

JUSTICE AND PEACE FOR WHO?

***LOCAL JUSTICE AND PEACE INTERVENTIONS
FOR PEACEFUL COEXISTENCE AMONG SOUTH
SUDANESE IN PALORINYA SETTLEMENT***

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Executive Summary

The "Justice for Who" research attempts to showcase the various informal justice mechanisms used by different South Sudanese tribes and how they might be put into practice to promote peaceful coexistence among Sudanese refugees in Ugandan settlements. The paper gives a general overlook of the region where these refugees are settled and the problems faced over time by the locals and the initiative taken by these locals to address some of these challenges. The paper then looks at the different informal justice mechanisms in South Sudan, with an emphasis on these mechanisms have helped to bridge the justice the gap in the country to promote peaceful co-existence in the different communities used to solve conflicts within different communities. It then goes ahead to look at some of the challenges that the refugees now face in applying these mechanisms within the settlements as a result of the effects conflict back home and then it ends by making recommendations on how these informal justice mechanisms can be adopted and applied in Uganda to bridge the justice gap that the refugees are experiencing.

Many of the South Sudanese refugees in Uganda settled in Northern Uganda a region that is just healing from the LRA war. Just like in South Sudan, this region still has limited access to certain key services noticeable among those is the access to formal justice mechanisms among others. To remedy this, the locals resorted to the use of their informal justice mechanisms to try and cover this gap to ensure justice, harmony, and peaceful co-existence with one another. Whereas the locals have access to their different informal justice mechanisms to help them cover the existing justice gap, the refugees in these communities have no actual recourse to help them in sorting out their problem of limited access to formal justice mechanisms, which has in turn exacerbated their conflicts and created tensions among the different communities. This paper attempts to look at the different informal justice practices used by South Sudanese communities. It looks at how these procedures might be incorporated into the current legal framework to give refugees better access to justice and support long-term peace in the areas where they are settled.

The report makes several recommendations to ensure that the traditional justice mechanisms are implemented, including enhancing refugee awareness and comprehension of these mechanisms, giving traditional leaders more authority to play a bigger role in advancing justice, and empowering refugees to safely practice their traditional justice mechanisms in the settlements.

Overall, the research emphasizes the value of relying on traditional legal systems to foster justice and peace among South Sudanese living in Ugandan settlements and in South Sudan and offers concrete recommendations for stakeholders to increase their effectiveness in accomplishing this goal.

Introduction

This research is aimed at establishing existing traditional indigenous peace and justice mechanisms in South Sudan their structure and viability in the current political and social environments in South Sudan and in Refugee settlements in Northern Uganda. The study will guide International Refugee Rights Initiative's (IRRI) interventions in the refugee settlement of Palorinya found in Obongi district Northern Uganda. It is important to interrogate alternative forms of justice in these jurisdictions because as refugees move they move with their norms and cultures albeit difficult circumstances. This research will be based on similar studies that have been done in South Sudan to determine traditional reconciliatory practices among different ethnic groups in South Sudan.

Background of the study

The historic political context of South Sudan spans over decades, but for the purposes of this study Southern Sudan and South Sudan will be used interchangeable denoting the period governed under Comprehensive Peace Agreement CP (2005-2011) and Post-CPA era respectively. South Sudan gained its independence from Sudan after 21 years of civil conflict causing the loss of life and massive displacement of people. The CPA was signed between the Government of Sudan and the Sudan's People Liberation Movement/Army (SPLM/A) (UNMIS). This agreement gave way to an Independent South Sudan, a move, that was received with excitement and a lot of hope for the future of this country, which would later become part of the East African Community (EAC) in 2016 (EAC). South Sudan borders Sudan to the north, Ethiopia to the east, Kenya to the southeast, Uganda to the south, the Democratic Republic of the Congo to the southwest, and the Central African Republic to the west. It is a country rich in resources, these include the vast swamp region of the Sudd, formed by the White Nile and known locally as the Bahr al Jabal (EAC).

Unfortunately in 2013, South Sudan slipped into a conflict only two years after it had achieved independence, seeing a violent contest of power and political strife that would further lead to the displacement of people a series of various political settlements. Sudan's wealth and resources seem to be more evasive to its people including the oil wealth (Crisis Group , 2021). This conflict in 2013 was different in nature; it involved South Sudan internal strife within the ruling Sudan People's Liberation Movement (SPLM) party and rebel factions and the State's military forces in the capital city Juba, and steadily spiraled into protracted, ethnic-based armed conflict across the country (Human Rights Council, 2020). The conflict has resulted in mass atrocities and gross human rights violations committed against South Sudanese civilians, both by the State and its allies as well as by opposition forces, including mass killings, enforced disappearances and abductions, rape, sexual slavery, torture, forced displacements, and has triggered a devastating humanitarian crisis (Human Rights Council, 2020). After several years of failed peace agreements, in 2018 the R-ARCSS agreement was signed between the government side - the Transitional People's Liberation Movement/Army-In Opposition – SPLM/A-IO), the South Sudan Opposition Alliance (SSOA),

Former Detainees (FD), and Other Opposition Parties (OPP) (The HORN International Institute for Strategic Studies , 2019).



Figure 1: Map of Sudan and South Sudan¹

¹ (Political Geography Now , 2012)

Research methodology

Study design

The prime objective of this research was to find out about the different traditional justice mechanisms practiced by the different communities in South Sudan. In doing so, we sought to understand whether there are any misunderstandings among the communities in South Sudan, the causes of these misunderstandings and what the different methods being used to try and solve these misunderstandings and particularly what are the traditional justice mechanisms applied in handling these conflicts.

The research also sought to understand whether some of the traditional justice mechanisms are still being applied in the settlement and if these have been affected by the displacement and conflict. The report then goes on to query the extent to which these traditional justice mechanisms have helped in managing misunderstandings among the communities in South Sudan and the possibility of these traditional justice mechanisms in resolving the root causes of the conflicts in South Sudan.

The report's main objective is to provide recommendations for policymakers, civil society organisations, and other stakeholders on how to promote the integration of traditional justice mechanisms in order to bring about peaceful coexistence among South Sudanese communities. It also serves as a guide for IRRRI's interventions within the settlement.

Research questions

These questions were developed with the input of the community action researchers and were aimed to collect as much information from the participants as possible.

The research paper was guided by one question, which was

Can traditional justice and peace mechanisms enhance peace and peaceful coexistence among South Sudanese and South Sudanese refugees in Northern Uganda?

The study then went on to explore the following research questions:

- a. Are there any misunderstandings among the different communities in South Sudan and if so, what are the causes of those misunderstandings?
- b. What are the different methods and particular traditional justice mechanisms within South Sudanese communities being used to promote peace?
- c. Are the traditional justice mechanisms still being applied within the settlement and have they been affected by misunderstandings or disagreements?
- d. To what extent these traditional justice mechanisms have helped in managing misunderstandings in South Sudan communities and the possibility of these traditional methods to resolve the root causes of the conflicts in South Sudan.

Initial training and capacity building

Under this, IRRI sought to empower the refugees to carry out the data collection by themselves within their settlement. IRRI advertised a call for applications from interested persons within Palorinya settlement successful applicants were contacted. These were then subjected to training on different aspects of informal justice, human rights, and research ethics among other things to aid them during the data collection. The different applicants were at the end of the training tested on the different aspects taught and the overall attendees who portrayed a proper understanding of the training were selected to do the data collection. They were then engaged in developing the research tools that guided the collection of responses from the different people interviewed.

Data collection

The data collected from the different participants took two forms, one on one interviews and the use of focus group discussions.

One-on-one Interviews

The community action researchers were sent out within their settlement to interview different people; responses were collected from 61 people in total with 41 being male and 20 being female. Equally the data collected were from people of different tribal groups, with about different tribal groups interviewed in Palorinya. During these interviews, consent was sought from the participants and equally, to ensure that the views of all people chosen are captured, interpreters were used in some instances to overcome the language barrier.

Focus group discussions

The FGDs were also held with opinion leaders and the local leaders to discuss their experiences and perspectives with regard to the research

The FGDs were designed to encourage open and honest discussion among the participants about their respective traditional justice mechanisms. Questions were posed to explore the similarities and differences between the mechanisms used by different tribes.

Validation of research findings

After coming up with a draft report, the team at IRRI travelled to the settlement and conducted validation of these findings. Under this, a meeting was organized and different groups of people from within the community were mobilized. These included the initial respondents, community action researchers who collected the initial responses analyzed, opinion leaders, local leaders both from the host and refugee communities. Presentations were made to them and further discussions were had on the findings. At the end of the engagement, questionnaires were given to them to answer to guide further on certain aspects that could have been left out. These guided the refining of this final paper.

Research findings

Our knowledge of South Sudanese communities' traditional justice systems has deepened as a result of the various research findings on various areas, which have revealed their crucial function in resolving disputes and promoting social harmony. These perceptions will strategically guide IRRI's activities and interventions within the settlement, allowing us to work successfully with regional practices and values and paving the way for long-term peace and community-driven progress.

Whether there are any misunderstandings among the different communities from South Sudan and the possible causes of the said misunderstandings.

All of the respondents unequivocally answered "Yes" to the question about if there are any conflicts between the various communities in South Sudan.

What are the causes of the different conflicts among the different communities in South Sudan?

Following the unequivocal responses as to the presence of conflicts among the different communities in South Sudan, we sought to seek from the respondents the causes of these conflicts. To the respondents, there are different factors that have brought about the conflict in South Sudan and these include socioeconomic, political, and historical factors. By analyzing these difficulties, we hope to open the door for educated discussion and actions that advance intercultural understanding and long-lasting peace. Below are some of the causes of the conflicts as stated by the respondents;

- **Tribalism.** South Sudan is home to about 64 different tribes. However according to the different people interviewed, preferential treatment and consideration is given to only one tribe, the Dinkas. One of the people interviewed stated that "Dinkas are *"taken as first class citizens....."* This has in turn according to the said interviewee led to "...resentment of Dinkas" and led to the continued disagreements among the different communities in South Sudan as they feel left out in different aspects within the Nation.
- **Colonial legacy.** This is said to be responsible for some of these conflicts in South Sudan due to the fact that it created some sort of classism among the different citizens in South Sudan. One of the respondents observed that "those who went to the north (Khartoum and Juba) identify themselves as civilized, educated and comment thereby mocking their fellows.....as rebels, primitive, refugees and uncivilized." This has caused continued hatred between these two communities hence the cause of disagreement and misunderstandings among some of the communities in South Sudan.
- **Discrimination in terms of resource allocation.** South Sudan is a fairly rich country in terms of mineral resource deposits. However, some of the respondents have attributed these resources as a cause of the conflict within the nation. According to the respondent, "the communities in whose land or state the oil, gold, and timber were discovered were not given priority to benefit from the revenues or money from the oil thereby annoying them hence the outbreak of the war in 2013." These regions have been left out and underdeveloped yet they feel that some of the funds should be re-invested at least within these resource rich regions.
- **The massive corruption.** According to the respondents, this corruption is manifested within the *"government, cabinet, members of the parliament, police, judiciary, government officials,*

ministers, military, national security operatives and the Dinka elders locally know as the “Jieng Council of elders (JCE)” in Juba one (J1 and J2).” This has led to resentment of the government by several people as those responsible are not brought to book and as a result, the people are the ones suffering at the end of the day hence the misunderstandings.

- **Absence of rule of law.** This has manifested itself in many ways according to the respondent, these include *“the sacking and appointments of ministers or government officials unconstitutionally by the president Salva Kiir. The president’s use of decrees in the country”* These have many a time resulted into a anger and disappointment among different groups of people in the tribal groups in which such people belong. Reference was made during the interviews to the sacking of Dr. Riek Machar which did not sit well with the Nuer community hence the 2103 conflict. The respondents also pointed out that as a result of the continued absence of the rule of law; there has been a general growing resentment against the current government’s rule hence the misunderstandings since *“.....state agencies terrorize people.”* Unlawful arrest of people without proper reason. This always results into disappearance or killing of the arrested people. Unfair treatment of non-Dinka by the Dinka police, tribe, officials, judges, army and the notorious security operatives annoy people in the country.
- **High disrespect for human rights.** This has led to violations of freedoms of the South Sudanese. It has been stated by some of the people interviewed that this has led to *“.....disappearance or killing of the arrested people through unlawful arrests.”* Many people feel their rights have been violated and continue to be violated in a number of ways and in some instances the violation is by the state or its agencies yet the people responsible are not made to account for their actions hence the different misunderstandings and disagreements in the young nation.
- **Possession of guns by civilians.** This has been a leading cause of misunderstandings and disagreements as it has created a state of unruly people who take matters into their own hands. In some instances, the respondents pointed out that these guns have been used by different groups to carry out different offences like robbery, cattle rustling among others hence the continued misunderstandings among different communities on the issue of guns.
- **Cattle rustling.** According to the respondent, *“tribes like Nuer, Dinka, Murle and Tukuta are cattle owners hence for their women to be married by other tribes they will require the many cuttle. For the Murle 100 cows, Dinka 150 cows, Nuer 50 cows and the Tukuta 70 cows.”* This has created cattle rustling by different groups of people in an attempt to get the required cows for the bride price since ladies are treasured hence the unending misunderstandings among the different communities in South Sudan.
- **Ignorance about different traditional cultures of different communities.** According to some of the people heard from in the FGDs, there is general issue of ignorance of different tribal cultures and norms among people within South Sudan, this has thus led to undermining of other cultural, norms or values hence continued misunderstandings among the different communities as a result.

What are the different methods applied to try and solve the misunderstandings in these communities?

We tried to understand the different methods used by the people in South Sudan in trying to solve these misunderstandings that they face. These include the following

- **Dialogue.** This is widely used in South Sudan to try and solve some of the misunderstandings among people or communities. The respondent stated that, *“through dialogue such as inter-community dialogues, inter-tribal dialogues, for example the dialogue held in Rumbek town between the Agar and the Atuot communities in 2019, was aimed at resolving the rampant revenge killings in the state (Lake states).* Community and regional dialogue that involve parties from both sides, communities and their leaders. Sultans religious leaders normally organize effective dialogue with the communities to facilitate mediation process that will bring about healing and reconciliation. According to a respondent, *“community dialogues are organized to create awareness for a peaceful coexistence; different communities are involved in negotiation and mediation process”* Through dialogue the conflicting parties or communities are called together or discussions are had on the matters that caused the misunderstanding after which an agreement is reached, both parties are requested to greet and go home in peace.
- **Compensation.** This is one of the ways used to resolve the south Sudanese disagreements and misunderstandings, according to the respondents *“the victims are compensated or paid by the perpetrators, the government, rebels or what they usually call “unknown gunmen” in case they are arrested, detained and sentenced in the court of laws.”* This is basically aimed at putting the victim at a similar position in which they were in before the loss or harm.
- **Mediation.** This remains one of the most widely used methods of solving misunderstandings in South Sudan. According to the respondents, this has been used not only by the citizens but also the government and regional actors in trying to deal with the misunderstandings in South Sudan. *“Some parties, communities, countries, government and organisations plus some regional blocks or grouping in Africa such as the intergovernmental Authority on development (IGAD) on the Eastern part of Africa has on many occasions volunteered to mediate between the president Salva Kiir.”* This has relatively helped in addressing some of the issues faced by the different communities in South Sudan. According to the respondent, mediation is also applied *“in areas of land, wealth, marriage, adultery, and elopement”* which is done by the council of elders and *“they do not take sides.”*
- **Use of fines and charges.** This is applied on the perpetrators to bring about justice in communities and entails the said wrong doer paying a certain amount of money or so for breaching of certain laws or rules within the community. This is also aimed at deterring people from engaging in the same.
- **Flogging of suspect in the Paranet.** The village courts and according to these respondent the main aim of this is *“to stop wrongdoing and mob justice by community.”* This is due to the fact in some instances, some of the citizens prefer taking matters into their own hands.

Traditional justice mechanisms used by communities in South Sudan

South Sudan's varied communities each have their own intricate and time-honed traditional justice mechanisms, making the country's judicial system a fascinating tapestry of contrasts. This young country is home to several different ethnic groups, each of which has its own cultural standards, values, and ways of dealing with misconduct among its members. This study explores the fascinating nature of South Sudan's traditional judicial systems, revealing the intricate webs that hold local governance, conflict resolution, and community cohesion together. This study aims to provide light on the varied ways in which diverse communities in South Sudan implement and maintain traditional justice procedures through a thorough series of interviews with people from those communities.

Kuku

- **Revenge.** This is based on the concept of “*an eye for an eye,*” it is commonly referred to as “*kele ko kele*” According to the respondents this concept means “...*paying a sin with a sin in order to promote justice in the community. It is where a member of a community is killed after killing another member of be it his or her own community or another community. Under this, the family of the victim does carry out revenge on the perpetrator of any act against their person. This is done to try and avert the rest of the community from doing the same act.*”
This same view was also upheld during the research validation exercise by the different people who attended.
- **Flogging.** The Kuku also carry out beating of the perpetrators of wrong in their communities. Under this, “*the guilty person is subjected to beating which is conducted by the elders and this is seen as a way of punishment.*” The attendees of the research validation also confirmed that this has been practiced for long within the community to try and resolve the disputes.
- **Merese.** This involves the “*boiling sorghum which is used to send an away misfortune, diseases, and enemies invading the land.*” According to the respondents, this activity is believed to “*make the eyes of the enemy blind*” This happens after spreading these seeds on the floor by elders.
- **Mediation.** Among the Kuku, there is a council of elders made up of chiefs, sub chiefs, religious leaders, and rainmakers help in mediating and reconciling community that are included in misunderstanding like communal fight over land. These have helped in sorting out the different misunderstandings in the different communities.
- **Reparations** are also means of promoting justice among the south Sudanese communities. A victim can be paid what he or she lost, wasted or damaged due to the action of those who caused it. This is usually presided over by the chief's assistance. Chiefs council of leaders, opinion, leaders, council of Bura.
- **Eating wheat, that has been boiled by Chiefs, assistant Chiefs, council of bura, council of elders, and opinion leaders.** It is usually administered by the “*Matat*” chief of the village and his cabinet. According to respondents and research findings validation, “*this is done to identify those who did wrong or to cast curses on those who practice witchcraft in the society.*”

- **Animal sacrifice.** This involves slaughtering, a he-goat, or a white cock promote peace in the community. According to the respondent, *“this is done whenever there is a wrangle or dispute over a boundary of villages, communities, or farmlands.”* Under this, *“a he-goat is slaughtered and then cursed and given to offenders after a long trial plot.”* This is used in instances of border misunderstandings and it is believed that the person in wrong will die as a result of this.

Pojulu

- **Slaughtering of animals,** a goat is slaughtered and the blood is collected in a calabash dish, this is then placed near the riverbank as a sign of cleansing the perpetrator who is murdered a person hence reconciliation process. Normally, for instance of land grabbing the community, mobilizes all the elders and landlords within the clans to participate in the truth telling process of the boundaries to resolve the conflict between the two parties. Four cases of murder reparation is done. Whereby the murderer will take care and responsibility of the family of the deceased hence organize a festival ceremony of the family of the deceased.
- **Use of oaths in the traditional courts.** This is known as *“Miayo Io Kuku”* and according to the respondent its aim is to *“deter people from committing crimes or social wrongs....”* As they believe that a wrong will befall whoever disobeys these oaths that they have taken.
- **Expelling offenders from community.** This is usually after a long trial of an offender, especially those found guilty of practicing acts such as witchcraft within the community. It is aimed at deterring the rest of the community in taking part in such acts.

Bari

- **Cursing of offenders.** This is usually done by the council of elders and according to the respondents, *“.... it is conducted at the end of the trial”*. As such, the elders first hold a trial for the matters before them and when they reach a final decision, the offender is cursed by the elders.
- **Payment of compensation.** This is done to try and make right the wrong done by the offender and bring about some of the offenders. The respondents noted that the compensation is *“.... for the pain inflicted and properties lost to restore a sense of healing and reconciliation.”*
- **Flogging.** According to the interview respondents and those present at the validation, it was stated that the Bari also believe in the flogging of the different offenders in their communities through the traditional leaders. This is a deterring measure of punishment in the community as other people are

Kakwa

- **Carrying out of rituals.** This is conducted by the opinion leaders according to the respondents and includes things like *“meze”* which are conducted in times of conflict to try and reconcile the communities. During the research validation the participants also alluded to the ritual of the *“roka n'tado”* which is used among the Kakwa community to try and resolve misunderstandings and includes community participation thus the misunderstandings are easily dealt with and the community as a whole gets to continue living in harmony.

- **Dialogue and open negotiation.** This is carried out by the elders to try and sort different issues as and when they arise within the community. According to the respondents, the main aim of this is “*to create awareness and promote mediation, reconciliation process between tribes of South Sudan*”

Murle

- **Role of elders and sultans.** According to people within this community, “*the sultans of both communities come together to break the “sword” of peace after a conflict every after a given period of time.*” This promotes peace within the community and with neighbouring communities as a whole.

Keliko

- **Organising of “Ajupe.”** This has been described as “a period of community fights and there, after peaceful dialogues are held” In this, after fighting with another community both sultans mobilise their people and a goat is slaughtered to be feasted by the people hence peace is attained. Cursing of offenders and perpetrators of conflict by cultural leaders, sultans to eradicate misfortunes in the communities.
- **Cursing of offenders.** This is done by the cultural leaders and aimed at the offenders and perpetrators of conflict; the aim of the said act is to eradicate misfortunes in the communities.
- **Performing of cultural rituals.** This is done by the elders in situations of any bad omens in their societies. It brings people together and promotes peaceful coexistence with one another.

Whether these methods are still being used within the settlement in Uganda?

The interview was trying to assess whether some of these mechanisms are still being applied by these refugees within the settlement. To this end, we got mixed responses with some indicating that these methods are still being applied whereas most of the people indicated that these methods are no longer being applied within the settlements. We shall therefore look at those who indicated that the said methods are still being applied then go on to those who state that the said methods are no longer being applied.

Yes, these methods are still being applied.

A few of the respondents pointed out that these methods are indeed still being applied within Uganda where they are settled. These include the following:

- **Use fines and charges.** According to some of the respondents these are still being used within the settlements. They are mainly applied on irresponsible people for certain things like in instances where one’s “*...animals trespass to destroy other people’s crops...*” Owners of such animals are fined for the loss caused by their animals.
- **Reconciliation and dialogue.** These are being used by the leaders in certain instances to try and avert certain kind of issues especially domestic problems. This, according to the

respondents has been used in instances of “...gender-based violence to try and reconcile the husbands and wives.”

No

Majority of the people asked stated that these methods are no longer being applied within the settlements where they currently live. To this end, they gave a number of reasons why;

- **Conflict with Ugandan laws.** According to the people interviewed, some of these mechanisms are not being applied in Uganda simply because they violate Ugandan laws. These include things like flogging, expulsion from one’s village which are total violation of human rights in Uganda which the refugees like citizens are required to respect at all times.
- **Death of tribal leaders.** According to the respondents, as a result of the conflict that broke out in South Sudan, many people died and these included different cultural leaders. As such, people “with natural powers within the tribes are no more to be consulted.” This has made it impossible for them to apply their different traditional justice mechanisms. This same finding was reiterated in the research validation exercise.
Related to this, the people interviewed also stated that some of these methods have been affected because some of the elders and traditional chiefs are not there in the settlement. These went back home in South Sudan thus making it hard for the people left in the settlement to practice these mechanisms
- **Impact of host communities.** According to many of the respondents, they are denied the right to practice their traditional justice mechanisms by the host community in the areas where they are settled; as such they have not practiced these mechanisms while in the settlement. A respondent stated that “*these methods are rarely being used by the south Sudanese communities simply because the host community leaders don’t allow the refugees to practice their cultural, norms and values in the settlements.*”
- **Displacement of people.** According to the interview findings which were the same shared during the research validation, the application of these mechanisms have been affected by the fact that people are scattered around in different parts of the settlement yet some of these mechanisms need people involvement. As such, this has made impossible for people to practice their traditional justice mechanisms. People are scattered and few within the settlement thus many of them are youths.

Whether the traditional justice systems have been affected by misunderstandings or disagreements?

Many of the respondents were in agreement that indeed these traditional justice mechanisms have been affected by misunderstandings or disagreements. They pointed some of the ways these misunderstandings and disagreement have affected the mechanisms and they include the following ways:

- **Loss of cultural norms.** According to the respondents, the misunderstandings back home in South Sudan have led to the loss of cultural norms. It is clear that these traditional justice mechanisms are based on the different cultures and norms of the different communities and the enforcement of this is assigned to different people especially elders who have since

perished. The respondent noted that *“some cultural norms and values have faded and forgotten by the different tribes due to no power of executing these cultures.”*

- **Inconsistencies in the application of these mechanisms.** According to the respondent, these traditional justice mechanisms at times differ in their implementation and findings for similar cases and this instead leads to escalation of matters and in turn further misunderstandings.

Some of the people interviewed pointed this out, one of the people stated that *“... sometimes these methods lack credibility, force and trust by their respective communities hence escalating tensions among or between communities.”* Another added that *“Sometimes this system lack accurate measurement of penalty for specific crime or offense committed. they at times punish the offender much more than the offense committed, thereby resulting to another bigger dispute, conflict, or resentment in the community.”*

- **Seperation of communities.** According to the people interviewed and those heard from during the focus group discussion, the misunderstandings back home has led to the seperation of people from within the same tribe and this has greatly affected the aplplication of these systems as it is hard for these people to come together and try and practice these systems they have been used to. This has reuslted to a mixture of people of different tribal groups together with different systems on which they rely thus making the application of these systems quite hard. One of the respondents on this noted that *“there are different tribes in the settlement and have different traditional ways or methods of solving problems”*

- **Human rights policies.** Within Uganda, everyone is bound by the laws of the state irrespective of their status. To this end, the refugees are also required to uphold the laws and ensure that they respect these human rights at all times. However, some of the systems they practice are in constant violation of these human rights principles. As such, they are unable to prcatice them freely.

[To what extent do these methods help in managing misunderstandings or disagreement between the south Sudanese communities?](#)

Within the intricate tapestry of conflict management in South Sudan, this question sought to examine the views of the different people on the efficacy of traditional justice mechanisms in fostering reconciliation and peace through managing the misunderstandings. As we delve into this exploration, it is important to note that diverse perspectives emerged, with a minority asserting skepticism about the viability of such mechanisms in managing misunderstandings, while a prevailing consensus highlights the potential for these traditional practices in playing a constructive role in resolving misunderstandings between communities.

We shall therefore first look at those who expressed skepticism as to the role of these traditional justice mechanisms in addressing the misunderstandings among the different communities in South Sudan and why they believe so;

- **Division along tribal lines and regional segments.** According to one of the respondents who disagreed with the use of these traditional justice mechanisms, the communities in South Sudan are greatly divided along tribal lines or regional

segments and this will make the addressing of the disagreements among them basing on these traditional mechanisms hard. This is due to the fact that these traditional justice mechanisms are based on customs and norms of different tribes yet there are very many different tribal groups in the country. To this end, the respondent added that “..... *so, it is impossible to manage such a divided people.....*”

- **Difficulty in enforcing and ensuring people obey them.** Most of these traditional justice mechanisms are enforced by the local leaders in the chiefs, sultans and these are considered the knowledge sources too. However, the respondent points out the fact that these mechanisms are not written down anywhere for reading and interpretation by everyone. This leaves its interpretation and application entirely to the local leaders, as such “*this has made its application in a world of reading and writing quite hard.*” He added that “.....*in the current world of writing, you cannot convince a person to believe, obey, and follow what is not written down, it will be treated as anything that lacks credibility.*” As such, with the continual reliance on traditional justice mechanisms that are not written, it will even be harder for them to be generally accepted to manage disagreements among different groups of people as some people doubt their overall interpretation and credibility.

However, on the other hand, there are very many people who indeed believe that these traditional justice mechanisms help in managing the misunderstandings within the different communities in South Sudan. For this belief, they advanced the following reasons to back them;

- **Systems are owned by the people.** These respondents were basically pointing to the fact the traditional justice systems are not foreign to the South Sudanese, to buttress this, the respondent stated that “.....*they are more understood by the people or community than the formal legal system.*” This makes reliance on these mechanisms easier as most people understand them and how they operate and can easily address some of these misunderstandings better than the formal legal systems that are not well understood by everyone. Another respondent added that these mechanisms will aid in addressing the disagreements among the different communities simply because they are “.....*reliable and respected by the different communities since the methods are people centred.*”
- **Prioritize reconciliation, peace and justice.** According to the respondents, the traditional justice mechanisms will help in addressing the different disagreements simply because of the way peace and justice are prioritized under these systems. Under this, the respondent pointed out that under traditional justice mechanisms, “.....*peace and justice is owned and centred....*” This will aid in addressing the different issues among the communities in South Sudan as it will promote peace and reconciliation among different people that have been at logger heads for long. Justice will ensure that all wrongs are addressed and those responsible are brought to book to answer for this.

The mechanisms also promote reconciliation which ensures that people continue living in harmony with each other. The respondents went on to point instances where the use of reconciliation in addressing the different issues between disagreeing communities brought

about calm most in Upper Nile. The respondent stated that *“the Shilluk were reconciled with the Padyang Dinka of Malukal.”*

- **Traditional justice mechanisms are faster and more reliable in addressing issues.** Some respondents pointed out that *“these methods are faster and reliable in resolving conflicts...”* As such, it will enable the expedition of the justice that many people have been denied since the conflict broke out. This will ensure that all cases are handled within a short time that would have otherwise dragged for long and brought about more discontent while using other methods to address some of these causes of the conflict in South Sudan.
- **Flexibility of traditional justice mechanisms.** Other respondents also pointed out that the traditional justice systems are *“flexible on the cases and offences committed.”* It should be noted that the root causes of some of these conflicts are different in nature and need different approaches to try and address them and this is best done through the flexibility of the traditional justice mechanisms. The respondent added that these mechanisms *“...are not rigid like the legal system...”* As such, this makes them more applicable in addressing the different root causes of the conflicts in South Sudan.
- **People based approach.** The traditional justice systems are people-based which enables the participation of all people in the community in addressing any issues and input is welcome from all the people to try and find the best solution for the particular issue at hand. This means the solutions to the disagreements are within each of the communities. The respondent added that under the traditional justice mechanisms *“all people or communities are involved in the discussion, meetings and resolving of conflict unlike the legal system...”*
- **They deter people.** It has been pointed out that these mechanisms are effective in managing misunderstandings as the nature of some of the punishments given to those responsible for the misunderstandings deter other people from engaging in such similar disagreements. The respondent pointed out that *“it makes people who wants to do similar acts to fear because they will face the same punishment.”*
- **Cheaper compared to other systems of dispute management.** It has been pointed out that these traditional justice mechanisms help in dispute management to a larger extent given the costs involved in dispute management compared to the other methods available. In most instances, they are even free of charge as indicated by some of the respondents.

[How it is possible for traditional justice mechanisms to solve the root causes of the conflict in South Sudan](#)

In light of this, we asked each individual to consider if these firmly embedded ancient practices held the key to eradicating not only the current conflicts, but also the core causes that have fueled them. We therefore sought to uncover the transformative capacity of traditional justice in tackling the root sources of conflict and offering a fresh perspective on the path to enduring peace.

- **Through development of national framework based on the constitution, human rights and criminal law.** This is basically aimed at creating some sort of uniformity in terms of how the customary courts operate. This takes cognizance of the fact that these

courts all take into account the different traditional customs and norms in reaching their different decisions which may differ at times. Equally, the respondent added that this will grant a platform to the customary leaders to share on how their different traditional systems operate.

Another respondent added that *“the national framework must de-link customary courts from the underfunded third tier of government and bring them within the fold of national judiciary. This would respond to the marginalization of the customary courts, affirm their critical role in delivering of justice and security for the citizens, enhancing oversight over them by judges and magistrates and build their capacity by providing resources, including taken remuneration for adjudicators.”* As such, a national framework where the importance of these systems are recognised and fully supported would be very critical in the addressing of the root causes of some of the conflicts.

- **Need for creation of proper referral system.** This is aimed at ensuring that cases or matters that are best managed by each system is referred to that system. It is important to note that some matters may be best handled by the formal courts given the nature of the offence whereas some matters are also best left to the traditional justice systems. So to enable these mechanisms best address the root causes of the conflict, there should be the appropriate referral system to enable it focus on matters within its strengths.
- **Through building the relations of the parties to the conflicts by reconciliation.** This is basically aimed at restoring relations between parties previously involved in the conflict to try and bury the hatchet between them. One of the respondents made a great submission on this when he said that *“...for a war-torn country like South Sudan these methods can restore the lost justice back in the communities. This is because restorative justice focuses much on healing the victims on a spiritual level in order to achieve harmony, dignity and hope within the community. Most of the traditional justice systems require the perpetrators to admit their acts and to discuss the situation with the mediator or the victim directly. This helps to search for the solution with much possibility and ease. The traditional justice systems have a strong sense of accountability at the community level which has shown to be more restorative for victims.”* As such, more emphasis should be put on applying these mechanisms as they focus on restoration of relations more than the formal justice system whose focus is punishment other than addressing the actual cause.
- **Need to render more support to the customary courts.** One of the issues that have affected the application of these mechanisms effectively in addressing the root causes of the conflict has been the inadequate structure of the customary courts which has at times made it hard to enforce some of the decisions which just worsens the conflicts. As such, strengthening these courts with support from the locals and police who can enforce the decisions will go a long way in enabling address some of the root causes of the conflict.
- **Need to ensure rule of law and respect for it in the country.** In south Sudan there is a lot of disrespect and disregard of the rule of law by different people and the government itself in some instances. As such, to ensure that these traditional justice mechanisms are effective in handling some of the root causes of the conflict, there should be general establishment of the rule of law in the country.

Conclusion

In South Sudan, there are indeed conflicts and misunderstandings between the various communities, as this paper has amply demonstrated with varying causes. However, the people have used and continue to use a variety of methods to try and clear up these misunderstandings. According to the respondents, the traditional justice systems have been crucial in resolving the issues, and they firmly feel that using these mechanisms will be beneficial in addressing the root causes of these conflicts. Although there are differing opinions among interviewed as to whether these procedures are still in use, the majority of people think they are not being applied.

First and foremost, it is important to note that these research findings have provided a compelling and unanimous confirmation of the widespread existence of misunderstandings among diverse tribes in South Sudan. The respondents, representing a cross-section of the population, have candidly acknowledged the intricate web of political grievances, socio issues and resource-related tensions that contribute to the persistence of these misunderstandings. This therefore highlights the urgent need for thorough and ongoing efforts to resolve these concerns. As such, there is need to directly tackle these issues with reconciliation being put at the fore front which is only done by the traditional justice systems. Equally, for some of the root causes like the gun issue, there is need for clear legislation and a policy on disarmament which still will need to involve the traditional leaders given the respect and powers they wield in their communities. Above all, for these issues to be addressed, the government needs to take a deliberate act to restore rule of law within the country, that way systems can easily hold everyone accountable and people can also freely exercise their rights. All parties involved, from governmental entities to civil society organisations and individual people, have a responsibility to work together towards a future marked by mutual respect and understanding.

Secondly, the analysis of diverse strategies used in South Sudan to resolve disputes has shown the critical function of traditional procedures in conflict resolution. Traditional methods have historically contributed significantly to preserving peace and re-establishing harmony within communities, despite the prevalence of contemporary accords and interventions. However, over time, formal mechanisms and the impacts of the conflict have affected the use of these traditional methods, diminishing their potential to contribute to enduring peace. It is therefore important to find ways to try and restore the widespread use of the mechanisms within south Sudan. It is also important to note that some of these mechanisms do not conform to human rights policies and principles, as such there is need to sensitize the communities that use such mechanisms and encourage them to use alternative traditional mechanisms to avoid running into conflict with the law.

Equally, the research findings offer a moving exploration into the altering dynamics of traditional justice procedures within settlements in Uganda, illustrated through the voices of South Sudanese refugees. The overwhelming sentiment voiced by the majority of respondents point to a sobering reality: the traditional judicial systems that formerly played a significant role in their communities back home are in many cases no longer administered in the settlement. This insight is a potent illustration of the many difficulties faced by displaced communities and in particular the justice gap

that is left wide without proper avenues for recourse. With this in mind then, there is need for empowerment of these refugees to practice their traditional justice systems especially those that are in line with human rights policies and Ugandan laws. The different organizations need to come out and advocate profusely for this and support the locals in the application of these systems.

Worth noting is that the research findings unveiled a thought-provoking perspective on the intricate interplay between traditional justice mechanisms and the pervasive influence of misunderstandings and disagreements. Acknowledging that traditional justice mechanisms have been affected by misunderstandings and disagreements serves as a testament to their centrality within social fabric. The findings reveal that these mechanisms, although deeply rooted in cultural heritage and community values, are not immune to the challenges inherent in any human endeavor. Misinterpretations, differing viewpoints, and many other misunderstandings have, at times, hindered the smooth functioning of these mechanisms, shedding light on the inherent vulnerabilities of even the most time-honored systems. As such, there is need to try and address these misunderstandings on their own individual basis.

The unmistakable acceptance of traditional judicial systems' efficacy in resolving disputes highlights the systems' enduring ties to community dynamics and cultural history. These systems benefit from a unique vantage position thanks to this relationship, which enables them to navigate the complex nuanced aspects of interpersonal interactions and conflicts. The conclusions highlight the critical function of tradition in offering a tried-and-true framework for resolving conflict while honoring the knowledge of earlier generations. The research's findings not only support the validity of conventional judicial systems, but also highlight their flexibility and dynamic nature. Contrary to popular perception, traditional practices are living things that can change to adapt to new difficulties. The recognition of their effectiveness in resolving misunderstandings supports their adaptability and significance in the setting of quickly shifting socio-cultural landscapes.

A strong consensus among a wide range of people emerges at the end of our research, highlighting the invaluable potential of conventional judicial systems in resolving the complex causes of disputes. The resonating voices of those who have personally experienced these mechanisms illuminate a path towards sustainable reconciliation and everlasting peace, underscoring the necessity of a paradigm shift in recognizing and incorporating these centuries-old practices into current conflict resolution initiatives. A tribute to their profound insight and cultural resonance is the unanimity with which traditional judicial processes are acknowledged to be effective in examining the primary causes of conflicts. These systems, which are rooted in historical knowledge and collective wisdom, have the innate capacity to cut through complexity and expose the root causes of conflict. The research findings highlight the inherent relationship between tradition and conflict resolution, presenting traditional justice systems as a useful tool for resolving not only minor disputes but also the more serious, frequently historical grievances that give rise to conflicts. As such, although well intentioned, it is clear that the proliferation of contemporary agreements has occasionally ignored the complex web of cultural nuances that underpins South Sudanese society. Sometimes, even formal agreements fall short of fully addressing the complex dynamics of inter-tribal ties, which results in the

perpetuation of underlying conflicts. As a result, the goal of restoring peace becomes elusive, calling for a reevaluation of strategies.

A viable path to efficient conflict resolution is to combine these traditional procedures with contemporary agreements. South Sudan will gain from a more all-encompassing and comprehensive approach if traditional practices are acknowledged and included in the greater context of peace-building initiatives.

Recommendations

To the Ugandan government

- Allow refugees to use their traditional justice mechanisms alongside formal justice mechanisms especially in matters between people of South Sudanese origin as long as they do not violate human rights within the settlements. This may involve developing mechanisms such as RWC courts
- There is a need to ensure that the refugees are allocated to stay within the same zones as those from their tribes or province. This will make the practice of traditional justice mechanisms easier as there is a common understanding of how conflicts are resolved in the said community.
- There is also need to empower the different tribal traditional leaders from the different communities in South Sudan to freely exercise their mandates when it comes to matters within their threshold.

To the South Sudanese both in Uganda and in South Sudan

- Need to ensure that the traditional justice mechanisms applied are in line and conform to the Uganda laws and human rights principals.
- The elders need to teach the younger generations the various informal justice mechanisms and how they are carried out, this is to ensure continuity of the mechanisms. This can be through storytelling and other cultural activities.
- There is also need to advocate for the use of these mechanisms by the locals themselves to the different key stakeholders within the settlement.

To UNCHR and all international organizations

- There is a need to sensitize the refugees on the importance of informal justice mechanisms like traditional justice mechanisms and the roles they play in conflict resolution and ensuring peaceful co-existence.
- Advocate for the application of these traditional justice mechanisms within the settlements. This can be through workshops and seminars involving policymakers.

To donors

- Increase funding to projects that promote conflict resolution and peaceful co-existence among refugees and in their countries of origin whilst relying on traditional justice mechanisms, as these are easier for the refugees to understand.