authority in the local governance system. One point highlighted is that scholars fail to differentiate the roles chiefs played during the colonial period and

those roles they undertake in the postcolonial governance system. Critics of chieftain authority held the view that chiefs were not sensitivity in the settlement of local disputes during the colonial authority because colonizers used them to carry out certain activities suited their own interests. In doing so, their administrative sensitivity in the postcolonial state would also be questionable.

Second point found in the review is that scholars are unsuccessful to distinguish between the factors influencing the roles chiefs play in the post independent, the civil war and postconflict periods as the case the Nuer Chieftain Authority in South Sudan. In courses of all these periods, scholars underestimate manner in which chiefs would have evolved and adapted themselves to situations. In other words, it has to be argued that factors challenged chiefs in the successive periods in governance of the South Sudan could have influenced chiefs to themselves to challenges faced.

Given the points highlighted above, it has to be stated that there is gap of literature described participation of chieftain authority in governance system. Hence, there is a need to re-examine the ways the chieftain authority takes part in the postconflict governance of the Nuer villages and the manner in which its participation is relevance in the context of South Sudan.



## **CHAPTER THREE**

### **RESEARCH METHODOLOGY**

#### **3.1 Introduction**

Ahuja (2001) defined methodology as the description, explanation and justification of methods and not the mere methods. It is the scientific methods on which a research study is based. On the other hand, methods are a scientific tools or techniques used to collect data and information. Therefore, it is the main purpose of this chapter to describe the methodology this research study was employed.

#### **3.2 Research Design**

The study employed both qualitative and quantitative methodologies. It adapted descriptive design. The descriptive design was chosen because the researcher wanted to combined quality and quantitative data and thus sought to look into significant of variables describing the participation of targeting population in the governance of the Nuer villages.

#### **3.3 Research Population**

The study population consisted of the chiefs, the office bearers serving for the Nuer Chieftain Authority in the Nuer villages, South Sudan. The total population at the time of the study was 53.

Since the Nuer Chieftain Authority was comprised of the chiefs who had different times of appointment into the Nuer Chieftain Authority, it was the role of the researcher to decide among the target population those who would provide reliable information towards the study, 21 chiefs out of total population of 51.

### 3.3.1 Sample Size

In order to make generalization of the study findings, there is a need to choose a sample size representing the population under study.

Table blow depicts the sample size selected and method used in selection of respondents

County	Sample Size	Method
Fangak County	7	Purposive Sampling
Ayod County	7	Purposive Sampling
Guit County	7	Purposive Sampling
Other key informants	2	Purposive Sampling
Total	23	

**Table 2: Sample Size Selection**

The researcher selected the study sample size of 23 out of 53 people, 43.4% of the total population. The selection of sample size is believed to be in line with Denscombe (1998) that states “the crucial factor to be considered in relation to sample size is not the proportion of the population which gets included in the survey but the absolute size of the sample” (Denscombe, 1998).

### 3.3.2 Sampling Procedures

The researcher used purposive sampling to select respondents. Since the researcher wanted to get relevant information from the study respondents, chiefs who had served in the Nuer Chieftain Authority for three years and above were considered to be key informants to provide reliable information than the ones started serving a year at the time of the study. In addition, the other key informants like executive district administrators and other knowledgeable people also fell under these criteria. In this way, the selection of the informants was done as follows:-

1. The chiefs should have served for three years and above in the Nuer Chieftain Authority;
2. Other key informants should have been the executive administrators and scholar.

One of the advantages Denscombe (1998) admires of the purposive sampling is that it allows the researcher “to deliberately select particular group because they are seen as instances that are likely to produce the most valuable data...” (Denscombe, 1998). In this case, the purposive sampling is very important method for such kind of research study because the study respondents who are to be selected purposively are believed to be more knowledgeable about the information required. Given this cited statement, the study respondents purposively selected were:-

1. One county commissioner and one scholar knowledgeable in the area of the study;
2. Twenty three chiefs.

### **3.4 Research Instruments**

The study employed the questionnaire and interview guides supported with tape recordings. In the collection of quantitative data, the researcher employed closed end-questions. And in the collection of qualitative data, the researcher used open-ended questions. Both instruments were employed because the researcher wanted to combine the quantitative and qualitative study.

#### **3.4.1 Validity of Research Instruments**

According to Ahuja (2001) the validity “refers to the success of the scale in measuring what is meant to be measured” (Ahuja, 2001). It means the ability to produce findings that are in line with the study questions. To ensure the accuracy of data, the researcher followed certain procedures. Firstly, key informants were purposively selected to be the study respondents. Secondly, the researcher use tape-record during the interview exercise. In analysis, the researcher relied on common themes emerged across interviewees’ transcripts.

#### **3.4.2 Reliability of Research Instruments**

Ahuja (2001) defined reliability as “ability of an instrument to produce consistent or same result” (Ahuja, 2001). It is a degree to which instruments used are free from errors and therefore they produce reliable outcomes as required. To ensure the data reliability, the researcher discussed the instruments with the researcher’s Supervisor and other Social Science Researcher. In addition, the researcher piloted the questionnaire with 5 potential

respondents in the field before the study started. Hence, commences of the above people and the results obtained from the pre-tested exercise made the researchers finally reviewed and adjusted the study instruments.

### **3.5 Data Gathering Procedures**

A researcher had written a letter addressed to the relevant authority, the County Commissioner, requesting for permission to conduct study. After approval, schedules were made with respondents and led to the distribution of questionnaires to respondents for filling and followed by subsequent conduct of interviews.

### **3.6 Sources of Data**

The study used both secondary and primary sources. The researcher reviewed the secondary documents found from different resource centers. In particular, the researcher reviewed books, articles, journals and research works as presented in the literature review chapter. In addition, the researcher collected primary data directly from the study respondents in the field. The primary data collected from the field are presented in the subsequent chapters.

### **3.7 Data Analysis**

The responses received from the study respondents were classified into different categories based on the nature of quantitative and qualitative data that required different techniques of analyses.

### **3.7.1 Data Coding**

The researcher made data coding in order to remove the unnecessary information and mistakes cropped up during data collection. The data coding was also intended to simplify the analysis.

### **3.7.2 Quantitative Data Analysis**

Quantitative data were analyzed using the statistical analysis that involved the frequency and percentage procedures. In this way, tables were used to depict the frequency of answers of the study respondents. Percentages were calculated in the tables to state data in the ratio form. Microsoft excel was employed in the process.

### **3.7.3 Qualitative Data Analysis**

The researcher employed a content analysis technique. The method involved key word analysis in which presence of specific words, phrases and references were searched and put under a series of thematic charts constructed in excel worksheets. This involved a number of stages. First, verbatim transcripts were produced from collected data. Second, key topics and issues, emerged from the data were identified through familiarization with transcripts and tapes. A series of thematic charts were devised, and data from each interviewee were summarized and arranged under each thematic heading. The contents of the information in the tapes were retained and used to cross-check data authenticity throughout the analysis.

### **3.8 Ethical Considerations**

The researcher treated information collected from the study respondents with due confidence. The researcher maintained the anonymity in quoting specific statements unless permitted otherwise by the persons interviewed.

### **3.9 Limitation of the Study**

The researcher faced financial difficulty while in the field. There was lack of money to give as incentives for assistant data collectors. But I overcame this shortcoming by using students in the area as data collectors. This minimized high cost that would have been paid to other potential assistants who might demanded high incentive payment.

The time constraint was also another factor affected the researcher while in the field. However, I strictly adhered to the field trip timetable scheduled from 15 of February to 15 of March 2010. In addition, the content scopes of the study especially political and administrative components were not rigorously exhausted. But I considered these aspects as components of judicial responsibilities. This is in line with the fact that the Nuer Chieftain Authority is 'judicial, executive and administrative body' (Howell, 1954). In spite of these limitations, the researcher believes that the study finding is very significance.

## **CHAPTER FOUR**

### **DATA PRESENTATION, ANALYSIS AND INTERPRETATION**

#### **4.1 Introduction**

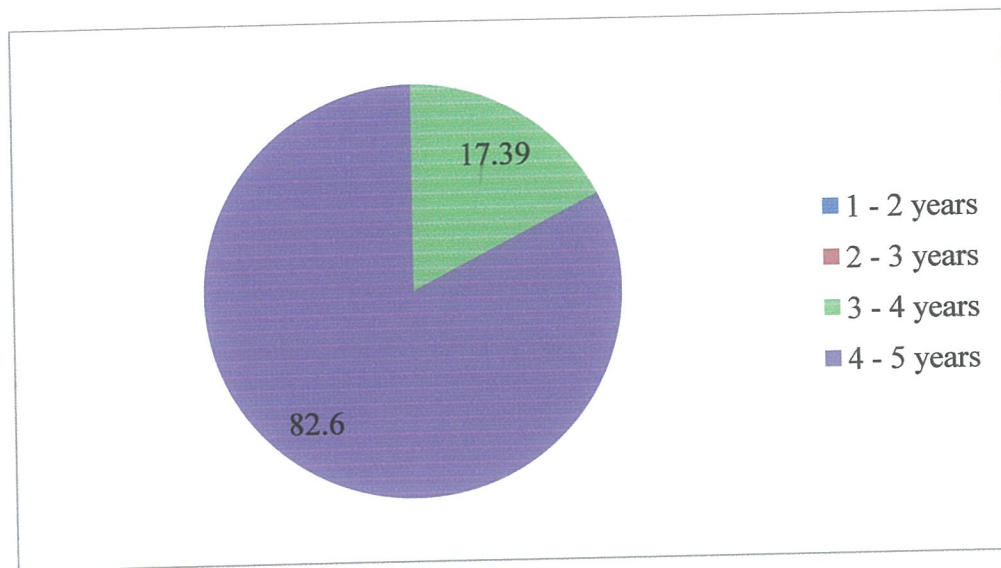
This chapter presents, interprets and analyzes the data collected from field of the study. It starts presentation with the analysis of data covering the background characteristics of the study respondents; explaining areas of participation of the Nuer Chieftain Authority in the local governance system; administrative sensitivity it exhibits in process of redressing disputes; outstanding challenges it encountering in the local governance system, effects of these challenges on its performances and commences respondents voluntarily suggested to enhance participation of the Nuer Chieftain Authority in the local governance system.

#### **4.2 Background Characteristics of Respondents**

This information presented below depicts background characteristics of the respondents of the study. The characteristics given include the respondents' length of time in services; educational level; sources of salary/incentives and salary/incentive scales for respondents in the institution of the Nuer chieftainship. These variables are later used to justify results of the study findings.



**Chart Showing Respondents' Length of Services in the Nuer Chieftain Authority**

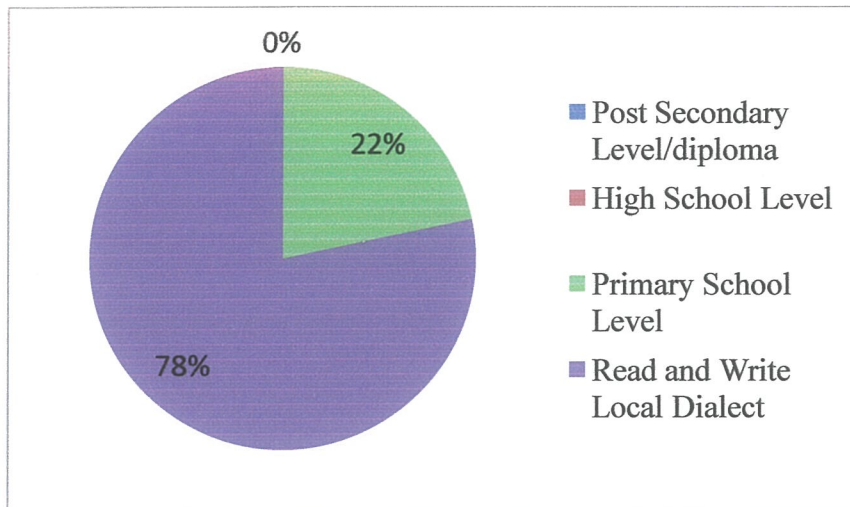


**Fig 3: Respondents by the Length of Service in the Nuer Chieftain Authority**

Figure 3 above indicates the length of times each respondent spent in the serve of the Nuer chieftain institution. To make presentation convenient, the years of service were classified in a range indicated as follows: 2-4 years, 3-5 years, and 5 years and above.

The study found 82.6% (19 out of 23) of respondents had been served the Nuer chieftain authority for more than five years and 17.39% (4 out of 23) of the respondents had been in the Nuer chieftain authority for a period of 3 to 4 years.

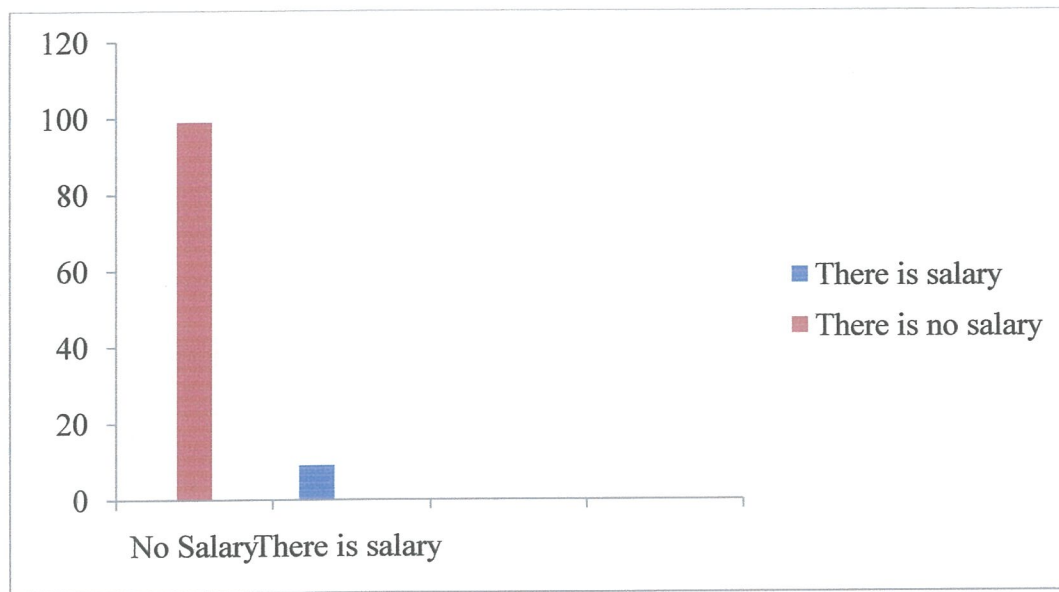
### Pie Chart Showing Educational Level of Respondents



**Fig 4: Respondents by Educational Level**

Respondents according to educational level are shown in figure 4. The study found 78.2% (18 out of 23) of the respondents could read and write the local dialect, the Nuer; 21.7% (5 out of 23) of the respondents had finished primary school level and none of them had finished high school or post secondary level.

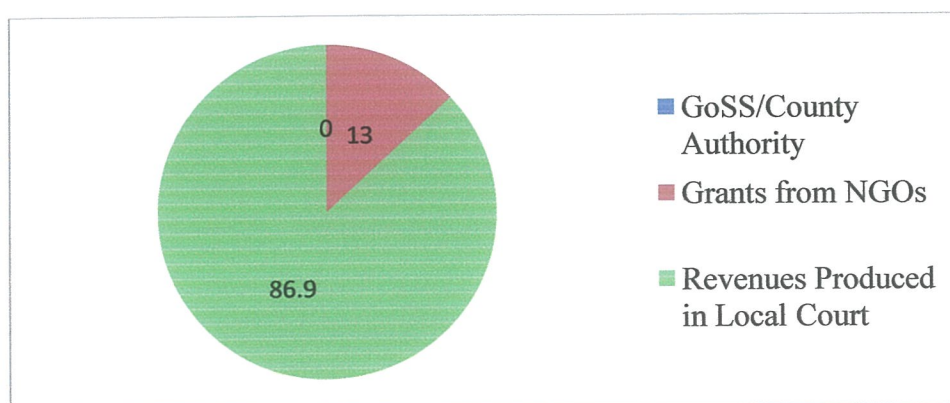
### Respondents' Monthly Salary



**Figure 5: Respondents' Monthly Salary**

Figure 5 depicts response of respondents. The found 95.65% (22 out of 23) of respondents said they had no monthly salary.

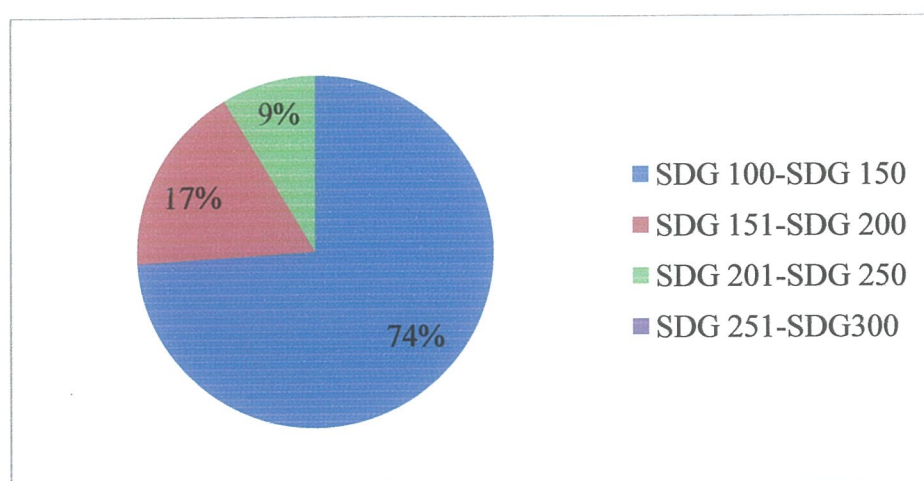
### Pie Chart depicts Respondents' Sources of Incentives



**Fig 6: Respondents by Sources of Incentives**

The distribution of the respondents by sources of their incentives is shown in figure 6. The study found 86.9% (20 out of 23) of respondents got their incentives from the local revenues produced in the local courts and 13% (3 out of 23) had their incentives from the grants donated by NGOs.

#### **Pie Chart Depicts Respondents' Incentive Scales**



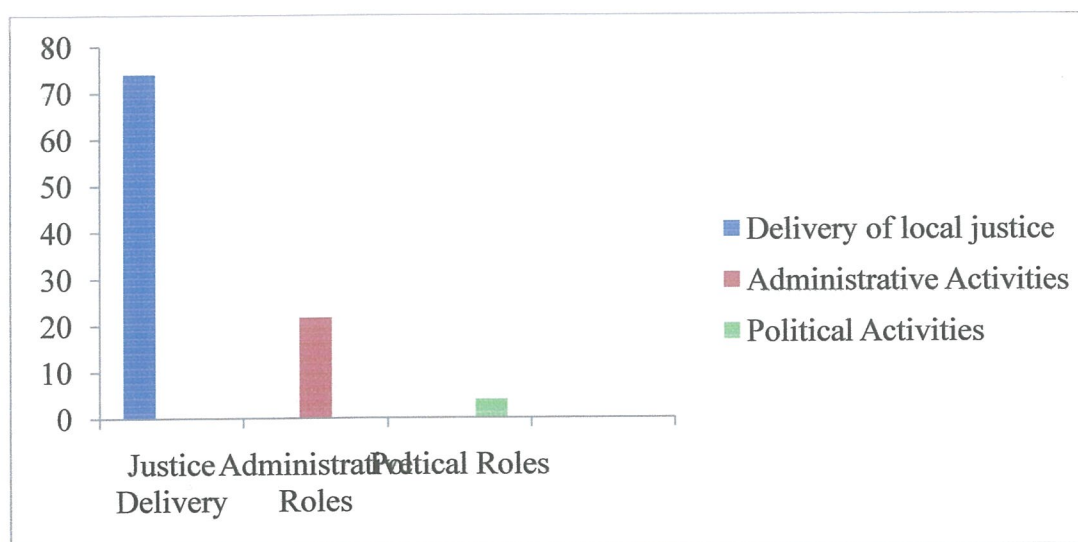
**Fig 7: Respondents by Incentive Scales.**

The distribution of respondents by the incentive scale is shown in the figure 7. The study found 74% (17 out of 23) of respondents fell in the monthly incentive scale of SDG 151 to SDG 200 (\$ 62.91 to \$ 83.3); 17% (4 out of 23) of the respondents were at the range of SDG 100 to SDG 150 (\$ 41.6 to \$ 62.5) and 9% (2 out 23) respondents were in a range of SDG 201 to SDG 250 (\$83.75 - \$104.16).

#### **4.3 Areas of Participation of Chieftain Authority**

The information presented below depicts areas of participation the Nuer Chieftain Authority undertakes in the postconflict local governance system. The presentation started with analysis of three types of participation namely delivery of local justice, political and administrative activities.

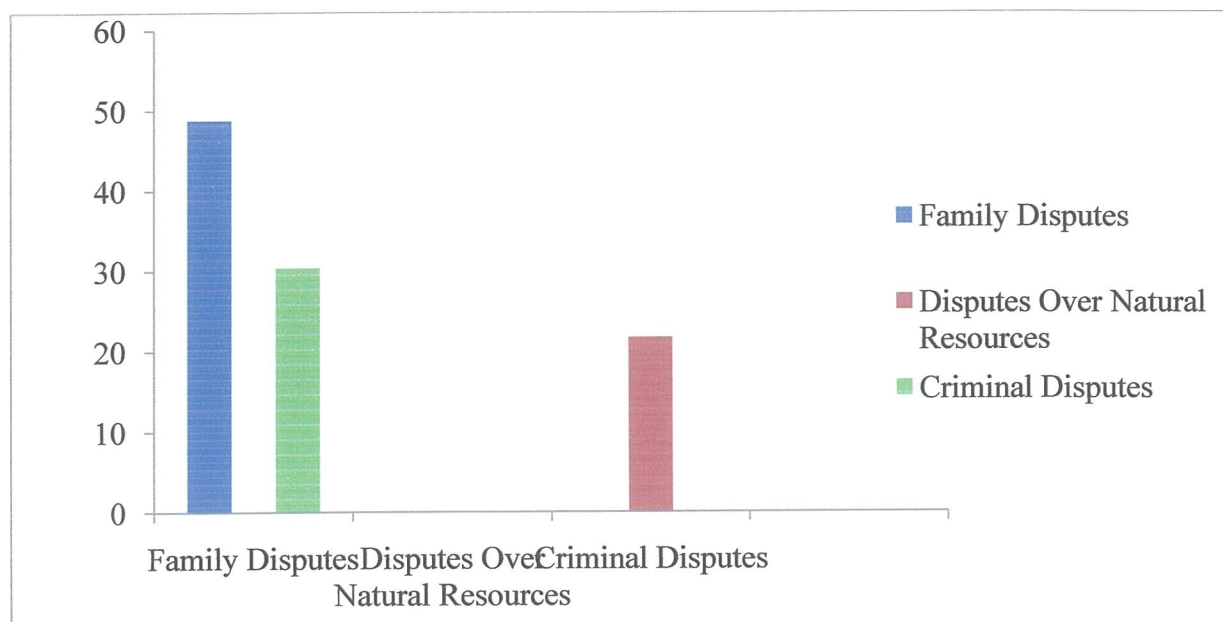
#### Graph depicts Main duties of Respondents in the Nuer Chieftain Authority



**Figure 8: Forms of duties of Respondents in the Nuer Chieftain Authority**

The figure 8 depicts responses of respondents on their main responsibilities. The study found 74% (17 out of 23) of respondents participated in delivery of local justice 21.7% (5 out of 23) of the respondents took part in the administrative functions and 4% (1 out 23) said they took part in political activities.

**Graph depicts Postconflict Disputes the Nuer Chieftain Authority Redressed in the last three months.**

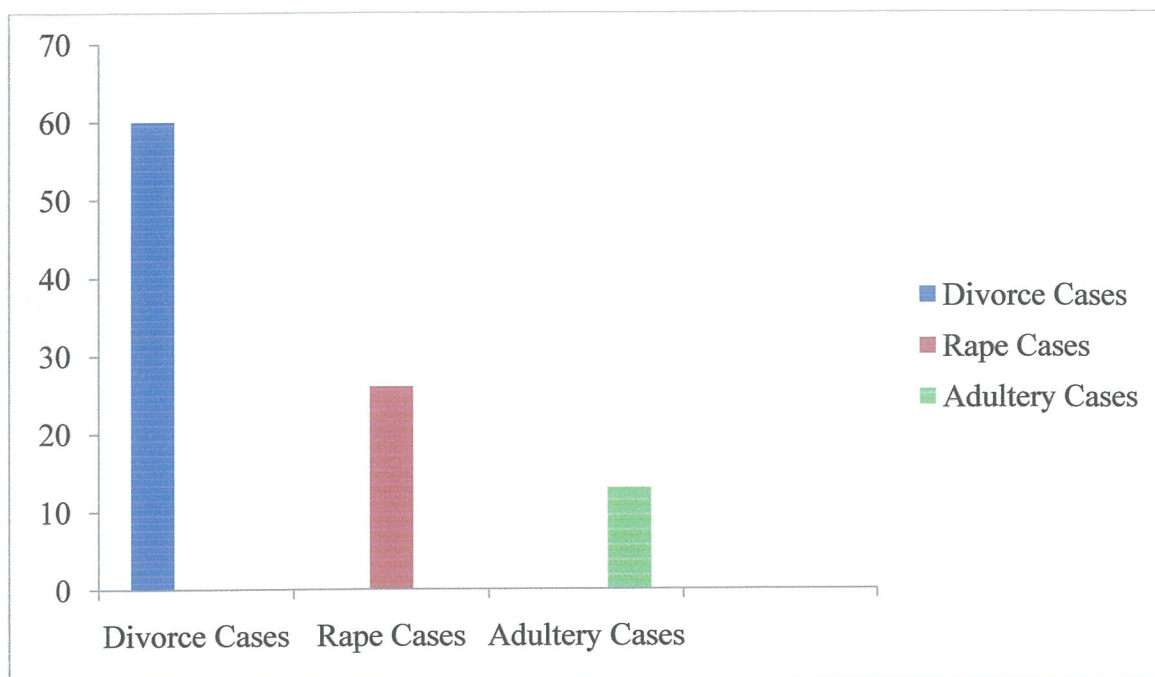


**Figure 9: Forms of Postconflict Disputes the Nuer Chieftain Authority Redressed through Local Judicial Process in the last three months.**

Figure 9 indicates forms of post conflict disputes redressed by chiefs. The study found 48.8% (11 out of 23) of respondents said they settled family disputes, 30.4% (7 out of 23) said they resolved disputes over natural resources and 21.7% (5 out of 15) said they redressed homicide disputes.



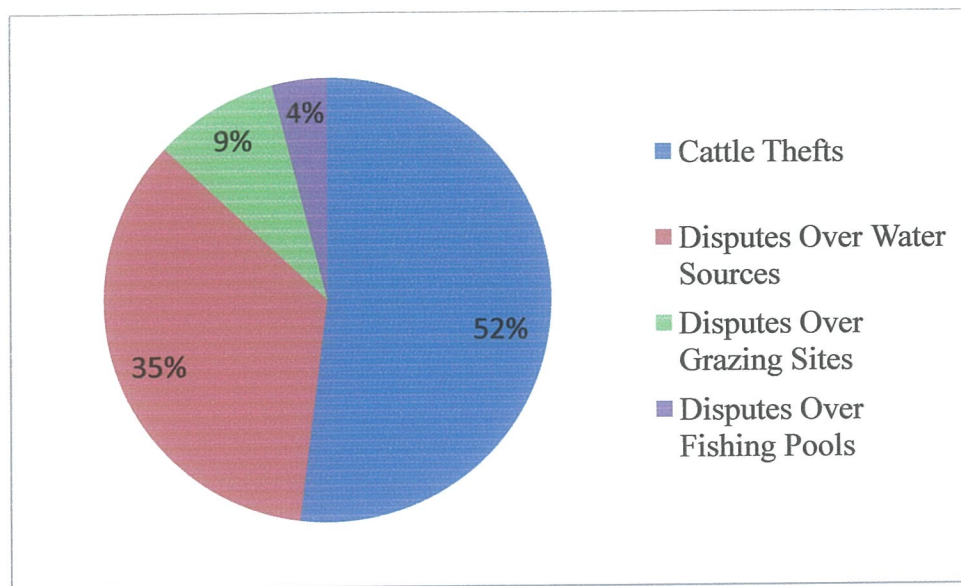
**Graph depicts Family Disputes the Nuer Chieftain Authority Redressed through Local Judicial Process in the last three months.**



**Figure 10: Family Disputes the Nuer Chieftain Authority Redressed through Local Judicial Process in the last three months.**

The figure 10 indicates family disputes settled by chiefs. The study found 60.8% (14 out of 23) of respondents said they settled divorces cases; 26% (6 out of 23) of respondents said they resolved rape cases and 13% (3 out of 23) of respondents said they redressed adultery cases.

**Pie Chart depicts Disputes Over Natural Resource the Nuer Chieftain Authority Redressed through Local Judicial Process in the last three months.**

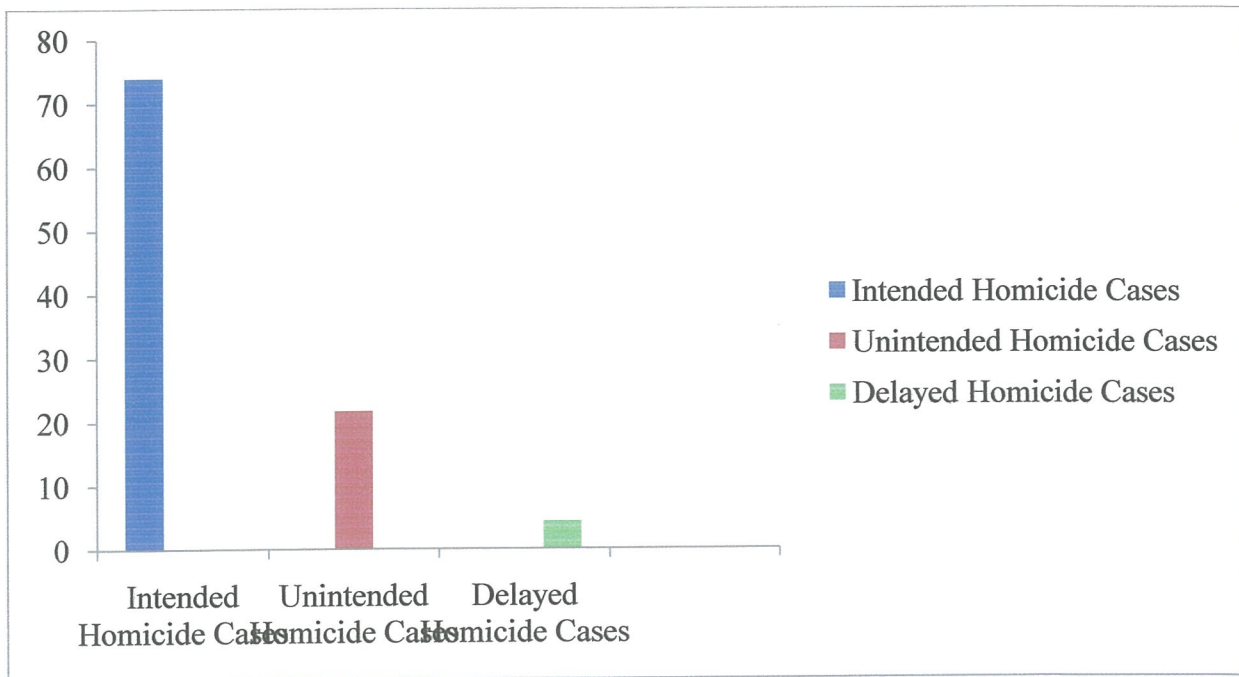


**Figure 11: Disputes Over Natural Resource the Nuer Chieftain Authority Redressed through Local Judicial Process in the last three months.**

Figure 11 depicts disputes over natural resources settled by chiefs. The Study found 52% (12 out of 23) of respondents said they resolved cattle theft cases; 35% (8 out of 23) said they settled disputes over water sources; 9% (2 out of 23) of respondents said they redressed disputes over grazing sites; 4% (1 out of 23) said they resolved disputes over fishing pools.



**Graph Depicts Criminal Disputes the Nuer Chieftain Authority Redressed through Local Judicial Process in the last three months.**



**Figure 12: Criminal Disputes the Nuer Chieftain Authority Redressed through Local Judicial Process in the last three months.**

Figure 12 depicts forms of criminal offenses redressed by chiefs. The study found 74% (17 out 23) of respondents said they resolved intended homicide cases; 21.7% (5 out of 23) of respondents said they redressed unintended homicide cases and 4.34% (1 out of 23) of respondents said they settled delayed homicide cases in the last three months.

#### 4.4 Participation of Chieftain Authority in Administrative Activities

The Table depicts Common Types of Political and Administrative Activities the Nuer Chieftain Authority carried out in the Nuer Villages in the last Three Months.

Political and Administrative activities	Civic activities	Frequency	percentage
Political participation	Mobilization of community members to participate in voting process	5	21.7
Administrative Participation	• Facilitated voting registration for 2010 general election	6	26
	• Security maintenance in the villages	7	30.4
	• Enforcement of rural of law in villages	5	21.7
<b>Total</b>		<b>23</b>	<b>100</b>

**Table 3: The Most Common Forms of Political and Administrative Activities the Nuer Chieftain Authority carried out in the Nuer Villages in the last Three Months.**

Table 3 indicates forms of participation of chieftain authority in governance of the Nuer villages. The study found that 30.4% (7 out of 23) of respondents said they participated in maintenance of villages' security; 26% (6 out of 23) of respondents said they facilitated the 2010 general election voting registration processes; 21.7% (5 out of 23) of respondents said they enforced rule of laws in villages and 21.7% (5 out of 23) indicated they sensitized community members on civic activities like general election.

#### 4.5 Chieftain Authority's the Administrative Sensitivity

The study examined the administrative sensitivity the Nuer Chieftain Authority depicts while settling the postconflict disputes in the Nuer villages. The variables described the administrative sensitivity were classified as follow: the number of disputes the respondents settled, the length of time the respondents allotted to settle each dispute and method employed in the redressal of disputes.

**Table Indicates Administrative Sensitivity by the Total Number of Postconflict Disputes the Nuer Chieftain Authority Settled**

Types of Postconflict Disputes Settled by Chieftain Authority in the last 3 months	Frequency			Percentage	
	Total No. of Cases	Cases Settled	Cases unsettled	Cases settled	Cases unsettled
Family Disputes	76	72	4	97.56	2.42
Disputes Over Natural Resources	108	93	15	83.92	16.07
Criminal Offenses	11	7	4	68.86	31.11
<b>Total</b>	<b>195</b>	<b>172</b>	<b>23</b>	<b>83.44</b>	<b>16.53</b>

**Table 4: Administrative Sensitivity by the Total Number of Postconflict Disputes the Nuer Chieftain Authority Settled**

Table 4 depicts administrative sensitivity by number of dispute cases chiefs settled. The study found that respondents redressed over 97.56% of the family disputes; 83.92% of disputes over natural resources and 68.86% of criminal offenses. A total average of 83.44% of postconflict disputes was settled in the last three months.

**Table Depicts Administrative Sensitivity by the Number of Disputes over Natural Resources the Nuer Chieftain Authority Settled.**

Number of Civil Relating Cases Category of Cases opened in the last 3 months	Frequency			Percentage	
	Total Number of Cases	Cases settled	Cases unsettled	Cases settled	Cases unsettled
Cattle thefts	35	23	12	65.7	34.28
Disputes over grazing land	40	19	21	47.5	52.5
Disputes over water sources	23	16	7	69.5	30.5
Disputes over fishing pools	10	7	3	70	30
<b>Total</b>	<b>108</b>	<b>65</b>	<b>43</b>	<b>63.17</b>	<b>36.8</b>

**Table 6: Administrative Sensitivity by the Number disputes Over Natural Resources the Nuer Chieftain Authority Settled.**

Table 6 indicates administrative sensitivity by number of disputes over natural resources chiefs settled. The study found that respondents resolved over 65.7% of cattle thefts; 47.5% of disputes of grazing land; 69.5% disputes over water sources and 70% disputes over fishing pools.

**Table below Depicts Administrative Sensitivity by the Number of Criminal Offenses the Nuer Chieftain Authority settled**

Number of Criminal Offenses opened in the Chiefs' court in the 3 months	Frequency			Percentage	
	Total Number of Cases	Cases settled	Cases unsettled	Cases settled	Cases unsettled
Intended Homicide Cases	5	2	3	40	60
Unintended Homicide Cases	3	2	1	66.6	33.33
Delayed Homicide Cases	3	Non	3		100
<b>Total</b>	<b>11</b>	<b>4</b>	<b>7</b>	<b>35.5</b>	<b>64.4</b>

**Table 7: Administrative Sensitivity by the Number of Criminal Offenses the Nuer Chieftain Authority settled**

Table 7 indicates administrative sensitivity by number of criminal offenses chiefs settled. The study found respondents resolved 35.5% (7 out of 11) of all homicide cases. In category, respondents redressed 40% (2 out of 5) of intended homicide cases, 66.6% (2 out of 3) of unintended homicide cases and none of delayed homicide cases.

#### **4.5.1 Administrative Sensitivity by the Length of Time Allocated to Settle Disputes**

The length of time measured the administrative sensitivity were divided into two categories, time allotted to settle the fresh cases and the pending dispute cases. The length of time for redressal of fresh cases was spaced at range of 1 to 14 days and that of the pended cases was 2 to 5 weeks.

**Table below Depicts Administrative Sensitivity by the Length of Time the Nuer Chieftain Authority Allotted in Settlement of Fresh Cases**

<b>Length of Time to settle Fresh Cases of Dispute</b>	<b>Frequency</b>	<b>Percentage</b>
1-2 Days	13	56.5
3-4 Days	8	34.7
4-7 Days	2	8.7
7-14 Days	None	
<b>Total</b>	<b>23</b>	<b>100</b>

**Table 8: Administrative Sensitivity by the Length of Time the Nuer Chieftain Authority Allotted in Settlement of Fresh Cases**

Table 8 depicts administrative sensitivity by length of time chiefs allotted in settlement of fresh cases. The study found 56.5% (13 out of 23) of respondents said they settled fresh cases within 1 to 2 days; 34.7% (8 out of 23) said they resolved cases at the length of 3 to 4 days and 8% (2 out of 23) redressed cases in a period of seven to fourteen days.

**Table below Depicts Administrative Sensitivity by the Length of Time the Nuer Chieftain Authority Allotted in Settlement of Pended Cases**

<b>Length of Time to settle Pended Cases of Dispute</b>	<b>Frequency</b>	<b>Percentage</b>
1-2 weeks	17	74
3-4 weeks	5	21.7
4-5 weeks	1	4.34
More than 5 weeks	None	
<b>Total</b>	<b>23</b>	<b>100</b>

**Table 9: Administrative Sensitivity by the Length of Time the Nuer Chieftain Authority Allotted in Settlement of Pended Cases**

Table 9 indicates administrative sensitivity by the length of time chiefs allotted in settlement of pended cases. The study found 74% (17 out of 23) of respondents settled the pended cases within a period of 1 to 2 weeks ; 21.7% (5 out of 23) of respondents said they redressed cases within a period of 3 to 4 weeks and 4.34% (1 out of 23) said they redressed the pended cases within 4 to 5 weeks.

**Table below Depicts Administrative Sensitivity by Procedures the Nuer Chieftain Authority employed when redressing disputes through Judicial Process**

Step Chiefs have in redressal of disputes through judicial process	Frequency	Percentage
The appellant opens a case vs defendant; chiefs call the accused; deliberations commented in court sitting, court reviewed statements each party given, and then chiefs give decisions binding two parties	13	56.52
The appellant opens a case vs defendant; chiefs call the accused; deliberations commented in court sitting and then chiefs give decisions binding two parties	9	39.1
The appellant opens in chiefs' court vs defendant; chiefs call the accused and then and gives decisions binding two parties	1	4.34
<b>Total</b>	<b>23</b>	<b>100</b>

**Table 10: Administrative Sensitivity by Procedures the Nuer Chieftain Authority employed when redressing disputes through Judicial Process.**

#### **4.6 Outstanding Challenges the Nuer Chieftain Authority Encountering in the Local Governance System**

The study examined the outstanding challenges the Nuer Chieftain Authority encountering in the local governance system while governing the Nuer villages. The researcher asked respondents to enlist challenges.

**Table below Depicts Outstanding Challenges the Nuer Chieftain Authority Encountering in the Local Governance System**

<b>Outstanding Challenges</b>	<b>Frequency</b>	<b>percentage</b>
Lack of salary, low level of incentives, lack of local policemen, lack of constructed offices and facilities and widespread of light weapons in civilians	14	60.7
Low level of incentive scales and office facilities	1	4.34
Lack of local policemen, lack of salary and office facilities	1	4.34
Lack of basic office facility, e.g. constructed office, chairs etc and widespread of light weapons in the villages	4	17.4
Widespread of light weapons in civilian hands and lack of salary	3	13.04
<b>Total</b>	<b>23</b>	<b>100</b>

**Table 11: Outstanding Challenges the Nuer Chieftain Authority Encountering in the Local Governance System**

#### **4.7 Effects of Challenges on Participation of the Nuer Chieftain Authority**

The study assessed the effects of challenges on performances of the Nuer Chieftain Authority in the governance of the Nuer villages. The study examined lack of salary, office facility and widespread of light weapons in civilian hands as variables influencing the participation of chiefs in the local governance system.



### Table Depicts Effects of Challenges on the NCA

Outstanding Challenges	Narration of Effects
Lack of salary	No salary for catering basic needs
Lack of office premise	No office to sit in while settling disputes
Lack of office facilities	No seats or other facilities for us as chiefs
Widespread of light weapons	Threaten our physical security as chiefs and increase incidences of criminal cases

**Table 12: Effects of Challenges on Participation of the Nuer Chieftain Authority**

### 4.8 Commences Voluntarily Stated by Respondents

The study examined the opinions of respondents for ways to address challenges chiefs encountering in the local governance system.

Table below Depicts the Best ways to make the Nuer Chieftain Authority becomes more active participants in the local governance system

Recommendations Voluntarily Stated	Frequency	Percentage
Provision of salary instead of incentives; office and office facilities; disarmament of light weapons from civilian hands	15	65.2
Provision of basic office facility	1	4.34
Disarmament of light weapons from civilian hands	3	13.04
Provision of salary for chiefs and deployment of adequate local policemen in subdistrict administration	4	17.4
<b>Total</b>	<b>23</b>	<b>100</b>

**Table 13: Best ways to make the Nuer Chieftain Authority becomes more active participants in the local governance system.**

Table 13 depicts the ways respondents suggested to make chiefs more participants in the local governance system. The study found 65.2% (15 out of 23) of respondents said provision of salary instead of incentives; office and office facilities; disarmament of light

weapons from civilian hands would make chiefs more participants in the governance of the Nuer villages. 17.4% (4 out of 23) of respondents said provision of salary for chiefs and deployment of adequate local policemen in subdistrict administration would enhance participation of chiefs; 13.04% (3 out of 23) said office facility, 13.33% (2 out of 15) said disarmament of weapons from civilian hands and 13.33% (2 out of 15) said deployment of policemen in villages would make chiefs more active participants in the local governance system.

## **CHAPTER FIVE**

### **DISCUSSION, CONCLUSIONS AND RECOMMENDATIONS**

#### **5.1 Introduction**

This chapter presents the discussion of the study findings. It starts the discussion with the explanation of types of participation the Nuer Chieftain Authority undertaking in the governance of the Nuer villages; functional areas of its participation in the local governance system, administrative sensitivity it exhibits in settlement of postconflict disputes and the challenges affecting it within the local governance system.

#### **5.2 Areas of Participation of the Chieftain Authority**

The Nuer Chieftain Authority like other chieftain institutions in Africa “can provide the bedrock upon which to construct new mixed governance system structures since chiefs serve as custodians of and advocates for the interests of local communities within the broader political structures” (Sklar, 1994, Skalnik, 2004 cited in ECA, 2007).

In examinations of areas of participation the Nuer Chieftain Authority functioning in the postconflict governance of the Nuer villages, the study discovers that majority of respondents take part in the delivery of local justice. Figure 8 depicts forms of participation.

The study found 74% (17 out of 23) of respondents participated in delivery of local justice; 21.7% (5 out of 23) of the respondents took part in the administrative activities and 4% (1 out 23) of respondents involved in political activities. This finding suggests the Nuer Chieftain Authority carries out postconflict activities involving delivery of local justice, administration of local affairs and engagement in political activities in the Nuer villages.

#### **5.2.1 Settlement of Thee Common Postconflict Disputes**

The study examined postconflict disputes the Nuer Chieftain Authority redresses in the Nuer villages. The examination was made with an aim to investigate how the Nuer Chieftain Authority participates in the governance of the Nuer villages. The study analyzed three common types of postconflict disputes namely family disputes, criminal offenses and disputes over natural resources pervaded the Nuer villages. Figure 9 depicts three common disputes settled by chiefs.

The study found 48.8% (11 out of 23) of respondents had settled family disputes, 30.4% (7 out of 23) of respondents had resolved disputes over natural resources and 21.7% (5 out of 15) of respondents had redressed homicide disputes in the last three months at the time of the study. This information reveals that chiefs participate in redressal of three common postconflict disputes which currently overwhelm the Nuer villages.

Moreover, the study analyzed postconflict disputes by their types the Nuer Chieftain Authority handled in the villages. The investigation was carried out with an aim to know exactly what forms of postconflict disputes fall under jurisdiction of chiefs for settlement. In analysis, family disputes came in three forms: divorce, adultery and rape. Figures 10, 11 and 12 depict these forms of disputes.

In these cases, the study found 60.8% (14 out of 23) of respondents had redressed divorce cases; 26% (6 out of 23) of respondents had resolved rape cases and 13% (3 out of 23) of respondents had settled adultery cases in the last three months at the time of the study. Figure 8 indicates this finding.

In the same way, the study examined the types of postconflict disputes over natural resources chiefs redressed in the Nuer villages. Such disputes the study examined were cattle thefts, disputes over water sources, grazing sites and fishing pools. The study found 52% (12 out of 23) of respondents had resolved cattle theft cases; 35% (8 out of 23) of respondents had settled disputes over water sources; 9% (2 out of 23) of respondents had redressed disputes over grazing sites and 4% (1 out of 23) had redressed disputes over fishing pools in the last three months at the time of the study.

Furthermore, the study analyzed the criminal offenses chiefs redressed in the postconflict governance of the Nuer villages. Three common homicide cases the study examined were

intended homicide, unintended and delayed homicide cases. The study found 74% (17 out of 23) of respondents said they had resolved intended homicide cases; 21.7% (5 out of 23) of respondents said they had redressed unintended homicide cases and 4.34% (1 out of 23) of respondents said they had settled delayed homicide cases in the last three months at the time of the study. This finding reveals that the Nuer Chieftain Authority participates in settlement of cases involving criminal offenses.

### **5.2.2 Political and administrative Activities**

The study examined the participation of the Nuer Chieftain Authority in administrative and political governance of the Nuer villages. These two components were thought to be the most important aspects next to judicial roles the Nuer Chieftain Authority undertakes in the governance of the Nuer village after the ending of the South-North civil war in 2005. Table 3 depicts the forms of participation.

The study found that chiefs participated in performed activities involved civic duties. The study found 30.4% (7 out of 23) of respondents said they had participated in maintenance of villages' security; 26% (6 out of 23) of respondents said they had facilitated the preliminary preparations for the conduct of the Sudan's 2010 general election; 21.7% (5 out of 23) of respondents said they had enforced rule of laws in villages and 21.7% (5 out of 23) indicated they had sensitized community members on civic activities like facilitating the conduct of the Sudan's general election in April 2010.

In addition, one respondent bluntly stated that “we, the chiefs, mobilized our people to get register for the Sudan’s 2010 general election. We arranged the venue for registrars to register our people in villages according to their eligibility as required by law. We also facilitated means for registrars who carried out voting registration in the villages; we provided them with foods and basic amenities while they carried out their duties in the villages” (the Study Respondent No. 13, 2010). This statement indicates the Nuer Chieftain Authority partakes in civic activities.

Given the findings presented above, it is sensible to argue that the Nuer Chieftain Authority fully participates in the governance of the Nuer villages. In indeed, it redresses three common types of postwar conflicts mainly involved family disputes, disputes over natural resources and criminal offenses which overwhelm the Nuer villages. It also carries out administrative and political duties required in the governance of the Nuer villages. This finding agrees with the fact that the Nuer Chieftain Authority is ‘judicial, executive and administrative body’ (Howell, 1954).

### **5.3 Administrative Sensitivity of Chieftain Authority**

The study examined the administrative sensitivity the Nuer Chieftain Authority demonstrates in resolution of postconflict disputes in the Nuer villages. The analysis was made with an aim to agree or disagree with what Duany (1992) observed as chiefs’ ‘administrative insensitivity’ and “miscarriage of justice” when settling local disputes in the Nuer villages (Duany, 1992b). For ease of the presentation, the variables the study

The study found over 65.7% (23 out of 35) of cattle thefts; 47.5% (21 out of 40) of disputes over grazing land; 69.5% (16 out of 23) disputes over water sources and 70% (7 out of 10) disputes over fishing pools had been resolved by chiefs. Table 4 shows the indicators.

Furthermore, the study examined the administrative sensitivity by assessed the number of criminal cases chiefs settled in the Nuer villages in the last three months at the time of the study. Table 7 depicts criminal offenses chiefs settled.

The study found an average of 35.5% (7 out of 11) of homicides cases had been resolved by respondents. In category, 40% (2 out of 5) of intended homicide cases, 66.6% (2 out of 3) of unintended homicide cases and none of delayed homicide cases had been resolved by respondents in the last three months at the time of the study. The finding suggests that respondents are sensitive in redressing homicide cases in the Nuer villages.

#### **5.3.1.1 Administrative Sensitivity by the Length of Time in Redressal of Disputes**

The study analyzed the length of time chiefs allotted in settlement of postconflict disputes in the Nuer villages. The assessment was made with assumption that the timeframe would indicate administrative sensitivity Nuer chiefs exhibiting in redressal of postconflict disputes in the Nuer villages. To make the presentation more convenient, the cases of the postconflict disputes redressed were divided into two categories, the fresh and the pended



dispute cases. The time allotted to redress fresh cases was then spaced at the range of 1 to 14 days and the time to redress pending cases was at the range of 2 to 5 weeks. Table 8 and 9 indicate the time allotment for settling cases.

The study found 56.5% (13 out of 23) of respondents had settled fresh cases within a period from 1 to 2 days; 34.7% (8 out of 23) of respondents had resolved cases at a length from 3 to 4 days and 8% (2 out of 23) of respondents had redressed cases in a period from seven to fourteen days. The finding suggests that respondents are timely conscious when settling fresh cases. Hence, they are administratively sensitive over scheduling court sitting for redressal disputes.

Furthermore, the study found 74% (17 out of 23) of respondents had settled the pending cases within a period from 1 to 2 weeks; 21.7% (5 out of 23) said they had redressed cases within a period from 3 to 4 weeks and 4.34% (1 out of 23) said they had resolved pending cases from 4 to 5 weeks. This information reveals that majority of respondents had resolved pending cases within a reasonable timeframe. Hence, they are sensitivity to redress the pending cases.

### **5.3.2 Administrative Sensitivity by Judicial Procedures Employed**

The study examined procedures the Nuer Chieftain Authority employed in settlement of postconflict disputes in the Nuer villages. The analysis was made with the assumption

that the procedures chiefs employed in redressal of postconflict dispute resolutions would imply its sensitivity in the governance of the Nuer villages. Table 10 depicts the local judicial procedures.

The study found majority of respondents follow fair procedures in resolution of postconflict disputes through judicial process in the Nuer villages. Firstly, an appellant opens a statement against potential defendant; secondly, chiefs call upon the accused to defend himself/herself in the chiefs' court; thirdly the chiefs' court arrange a venue for sitting; fourthly, the deliberation kick-off where the contending parties contest the cases; and finally, the chiefs cross-examine the statements and evidences presented by each party. Then the chiefs' court pronounces the judgment and give decisions which legally binding the contenders. This finding suggests that the chiefs follow fair procedures while settling postconflict disputes through judicial methods.

In light of information given above, the study finding disagrees with what Duany (1992b) observed as chiefs' "administrative insensitivity" and "miscarriage of justice" while in process of settlement of local disputes in the Nuer villages (Duany, 1992). It has to be argued that the Nuer Chieftain Authority is time conscious, employs fair procedures and addresses significant number of postconflict disputes in the Nuer villages.

#### 5.4 Outstanding Challenges Affecting the Nuer Chieftain Authority

The study examined background characteristics of respondents (educational level, sources of salary/incentive and incentive scales). The analysis was made with assumption that variables back-grounding the study respondents would have an impact on their performances while participating in the governance of the Nuer villages. Four variables the study examined were educational level, sources of salary/incentives, incentive/salary scales and widespread of small arms in civilian hands.

The study examined educational level of respondents. The literate skill is believed to be a key factor influencing the flow of the administrative correspondences in the local governance system. The literate skill would signify proper documentation of cases the Nuer chiefs settled in the villages. The distribution of the respondents according to their educational level is shown in figure 5.

The study found that 78.2% (18 out of 23) of the respondents could read and write the local dialect, the Nuer; 21.7% (5 out of 23) of the respondents had finished primary school level and none of them had finished high school or post secondary level. This information suggests that majority of the respondents have minimal literate skill requiring in the flow of administrative correspondences within the local governance system in the Nuer villages.



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The study finding disagrees with what Duany (1992) and Hutchinson (1996) observed as chiefs' dependency on clerks for recording court proceedings and writing monthly reports. Chiefs' too much dependency on clerks breeds corruption within chieftain institution because "the clerks, who were semi-educated and whose salaries were relatively low, tended to enrich themselves from the court proceeds and from bribes taken from litigants..." (Bum 1989; Banak 1989 cited in Dunay, 1992). In some cases no entries were made at all.

However, this dependency on clerks does not exist today in the Nuer Chieftain Authority. Nuer chiefs have minimal educational skill to write court proceedings and ensure the flow of administrative correspondences using their own language, the Nuer or other second languages.

#### **5.4.1 Lack of Salary/Incentives**

The study analyzed the source of salary or incentives of respondents. The analysis was made with belief that source of salary or incentives would influence performances of chiefs while participating in settlement of postconflict disputes in the Nuer villages. The distribution of the respondents by sources of salary/incentives is shown in figure 6.

The study found 95.65% (22 out of 23) of respondents said they had no monthly salary. One respondent put it bluntly that "we, the chiefs, do not have monthly salary. The GoSS has not provided us with salary while it provides the public servants who work in

ministries with budget. We get our incentives from court produces. Sometimes we do not get such incentive because the court may not generate enough amounts that would cater for our financial needs. We do not know why GoSS does not provide us with budget” (The Study Respondents No. 17).

Chiefs strive hard to find other sources as a coping mechanism to fulfill their financial needs. For instance, the study found 86.9% (20 out of 23) of respondents got their incentives from the revenues produced in the local courts and 13% (3 out of 23) had their incentives from the grants donated by NGOs. This information reveals that majority of respondents have no monthly salary. They depend on incentives and grants from different sources so as to cater for administrative services and personal needs. Figure 7 depicts respondents’ sources of incentives.

Furthermore, the study assessed the incentive scales respondents get from the local courts’ produces and grants from NGOs and other sources. Figure 8 depicts this scale.

The study found 74% (17 out of 23) of respondents fell in the monthly incentive scale of SDG 151 to SDG 200 (\$ 62.91 to \$ 83.3); 17% (4 out of 23) of the respondents were at the range of SDG 100 to SDG 150 (\$ 41.6 to \$ 62.5) and 9% (2 out 23) respondents were in a range of SDG 201 to SDG 250 (\$83.75 - \$104.16). This finding suggests monthly incentive scales respondents earned is very low. For instance, one respondent openly

stated that “even what we get from the local court produces as an incentive does not suffice catering for our basic needs. We sometimes leave behind our administrative duties to engage in farming activities or other business activities so as to supplement our basic needs” (The Study Respondents No. 5).

In addition, the study respondents expressed other challenges apart from lack of salary and low level of incentives as factors daunting their participation in the local governance system. Majority of respondents indicated that lack of office premise, office facilities and widespread of light weapons in civilian hands are outstanding challenges. For instance, one respondent bluntly expressed that “there is no office premise for us to use while settling disputes. We simply sit under trees which often create a lot of inconvenience while we concentrate on court proceedings. In addition, there are no facilities such chairs or benches in a place. We just made contribution from our pockets to buy these office things” (The Study Respondent 3).

Moreover, widespread of light weapons and small arms in civilian hands was also stated as one of the factors affecting chiefs in the governance of the Nuer villages. When respondents were asked about the effects civilian armaments in the Nuer villages, the most frequent answers given were that the presence of large numbers of small arms and light weapons in civilian hands directly threaten their physical security.

One respondent frankly stated that “I have personally escaped gun shooting from a civilian who had lost a case to contender under my judgment a month ago. The suspect ambushed me on my way when I was going home from the court station” (the Study Respondents No. 4). This information suggests that the armament of civilians threatens chiefs’ physical security.

In addition, armament of civilian population also shifted the tide of traditional method of warfare. One respondent strongly expressed “cases brought before court in recent years were caused by acts carried out by wrongdoers using guns instead of traditional fighting club, spears or sticks” (the Study Respondents No. 11). This finding reveals that widespread of small arms in civilian hands has shifted traditional conflict methods.

## **5.5 Conclusion**

The study was carried out in the Nuer Villages, South Sudan, with an aim to assess the participation of the Nuer chieftain authority in postconflict governance system. Nuer Chieftain Authority was found as one of the indigenous institutions that play an important role in the resolution of postconflict disputes and administration of justice at the village level. Settlement of the postconflict disputes in the Nuer villages is often connected with the Nuer Chieftain Authority which has its fullest functional officials found in chiefs. The study found three common types of disputes, namely the family disputes, civil relating cases and homicide crimes chiefs redressed. For instance, over 83.44% of postconflict dispute cases had been redressed by chiefs in the Nuer villages.

The study found that the Nuer Chieftain Authority is not in itself a source of the “administrative insensitivity” in the governance of the Nuer villages as Duany (1992) suggested. To the contrary, the Nuer Chieftain Authority was administratively sensitive in a sense that it settled significant number of postconflict dispute cases in the Nuer villages. In addition, chiefs followed fair judicial procedures when settled postconflict disputes. They were also time-conscious in settlement of postconflict dispute cases.

However, the study found multifarious challenges affecting the participation of the Nuer Chieftain Authority in the governance of the Nuer villages. Key among these determinants were lack of salary, office facilities and widespread of small arms in civilian population. Chiefs had not been given salary by GoSS. They depend on the incentives generated from the revenues in local courts.

## **5.6 Recommendations**

Based on the objectives and purposes of the study, the researcher made recommendations to Government of South Sudan and any potential researchers interesting in the area of local governance system.

To the Government of South Sudan,

There is an urgent need to fully integrate the chieftain authority in the local governance system. Thus, the researcher recommends that:



1. The chieftain authority's political, administrative and political participations need to be strengthened;
2. Challenges including lack of basic services need to be addressed. The government should provide salary; office facilities: office and office facilities and training as capacity building for chiefs and carry out disarmament of small arms and light weapons from civilian hands.

To potential researchers,

1. To study the relationship between the chieftain authority and the state-established local government ;
2. To study structural factors (lack of salary, lack of office facilities and widespread of small arms in civilian hands) influencing performance of chiefs in the local governance system;

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**OFFICE OF THE ASSOCIATE DEAN  
POSTGRADUATE STUDIES AND RESEARCH**

Date:-----

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**RE: ALIBINO GAW DAR REG. NO. MAHRD/10003/81/DF**

The above mentioned is a bonafide student of Kampala International University pursuing a Masters of Arts in Human Rights and Development.

He is currently conducting field research and the title of the Research Project is "**The Participation of Chieftain Authority in Governance of Nuer Villages in Post Conflict South Sudan**". As part of his studies (Research work) he has to collect relevant information through questionnaires, interviews and other relevant reading materials.

Your institution has been identified as valuable source of information pertaining to his research project. The purpose of this letter is to request you to avail him with the pertinent information he may need.

All and any information shared with him will be used for academic purpose only and we promise to share our findings with your institution.

Any assistance rendered to him will be highly appreciated.

Yours truly,

**DR. ROSEANN MWANIKI**

**ASSOC. DEAN SCHOOL OF POST GRADUATE STUDIES AND RESEARCH**

## **APPENDIX A: QUESTIONNAIRES**

Items in bold provide an explanation and reason for the questions asked. The respondents/interviewees were required to tick against the boxes corresponding alternatives given or give a brief explanation in space (s) provided in respond to questions asked.

### **Introduction to the study Respondents**

This exercise is purely carried out for academic purpose. Any information collected during this exercise would be treated with due confidence. The researcher maintained the anonymity in quoting specific statement (s) unless permitted otherwise by the person (s) interviewed.

### **Background Characteristics of the Study Respondents**

1. What is your name?
2. What is your position in the NCA/Nuer Chieftain Authority?
3. When did you started to serve the NCA?
4. How long have you been served the NCA?
  - 2-3 years,
  - 3-5 years
  - More than 5 years
5. Can you write and read your name?
  - Yes
  - No
6. If answer is yes, what level of education have you completed?
  - Primary level
  - Secondary level
  - Post secondary level
  - Can only read and write local dialect
7. Do you have monthly income?

- ☐ Yes
  - ☐ No
- 8. If answer is yes, which types of the following your income category?
  - ☐ Incentive
  - ☐ Salary
- 9. Which of the following is a source of your income?
  - ☐ GoSS/County Authority
  - ☐ Grants from NGOs
  - ☐ Revenues produced in the local court
- 10. In the following salary/incentive scales, which one does your monthly earning fall in?
  - ☐ SDG 100 to SDG 150
  - ☐ SDG 151 to SDG 200
  - ☐ SDG 201 to SDG 250
  - ☐ SDG 251 to SDG 300
  - ☐ SDG 300 and above

### **Participation and Types of Postconflict Disputes Chiefs settled**

1. What are your main duties in the NCA?
2. Which of the following activities do you take part in the NCA?
  - ☐ Judicial activities
  - ☐ Administrative activities
3. Has your community has been experienced disputes in the last three months?
  - ☐ Yes
  - ☐ No
4. If answer is yes, can you name the most common types of these disputes that frequently occurred in your communities?
5. Which of the following disputes exist in your communities?
  - ☐ Conflicts relating to family disputes
  - ☐ Conflicts relating to relating disputes over natural resources
  - ☐ Conflict relating to homicide disputes



6. In its category, which of the following family disputes have you resolved in the last three months?
1. Divorce cases
  2. Girl impregnation
  3. Elopement
  4. Rape case
  5. Adultery cases
7. In its category, which of the following disputes over natural resources have you resolved in the last three months?
- Cattle thefts
  - Disputes over grazing land
  - Disputes over water sources
  - Disputes over fishing sources
8. In its category, which of the following homicide disputes have you resolved in the last three months?
- Intended homicide case
  - Unintended homicide case
  - Delayed homicide case

### **Administrative Sensitivity**

11. How long does it take for you to settle fresh cases?
- 1 to 2 days
  - 3 to 4 days
  - 4 to 7 days
  - More than 7 days
12. How long does it take for you to settle pending cases?
- 1 to 2 weeks
  - 3 to 4 weeks
  - 4 to 5 weeks
  - More than 5 weeks

## APPENDIX B: INTERVIEW GUIDES

### A. Questions for the chiefs

13. How many cases of family disputes have you resolved in the last three months?  
(court registration books were also referred)

14. How many cases of disputes over natural resources have you resolved in the last three months? (Court registration books were also referred).

15. How many cases of homicide disputes have you resolved in the last three months?  
(Court registration books were also referred).

16. In settlement of three common types of disputes mentioned below (family, disputes over resources and homicides), what methods do you employed?

1. family disputes
2. disputes over natural resources
3. homicide case

17. What steps do you employed when settled the above cited disputes? Refer to the question number 16.

#### **1. Family disputes:-**

Divorce cases  
Girl impregnation  
Elopement  
Rape case  
Adultery cases

#### **2. Disputes over natural resources:-**

Cattle thefts  
Disputes over grazing land  
Disputes over water sources

Disputes over fishing sources

### 3. Homicide disputes:-

Intended homicide case

Unintended homicide case

Delayed homicide case

18. What are the most outstanding challenges do you encounter while serving the NCA?

### B. Questions for the Commissioner and the Scholar

1. What is your commence of the participation of chiefs in the local governance system?
2. In your opinion, is the participation of chiefs in the local governance system relevant?
3. What social aspects do you think chiefs play important roles in local governance system?
4. What is your commence on working conditions in which chiefs are in now in local government?
5. What do you think to be the best way to address challenges chiefs are currently encountering in process of governing this community?
6. What do you think to be the best way to make chiefs more active participants in the local governance system?

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