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"Like the military of the village"
Security, justice and community defence groups in south-east South Sudan

February 2020

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Acknowledgements

Acronyms/glossary

GBV	gender-based violence
CTSAMVM	Ceasefire and Transitional Security Arrangements Monitoring and Verification Mechanism
DDR	disarmament, demobilisation and reintegration
FGDs	focus group discussions
KIIs	key informant interviews
PRP	Peace Research Partnership
R-ARCSS	Revitalised Agreement on the Resolution of the Conflict in South Sudan
SARRA	Solidarity Association for Rehabilitation and Recovery Affairs
SGBV	sexual- and gender-based violence
SPLA	Sudan People's Liberation Army
SPLA-IO	Sudan People's Liberation Army in Opposition
SPLA-IG	Sudan People's Liberation Army in Government
SPLM	Sudan People's Liberation Movement
SPLM/A	Sudan People's Liberation Movement/ Army
SSPDF	South Sudan People's Defence Force
UNMISS	United Nations Mission in South Sudan

Cover photo: SPLA-IO soldiers, Isaloro, December 2018.
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The late Augustino Odong
(deceased October 2019),
a landlord (customary leader)
of Isaloro, December 2018.
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Executive summary

In much of the world – especially in conflict-affected and fragile contexts – security and justice are mostly provided not by formal bodies, such as state police services or judiciaries, but by informal, non-state actors. In sub-Saharan Africa, it is estimated that non-state actors provide more than 80 per cent of justice and security services.[1] Meanwhile, international donors invest millions of dollars in funding to reform and strengthen security and justice provision in conflict-affected and fragile contexts.[2] For international support to be relevant and effective in improving people's security and access to justice, it is essential, therefore, that it is informed by an understanding of which actors and institutions are actually fulfilling such functions, and the extent to which they are considered to be effective, legitimate and accountable by the people they purport to serve.

South Sudan's history – both pre- and post-independence in 2011 – has largely been characterised by instability and conflict. The civil war that started in December 2013 displaced approximately 4.5 million people and is estimated to have caused 383,000 deaths, including 190,000 killings, by April 2018.[3] A revitalised peace agreement signed in September 2018 halted fighting in much of the country but there have been major delays in its implementation, particularly the security arrangements, and the future of the agreement is uncertain at the time of writing.[4]

After Sudan's Comprehensive Peace Agreement was signed in 2005, a number of international donors and institutions invested in security sector reform in southern/South Sudan.[5] The nature, scale and impact of the crisis that has unfolded since 2013 highlight the failure of those investments. In addition to the civil war, smaller and more localised conflicts have been commonplace in South Sudan and continue to claim lives and disrupt livelihoods. As conflicts lead to growing grievances and widespread feelings of injustice and insecurity, it is increasingly important that people are able to address their concerns through effective justice and security mechanisms.

The findings, conclusions and recommendations of this report, albeit focused on specific research locations, are meant to stimulate meaningful debate and inform renewed efforts to improve people's security and access to justice in the country, as well as to inform wider policy and practice around engaging with plural and hybrid security and justice systems. Looking at conflict and insecurity related to the civil war, intercommunal conflict and gendered violence within communities, the report examines how state and non-state institutions (including community defence groups) interact in their responses to different types of violence and insecurity in Torit and Kapoeta, in what was formerly known as Eastern Equatoria.

It assesses the extent to which the provision of security and justice by state and non-state actors can be considered effective, inclusive and legitimate, and makes recommendations for policy and practice based on its findings.

Hybrid security and justice in South Sudan

Providing more effective support for improved security and justice in South Sudan requires understanding who the significant actors are and how existing systems function (or do not function as may be the case). Security and justice institutions in South Sudan generally take a hybrid form. The lines between state and non-state, formal and informal, civilian and military, and traditional and modern, are blurred or non-existent.

> **As most communities cannot rely on the state for protection, they often take responsibility for protecting themselves.**

As part of the Peace Research Partnership (PRP),[6] Saferworld and its South Sudanese partners conducted research in Torit and Kapoeta between November 2018 and March 2019 (in what was formerly Eastern Equatoria State) to deepen understanding of the extent and nature of security and justice provision there. The research also explored gendered dimensions of violence and how gender norms pervade both formal and informal security and justice systems.

South Sudan's constitution and laws officially provide for a hybrid justice system by integrating statutory and customary law[7] and by specifying a role for traditional authorities. Statutory courts often apply customary law to resolve disputes, and customary courts may cite official statutes when making their judgments. But while hybridity is accommodated in South Sudan's legal system, justice is also hybrid in a different, more chaotic sense, as a consequence of people improvising and adapting justice processes in a context of very limited state resources or regulation.[8]

The security sector is also a hybrid system given the wide range of armed groups that operate in South Sudan, ranging from organised forces that can be deployed anywhere in the country (such as military and police) to community defence groups that have a much more localised remit (and which are a focus of this report).

Armed community defence groups play a major role in local security provision, but also in intercommunal conflict, particularly in rural areas. Outside towns, the state is too remote and too poorly financed, ill-equipped and under-staffed to be able to provide much protection to communities or to respond promptly to violent attacks or theft. Corruption in the administration of policing and justice also undermines people's confidence that state security and justice providers will act impartially. As most communities cannot rely on the state for protection, they often take responsibility for protecting themselves. Armed men take preventive measures – guarding property and livestock, and conducting patrols – to protect communities and their assets. They are also the first to respond to incidents such as animal theft or child abduction, typically by tracking, pursuing and confronting perpetrators.

However, the armed groups that defend their communities are often also involved in hostile acts targeting neighbouring communities, such as cattle raids and revenge killings. In some parts of the country, the level of violence between communities has escalated to the extent that conflicts can be described as 'communal wars' with hundreds or even thousands of casualties.[9]

Across South Sudan, a diverse range of customary institutions and practices shape how communities govern themselves and how security and justice are provided by non-state actors. In and around Torit, community defence groups are organised according to the *monyomiji* system, where 'age sets'[10] of young to middle-aged men assume responsibility for the governance and security of the community for specific time periods. The *monyomiji* are described locally as being "like the military of the village"[11] or "like the army in the society".[12] They do not operate in complete independence or isolation from government institutions; rather, their relationship with the government tends to be negotiated. Government officials sometimes direct or support the *monyomiji* to carry out local security functions, which can involve government provision of ammunition (as detailed in chapter 3 of this report on insecurity related to the civil war).

Security cooperation between community defence groups and national conflict parties

Some community defence groups have played a prominent role in South Sudan's civil war – which started in 2013 – as is documented in Saferworld's 2017 *Informal armies* report.[13] This study found that other groups, such as the *monyomiji* in ethnic Otuho areas of (former) Eastern Equatoria where this research was conducted, have been less actively engaged in national conflict. Although some individual members may have joined the recent rebellion against the government, the *monyomiji* as a collective avoided being drawn into the fighting between the Sudan People's Liberation Army in Opposition (SPLA-IO) and the government on either

side.[14] The *monyomiji* were able to resist and deter indiscriminate attacks by government forces, reportedly because they were well armed and organised and had clear lines of communication with the state and county government in Torit. Meanwhile, by abstaining from collectively joining or sheltering the armed opposition, the *monyomiji* for the most part were able to avoid government counter-insurgency attacks, and the associated targeting and looting of civilians that sometimes come with the attacks.

The *monyomiji* have played an important informal role in local confidence building and security cooperation between the government and armed opposition. Hybrid arrangements to secure roads evolved in Torit and the surrounding areas, involving cooperation between the *monyomiji*, the state government and the SPLA-IO. These were initiated prior to the signing of the revitalised peace agreement and were possible in part because both government officials and SPLA-IO members share a common identity as *monyomiji*, which made it easier for them to meet informally. While the South Sudan People's Defence Force (SSPDF) and the SPLA-IO agreed to control their troops and to return fugitives who entered each other's territory, the *monyomiji* patrolled the roads. Government and SSPDF officials openly acknowledged to the research team that they had provided the *monyomiji* with ammunition for their patrols (see chapter 3 for more details).

At the time of this research, international ceasefire monitors – who were facilitating dialogue between the army and the SPLA-IO and conducting monitoring and verification missions[15] – were not engaging with the *monyomiji* and did not seem to be aware of their role in securing the roads. This suggests a gap between international support to the formal security arrangements of South Sudan's peace process and how security is being managed in reality.

The cooperation between the *monyomiji*, the SPLA-IO and the state government in Torit is an example of hybrid security cooperation that was perceived as effective and legitimate both by communities and authorities. It demonstrates how the provision of security can depend on and be enabled by localised dynamics and informal relationships, and can involve informal institutions of which international observers may be unaware.

The role of community defence groups in intercommunal violence

The relationship between armed community groups, such as the *monyomiji*, and the state tends to be more antagonistic in relation to intercommunal conflict, where communities mobilise violently against one another. The *monyomiji* are usually the

first responders to cases of raiding or livestock theft. In the absence of state security provision, when armed community defence groups respond to intercommunal attacks, these often escalate into cycles of revenge killing. Chiefs and customary leaders, while present in communities, generally have limited influence over armed youth to prevent or stop violence once it starts. When such conflicts escalate to a level that local leaders cannot manage, they sometimes seek government support.

Government authorities typically use threats and coercion to stop fighting, retrieve stolen animals or to arrest suspects. While this use of state power may be effective, it is often seen to be biased and lacking legitimacy in the eyes of communities. Communities also lack confidence in state justice provision through the courts, and so prefer local resolutions or violent retribution.

Intercommunal violence is addressed inconsistently. Blood compensation – the payment of cattle and other assets to the family of a deceased person – is the traditional means by which associated conflicts are resolved and the cycles of revenge killing brought to an end. However, there can be tensions between this method of resolving conflict, which focuses on preventing further violence, and securing justice for individuals in line with the law. The state may try to resolve intercommunal conflict through hybrid mediation processes, which include government officials, customary leaders and civil society organisations. There are also inconsistencies in how cases of killings are addressed. Formally, all intentional killings should be handled by the police and courts. While some intra-communal killings are referred to the police, others are mediated locally and settled with compensation – while others involve killing of the perpetrator in revenge, which in some cases is acknowledged by the affected population to be an acceptable settlement.

Gendered dimensions of violence, security and justice

South Sudanese society is characterised by profound gender inequalities. As well as underpinning much of the violence in the country, gender norms affect both how women and men experience violence differently, and their inclusion in the institutions, formal and informal, that provide security and justice.

Despite national legislation on gender equality and efforts to increase women's participation in all spheres of life in the country, deeply patriarchal gender norms persist. These often discriminate against women and contribute to continued exclusion of women from most positions of power, decision-making and dispute resolution. In the

research areas, women can and do occasionally assume the customary role of landlord, and there are a small number of women involved in local courts, but they are completely excluded from the *monyomiji* and barely represented in official government positions.[16]

Although hybrid justice processes appear to include women more than local customary processes, and the lives of men and women are typically equally valued in terms of the amount of compensation required to be paid if they are killed, these systems too are characterised by gender inequality.

Patriarchal norms contribute to sexual- and gender-based violence (SGBV), including rape. Intimate partner violence was widespread in the research areas, and was often regarded as normal or something minor to be handled within the family. Early and forced marriage are common. Girl child compensation, a practice where an underage girl is provided to the family of someone killed as a form of restitution (in place of cattle), is still in practice in the research areas despite government and civil society campaigns to stop it.

A culture of impunity surrounds intimate partner violence and other forms of sexual violence, and is worsened by the stigmatisation and opposition women face when speaking about or reporting such incidents. While the state claims to uphold international norms and protect women, the formal justice system is typically underequipped, remote, costly and unreliable. The result is that if women do experience abuse, they are most likely to seek justice through family or customary community mechanisms, which tend to reinforce gender inequalities in how they deal with such cases and in the resulting outcomes.

The practice of 'bride price', in which a man's family pays a woman's family to secure a wife, is associated with women's lack of decision-making and agency, and is thought to contribute to SGBV. It effectively turns women into property that men and their families have purchased, and it reinforces men's beliefs in their entitlement to discipline and punish their wives physically. It also discourages women from leaving abusive marriages, as their family would then be expected to repay the bride price to the husband's family.

The need to raise cattle to pay bride prices is also widely recognised as a factor contributing to intercommunal conflict and violence, as it drives men to raid neighbouring communities and steal animals. Notions of masculinity that encourage men to participate in fighting and cattle raiding, and which shame them when they do not do so, contribute to conflicts and violence between communities and to violence against women inside and outside the household.

Recommendations for more inclusive approaches to security and justice

The purpose of Saferworld's research is to provide evidence and analysis of the hybrid nature of security and justice provision in South Sudan. This is intended to inform all those concerned with improving security and justice for the people of South Sudan navigate this profoundly challenging and risky field, and contribute to making security and justice more inclusive. The target audience includes national and international decision makers, as well as those supporting security and justice programming. A few main recommendations, outlined here, have come out of this process.

External support to security and justice in South Sudan should avoid reinforcing elite exploitation of the national security sector reform process. Investment in national reform processes should be complemented by support for local systems.

Support for confidence- and security-building measures in South Sudan, such as ceasefire monitoring, needs to take local dynamics into consideration, acknowledging the role of community defence groups and potentially engaging with them, even if they are not formal parties to the peace process.

At the same time, any external engagement with informal systems, such as community defence groups, should be informed by a granular understanding of local security dynamics. There is a risk that external support could disrupt functioning local security arrangements. Therefore, where informal local initiatives are seen to be helping improve people's security, or have the potential to do so, the risks and benefits of external support should be carefully weighed up.

Since 2005, the default approaches for addressing the presence of non-state armed actors in southern/South Sudan have been either integration into the organised security forces or disarmament, whether forceful or voluntary under a formal disarmament, demobilisation and reintegration process. However, in relation to community defence groups such as the *monyomiji* neither integration nor disarmament is advisable, at least in the short to medium term. Attempts to integrate community defence groups, such as the *monyomiji*, into police or military command structures could generate tensions over how they are governed by shifting accountability away from local populations and norms. Furthermore, this could also potentially pull them into politicised armed violence should the civil war resume. In the absence of responsive and trusted security provision by state institutions, community defence groups are unlikely to be willing to disarm

voluntarily. Attempts at forceful disarmament would likely be met with violent resistance leading to loss of life, further erosion of trust in the state and increased vulnerability of people living in affected areas (as has been the case with previous disarmament initiatives).

Constructive engagement with community defence groups could include promoting their increased accountability, particularly their accountability to women. Support could also be provided to enhance cooperation between community defence groups and government authorities on local governance and policing, and to facilitate dialogue and cooperation between defence groups of different communities to enhance mutual security and prevent cycles of revenge killings.

While civilian disarmament is unlikely to be possible in South Sudan in the short term without undermining people's sense of security and triggering significant violence, interim measures should nevertheless be taken to mitigate the risks associated with widespread ownership and proliferation of small arms, including support for community-based approaches to small arms control and enhanced oversight of state-held weapons and ammunition.

Security and justice provision in South Sudan must become more gender sensitive. Identifying and addressing the gendered drivers of violence is an essential element of improving security and justice in the country. Survivors of gender-based violence require enhanced support, and women's legal protections and their access to justice must be

strengthened. Women's participation should be increased in intercommunal conflict management and they should be better represented in the state security and justice system.

The relationship between the formal and customary justice systems should be clarified and public awareness of the formal system should be increased. The formal system requires increased investment, subject to strengthened measures being put in place to counteract nepotism and corruption.

The impact and sustainability of such investments and reforms will depend on commitment from South Sudan's political leaders as well as on progress in the national peace negotiations – and on a more systemic change in the elite-level governance of the country. Only then will the people of South Sudan gain greater confidence and trust in state provision of security and justice. Until then, they will continue to rely on informal actors, such as the *monyomiji* and other community defence groups, to provide the security and justice they so desperately need.

In the long term, the strong hope is that the South Sudanese state becomes more legitimate, effective and inclusive. Nevertheless, there will likely still be a role for community defence groups, such as the *monyomiji*, in security and justice provision at the local level due to their cultural significance and central role in how communities govern themselves; and also given that across sub-Saharan Africa, legal pluralism remains the norm and non-state actors provide the majority of security and justice.[17]

Notes

1 Organisation for Economic Co-operation and Development (OECD) (2007), 'Enhancing the Delivery of Justice and Security: Governance, Peace and Security', p 27 (https://www.oecd.org/dac/conflict-fragility-resilience/docs/38434642.pdf); OECD (2007), *The OECD DAC Handbook on Security System Reform: Supporting Security and Justice* (Paris: OECD Publishing), p 11 (https://issat.dcaf.ch/content/download/478/3015/file/OECD%20DAC%20Handbook%20on%20 SSR.pdf)

2 For example, in 2013–14 within the UK aid portfolio, security and justice assistance 'accounted for £95 million in expenditure, across DFID and the Conflict Pool'. Independent Commission on Aid Impact (2015), 'Review of UK Development Assistance for Security and Justice', March, p 1 (https://icai.independent.gov.uk/wp-content/uploads/ICAI-Report-UK-Development-Assistance-for-Security-and-Justice..pdf)

3 Checchi F, Testa A, Warsame A (2018), 'Estimates of crisis-attributable mortality in South Sudan, December 2013-April 2018. A statistical analysis', London School of Hygiene & Tropical Medicine, September (https://www.lshtm.ac.uk/south-sudan-full-report)

4 See International Crisis Group (2019), 'Déjà Vu: Preventing Another Collapse in South Sudan', November (https://www.crisisgroup.org/africa/horn-africa/south-sudan/b147-deja-vu-preventing-another-collapse-south-sudan)

5 For example, see Breitung C, Paes W, van de Vondervoort L (2016), 'In Need of a Critical Re-think: Security Sector Reform in South Sudan', Bonn International Center for Conversion, September, p 19 (https://www.bicc.de/uploads/tx_bicctools/working_paper_6_01.pdf); International Security Sector Advisory Team (2016), 'South Sudan SSR Background Note. Section 5: International Support and Coordination', Geneva Centre for Security Sector Governance, January (https://issat.dcaf.ch/Learn/Resource-Library/Country-Profiles/South-Sudan-SSR-Background-Note#donorsupport)

6 A three-year collaboration between Saferworld, Conciliation Resources and International Alert from 2017–2020, the PRP generates evidence and lessons for policymakers and practitioners on how to support peaceful, inclusive change in conflict-affected areas. It is funded by the UK's Department for International Development.

7 Statutory law originates in legislation, whereas customary law originates in social practices and is typically connected to traditional forms of authority.

8 Ibreck R (2019), *South Sudan's Injustice System: Law and Activism on the Frontline* (London: Zed Books), pp 81–82.

9 Krause J (2019), 'Stabilization and Local Conflicts: Communal and Civil War in South Sudan', *Ethnopolitics*, **18** (5), pp 478–493.

10 Groups of people born within the same time period who are assigned a shared identity as well as social roles and responsibility by virtue of when they were born.

11 Saferworld focus group, December 2018.

12 Saferworld interview, March 2019.

13 Brereton V (ed.) (2017), 'Informal armies: community defence groups in South Sudan's civil war', Saferworld, February (https://www.saferworld.org.uk/resources/publications/1108-informal-armies-community-defence-groups-in-south-sudanas-civil-war)

14 The national army, previously called the Sudan People's Liberation Army (SPLA) and later referred to as 'SPLA in Government' (SPLA-IG), was renamed in October 2018 to the South Sudan People's Defence Force (SSPDF). The main armed opposition movement is known as the 'SPLA in Opposition' (SPLA-IO).

15 These were part of the Ceasefire and Transitional Security Arrangements Monitoring and Verification Mechanism (CTSAMVM).

16 See section on 'Other traditional authorities' in chapter 2 of the report for more information about landlords.

17 OECD (2007), 'Enhancing the Delivery of Justice and Security: Governance, Peace and Security', p 27 (https://www.oecd.org/dac/conflict-fragility-resilience/docs/38434642.pdf); OECD (2007), *The OECD DAC Handbook on Security System Reform: Supporting Security and Justice* (Paris: OECD Publishing), p 11 (https://issat.dcaf.ch/content/download/478/3015/file/OECD%20DAC%20Handbook%20on%20SSR.pdf)

Loronyo village, between Torit
and Lafon, 2013.
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1

Introduction

In much of the world – especially in conflict-affected and fragile contexts – security and justice are mostly provided not by formal bodies, such as state police services or judiciaries, but by informal, non-state actors. In sub-Saharan Africa, it is estimated that non-state actors provide more than 80 per cent of justice and security services.[18] Meanwhile, international donors invest millions of dollars in funding to reform and strengthen security and justice provision in conflict-affected and fragile contexts.[19] For international support to be relevant and effective in improving people's security and access to justice, it is essential, therefore, that it is informed by an understanding of which actors and institutions are actually fulfilling such functions, and the extent to which they are considered to be effective, legitimate and accountable by the people they purport to serve.

South Sudan's history – both pre- and post-independence in 2011 – has largely been characterised by instability and conflict. The civil war that began in the capital Juba in December 2013 and quickly spread across the country, particularly into the Greater Upper Nile region, was halted temporarily with a peace agreement on 17 August 2015.[20] The war resumed in 2016, spreading into other regions (the Equatorias and Western Bahr El Ghazal). It paused again with a revitalised agreement which was signed on 12 September 2018,[21] but which did not stop fighting between all of the conflict parties. There have been major delays to the implementation of the revitalised peace agreement, particularly the security arrangements, and its future is uncertain at the time of writing.[22]

The war displaced approximately 4.5 million people and is estimated to have caused 383,000 deaths, including 190,000 killings, between December 2013 and April 2018.[23] After Sudan's Comprehensive Peace Agreement was signed in 2005, a number of international donors and institutions invested in security sector reform in southern/South Sudan.[24] The nature, scale and impact of the crisis that has unfolded since 2013 highlight the failure of those investments.

In addition to the civil war, smaller and more localised conflicts have been commonplace and continue to claim lives and disrupt livelihoods. As conflicts lead to growing grievances and widespread feelings of injustice and insecurity – relating to issues of ethnic tensions, cattle raiding, revenge killings, domestic violence, weapons proliferation, and competition over resources and services – it is increasingly important that people are able to address their concerns through effective justice and security mechanisms.

1.1
Purpose

This report is meant to contribute to honest and meaningful debate and to inform and assist decision-makers and practitioners in efforts to improve people's security and access to justice in South Sudan, which is a profoundly challenging and risky endeavour. The report is also intended to inform wider policy and practice around engaging with plural and hybrid security and justice systems. It examines how state and non-state institutions (including community defence groups) interact in their responses to different types of violence and insecurity in Torit and Kapoeta, in what was formerly known as Eastern Equatoria. It also assesses the extent to which the provision of security and justice by state and non-state actors can be considered effective, inclusive and legitimate.

> " The report is also intended to inform wider policy and practice around engaging with plural and hybrid security and justice systems. "

1.2
Focus and scope

The geographic focus of the research was Torit and Kapoeta in former Eastern Equatoria. Primary research was undertaken between November 2018 and March 2019, during the Pre-Transitional period of the Revitalised Agreement on the Resolution of the Conflict in South Sudan (known as 'R-ARCSS' or alternatively as the 'revitalised agreement').

1.3
Report structure

The report is divided into six chapters. After the introduction, chapter 2 provides an overview of the context including a description of the hybrid nature of security and justice in South Sudan, characterised by interaction and overlap between state and non-state justice systems, and between numerous informal armed actors and the state. It details the limitations of formal security and justice institutions and the prevalence of small arms in the area. It then explains the characteristics of the armed community defence groups and customary authorities in the research areas.

Chapter 3 examines dynamics associated with the civil war and how community defence groups, the government and armed opposition have cooperated informally and formally to address two of the main identified security concerns: road banditry and child abduction.

Chapter 4 describes intercommunal conflict dynamics in the research areas, and shows how, in spite of a degree of cooperation, relationships between the government and community defence groups are more antagonistic when it comes to addressing theft and violence associated with such conflict.

Chapter 5 looks at violence within communities – specifically sexual- and gender-based violence (SGBV) – and describes how formal and informal systems fail to adequately protect or provide justice for women. It shows how they instead reinforce an environment of inequality, women's subordination and gender-based violence (GBV).

Chapter 6 explores the implications of the research findings for security and justice policy and practice, and presents a series of recommendations for policymakers and practitioners.

South Sudan and neighbouring countries

KEY
- — — International boundary
- ······ Undetermined international boundary
- ☐ Research locations and surrounding area

Research locations and surrounding area

KEY
- ✪ Country capital
- ● State capital
- ■ Town
- • Village
- — Major road
- ⋰⋰ Hills/mountains

Research locations in red.
Villages not mentioned in the report are not marked on this map.

1.4
Major concepts informing the research

Security can be defined as 'freedom from risk or harm resulting from violence or other intentional acts',[25] or as the 'protection of people and their assets from violence or theft'.[26] It relates to potential harm caused by actions intended to harm specific people or groups, and the consequences of those actions which indirectly cause harm to other people or groups.[27]

Safety is connected to but broader than security. It is defined here as the 'protection of people from harm'. Such harm may arise as a consequence of insecurity but also from accidents or other threats posed by the environment or animals, for example.[28]

Justice is defined, for the purposes of this report, both as 'the quality of being fair or reasonable' and as 'the administration of the law or authority in maintaining this [fairness]'.[29] It includes the processes by which disputes or grievances are resolved, as well as the outcomes of those processes.

Legal pluralism describes a situation where more than one set of laws exists within a country and there are multiple (legal) systems operating, applying and enforcing these different laws. Where legal pluralism exists, the law of the state is not the only law that regulates people's lives, and formal state institutions (courts, police, prisons) are not the only institutions applying and enforcing the rules.[30]

Hybridity describes when different laws and legal systems overlap, interact and shape one another. Hybridity can manifest in a variety of ways. A mixture of formal and informal norms might inform a dispute resolution process. A process might involve a mixture of formal and informal practices. Formal and informal institutions might cooperate in (or compete over) providing security or resolving a dispute. Individuals providing security or justice might derive their legitimacy from a combination of their official position within a formal institution as well as their personal background or role within a customary structure.[31]

Inclusiveness describes which groups in society are able to access social, political or economic services including security and justice, and whether any specific groups are excluded or disadvantaged. This can relate to age, sex, ethnicity, economic status, physical ability or other variables relating to a person's status or identity.

Research focus group with women, Torit, March 2019.
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Gender refers to the 'socially and politically constructed roles, behaviours and attributes that a given society considers most appropriate and valuable for men and women. [It] is a system of power which shapes the lives, needs, opportunities, rights, relationships and access to resources and decision-making of women and men, and [sexual and gender minorities]'.[32]

Legitimacy is defined here as acceptance of authority, and consent towards an institution or actor who claims authority. Consent conveys that legitimacy is associated with voluntary or quasi-voluntary compliance, as opposed to the imposition of power and demands exerted through coercion. Elements of legitimacy that can be assessed include the legitimacy of specific security and justice providers, the legitimacy of their actions (how security and justice processes are conducted), and the legitimacy of the outcomes of those processes (whether people accept the outcomes as appropriate). This definition of legitimacy can be described as 'internal' or 'empirical', as it is based on the actions and perceptions of the people in the research areas, in comparison to 'external' or 'normative' legitimacy which would be defined by criteria produced by outsiders.[33]

Effectiveness is defined as the degree to which something is successful in producing a desired outcome. Effectiveness may not align with legitimacy when different groups are seeking different objectives. Therefore, different people's perspectives should be considered when assessing effectiveness. The more effective a system is, the more likely it is to be seen as legitimate by those whose objectives correspond with its outcomes. Inversely, the less effective a system is at meeting people's objectives, the less likely they will see it as legitimate.[34]

1.5 Methods

This report is based on qualitative research. Primary data collection took place over a two-week period in November and December 2018 in Torit town and adjacent areas (Bur, Hiyala, Kudo and Isaloro) as well as in Kapoeta town and Juba. Three hundred and twenty-four people (60 per cent men, 40 per cent women) participated in key informant interviews (KIIs) and focus group discussions (FGDs). Research participants included members of the *monyomiji* community defence groups, the national army,[35] the local division of the armed opposition group the Sudan People's Liberation Army in Opposition

(SPLA-IO), county commissioners, state government officials, police and prison authorities, customary leaders and civil society representatives. The research team also conducted focus groups with all-woman participants to ensure that women's perspectives would be heard. Supplementary interviews were conducted in December 2018 and January 2019 with anthropologists specialising in the research areas and with various international non-governmental organisations (NGOs) that implement peacebuilding and governance projects there. This first round of primary data collection comprised 13 FGDs (four in Kapoeta, nine in Torit) and 48 KIIs (five in Juba, 11 in Kapoeta, 28 in Torit and four outside South Sudan). Not all research participants shared age data in this phase of data collection, but at least 25 per cent (82) were under 35, and at least 31 per cent (102) were 35 or older. To uphold research participants' anonymity, participant information and locations of interviews and focus groups are not included in citations of primary data.

A literature review supplemented the primary data – focusing on security and justice dynamics, community defence groups and related issues in South Sudan – and incorporated ethnographic studies of the research areas.[36] The team held an analysis workshop with Saferworld staff and partners in Juba in March 2019, developing interim findings for validation. Field validation and supplementary data collection took place in March in Kapoeta and Torit, in which over 140 people (including over 30 women) participated in KIIs and FGDs. Key informants in this phase included the Governor of Torit State, the Deputy Governor of Kapoeta State, the Kapoeta County Commissioner, international ceasefire monitors (Ceasefire and Transitional Security Arrangements Monitoring and Verification Mechanism [CTSAMVM]), Torit State government officials and the Kapoeta Youth Union. Focus group participants included women, youth, civil society, customary authorities and members of *monyomiji* community defence groups. An additional validation workshop in the same month in Juba involved representatives of the United Nations (UN) and national and international NGOs. Participants largely confirmed initial findings, and the team documented additional information and developments which had taken place since the first round of data collection.

Gender was considered in both the substance of the issues researched and in the planning and implementation of the research process. Specific research questions were included to identify differences in experiences and perspectives of people of different genders, ages and ethnicities, and to investigate SGBV. The team sought to create safe spaces – particularly for the focus groups where research participants were exclusively women –

so that they could speak more freely and minimise risks of harmful repercussions for speaking about sensitive issues. Female team members were present in those FGDs where all research participants were women. Men on the research team who were also based in or from the research areas did not participate in any of those FGDs, which took place in spaces that were felt to offer greater privacy and safety, away from local men.

The research team comprised South Sudanese and international Saferworld staff, a South Sudanese research consultant, staff of Solidarity Association for Rehabilitation and Recovery Affairs (SARRA) – a South Sudanese NGO that works in partnership with Saferworld in Torit – and members of the Women Action Sustainable Initiative (WASI), a civil society organisation based in Kapoeta. The team included South Sudanese 'insiders' with relationships and experience of working to improve community security and mediate conflicts in the research areas, as well as South Sudanese and international 'outsiders' with experience working on similar issues elsewhere in South Sudan or abroad.

1.6
Limitations

The primary research was based on participant testimony. It did not involve direct observation of security and justice practices, or real-time tracing of specific cases. While efforts were made to encourage participants to refer to specific cases and provide examples when answering questions, often they replied in general terms. Therefore, while the primary data can be said to accurately convey people's perceptions of the issues discussed, it was often not possible to identify the specific cases to which people were referring. It was also not always possible to triangulate information about the specific cases that research participants discussed, as not all cases mentioned were raised by multiple research participants.

Some research participants saw the process, in part, as an opportunity to encourage Saferworld to continue or expand its community security and peacebuilding programming in the research areas. This may have influenced their responses to questions. Additionally, as members of the research team and some research participants had been involved in Saferworld project activities in Torit, some of them may have given responses to reflect the success of those activities or to communicate in terms they believed were in line with the values of

Saferworld and SARRA, potentially obscuring some aspects of the situation. For example, Saferworld's partners have been active in discouraging the practice of girl child compensation, and so research participants who had been involved in those programme activities may have wished to assert that the practice had ceased. However, the research team discovered evidence that this practice in fact continues.

While efforts were made to assure participants that their testimonies would be anonymous, some research participants may have held back or felt unsafe in discussing sensitive issues, as some focus groups and one-to-one interviews were unavoidably in public spaces.

Data collection in Kapoeta was restricted to inside the town and to one rural area adjacent. More locations were visited and more data was collected in Torit. As a result, the report covers Torit in much greater depth than it does Kapoeta.

Eastern Equatoria can be seen as a kind of microcosm of South Sudan. It has been described as a 'melting pot, where groups with different cultural and linguistic affinities . . . have been interacting for thousands of years'.[37] This presents parallels with the ethnic diversity of South Sudan as a whole. Nevertheless, the research does not reflect the situation across the whole of the country, and research findings, while relevant to understanding security and justice dynamics across the country, are specific to the research sites.

1.7
About the Peace Research Partnership

This report has been produced as an output of the Peace Research Partnership (PRP), a three-year collaboration between Saferworld, Conciliation Resources and International Alert from 2017–2020. The PRP generates evidence and lessons for policymakers and practitioners on how to support peaceful, inclusive change in conflict-affected areas. Funded by UK aid from the UK government, the research focuses on economic development, peace processes, institutions and gender drivers of conflict. This report is part of the strand of PRP research related to the inclusivity of institutions, exploring how to support more inclusive security and justice provision in Myanmar and South Sudan – two contexts characterised by plural and hybrid security and justice. A study on *Justice provision in south east Myanmar – experiences from conflict-affected areas with multiple governing authorities* was published in February 2019. As part of the PRP, Saferworld will compare lessons from these two contexts to develop more holistic recommendations for more inclusive security and justice policy and practice.

Notes

18 Organisation for Economic Co-operation and Development (OECD) (2007), 'Enhancing the Delivery of Justice and Security: Governance, Peace and Security', p 27 (https://www.oecd.org/dac/conflict-fragility-resilience/docs/38434642.pdf); OECD (2007), *The OECD DAC Handbook on Security System Reform: Supporting Security and Justice* (Paris: OECD Publishing), p 11 (https://issat.dcaf.ch/content/download/478/3015/file/OECD%20DAC%20Handbook%20on%20SSR.pdf)

19 For example, in 2013–14 in the UK aid portfolio, security and justice assistance 'accounted for £95 million in expenditure, across DFID and the Conflict Pool'. Independent Commission on Aid Impact (2015), 'Review of UK Development Assistance for Security and Justice', March, p 1 (https://icai.independent.gov.uk/wp-content/uploads/ICAI-Report-UK-Development-Assistance-for-Security-and-Justice..pdf)

20 (2015), 'Agreement on the Resolution of the Conflict in the Republic of South Sudan', Addis Ababa, Ethiopia, 17 August.

21 (2018), 'Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan', Addis Ababa, Ethiopia, 12 September.

22 See International Crisis Group (2019), 'Déjà Vu: Preventing Another Collapse in South Sudan', November (https://www.crisisgroup.org/africa/horn-africa/south-sudan/b147-deja-vu-preventing-another-collapse-south-sudan)

23 Checchi F, Testa A, Warsame A (2018), 'Estimates of crisis-attributable mortality in South Sudan, December 2013-April 2018. A statistical analysis', London School of Hygiene & Tropical Medicine, September (https://www.lshtm.ac.uk/south-sudan-full-report)

24 For example, see Breitung C, Paes W, van de Vondervoort L (2016), 'In Need of a Critical Re-think: Security Sector Reform in South Sudan', Bonn International Center for Conversion, September, p 19 (https://www.bicc.de/uploads/tx_bicctools/working_paper_6_01.pdf); International Security Sector Advisory Team (2016), 'South Sudan SSR Background Note. Section 5: International Support and Coordination', Geneva Centre for Security Sector Governance, January (https://issat.dcaf.ch/Learn/Resource-Library/Country-Profiles/South-Sudan-SSR-Background-Note#donorsupport)

25 Humanitarian Practice Network (2010), 'Operational security management in violent environments', *Good Practice Review* **8**, revised edition, Overseas Development Institute, p xviii.

26 RedR (2008), *Management of Staff Safety Course Manual*, p 5.

27 Ibid.

28 Ibid.

29 C Soanes, A Stevenson (eds.) (2009), *Oxford Dictionary of English* second edition, revised (Oxford: Oxford University Press).

30 Adapted from Kyed H (2018), 'Methodological guidance note: Hybrid Justice and Security Systems/Provision in Myanmar', unpublished.

31 Ibid.

32 Saferworld (2016), 'Gender analysis of conflict', July, p 2 (https://www.saferworld.org.uk/resources/publications/1076-gender-analysis-of-conflict)

33 Adapted from Kyed H (2018), 'Methodological guidance note: Hybrid Justice and Security Systems/Provision in Myanmar', unpublished.

34 Ibid.

35 The national army was renamed the South Sudan People's Defence Force (SSPDF) on 2 October 2018, and was formerly known as the Sudan People's Liberation Army (SPLA) and was sometimes referred to as the SPLA in Government (SPLA-IG) to distinguish it from opposition factions.

36 For example, see Simonse S (2017), *Kings of Disaster: Dualism, Centrism and the Scapegoat King in Southeastern Sudan* revised, illustrated edition (Kampala: Fountain Publishers); Kurimoto E (1998), 'Resonance of Age Systems in Southeastern Sudan' in E Kurimoto, S Simonse (eds.), *Conflict, Age & Power in North East Africa: age systems in transition* (Oxford: James Currey).

37 Ibid, p 46.

Ceremony for handover of power between *monyomiji* age sets, Locaruk, Northern Lopit, February 2018.

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2

Context

2.1
Hybrid justice in South Sudan

In South Sudan, justice and security institutions are characterised by a high degree of hybridity, in which the lines between state and non-state, formal and informal, civilian and military, and traditional and modern, are blurred or non-existent.

South Sudan's constitution and laws officially provide for a hybrid justice system in the sense that they integrate statutory and customary law and specify a role for traditional authorities. Article 166 of the 2011 Transitional Constitution of the Republic of South Sudan states that '(1) The institution, status and role of Traditional Authority, according to customary law, are recognised ... (2) Traditional Authority shall function in accordance with this Constitution, the state constitutions and the law. (3) The courts shall apply customary law subject to this Constitution and the law'. Article 165(6)(i) of the constitution, and section 12(9) of the 2009 Local Government Act state that one of the 'objects of local government shall be to ... acknowledge and incorporate the role of Traditional Authority and customary law in the local government system'. The Local Government Act's section 112 further stipulates that '(1) The Traditional Authorities shall ... (a) be semi-autonomous ... [and] (b) administer customary law and justice in the customary law courts'.

In practice, statutory courts often apply customary law to resolve disputes and customary courts cite various statutes (particularly the 2008 Penal Code) in making their judgments: '[T]here are clear distinctions between statutory and customary courts in terms of their procedures and composition, yet they also overlap and blend, with the former drawing upon customary precedents, while the latter sometimes take statutory law into account in their decisions.'[38] In rural areas, where formal courts are absent, chiefs responsible to and appointed by the government address local justice concerns alongside customary authorities (see section 2.3.2 on 'Other traditional authorities').

However, hybridity in justice provision in South Sudan relates to more than the application of both customary and statutory norms in legal decision-making, and is not just a result of its inclusion in the constitution. It is also a consequence of the country's underdevelopment, of its history of conflict, of the country's diversity of cultures, and of a tradition of community-based justice provision.

Ryle explains that '[t]he uneasy hybrid of legal systems and practices – [including] monetary fines and arbitrary imprisonment – reflects the judicial chaos that prevails at national level' and that 'traditional systems of blood compensation and restorative justice exist in an inconsistent and unregulated relation to government courts'.[39]

Ibreck describes the hybrid nature of justice and the state of the courts across the country in 2015–16 as follows: 'The hybridisation of customary and statutory extended beyond the content of the law. Courts on the lower rungs of the judicial hierarchy were a "patchwork" of authorities that blurred the lines of responsibility between customary and statutory forums. The legislation that aimed to regulate the courts and their *ad hoc* legal authorities had not succeeded before the war and had little chance of doing so thereafter. The full quota of statutory courts was never realised, not a single *payam*[40] court and only a fraction of the envisioned county courts were established, and many courts closed due to staff shortages, warfare and insecurity . . . In contrast, makeshift customary forums sprung up to fit with the diverse needs, identities and allegiances of communities in urban spaces and wantonly assumed responsibilities beyond their legal remit.'[41]

> **In some parts of the country the level of violence between communities has escalated to the level at which conflicts can be described as 'communal wars'.**

While legal hybridity in South Sudan is partially a result of design in formal law (which recognises and integrates custom), it has also emerged in a different and more chaotic sense, in response to lacking state resources and regulation.

2.2 Hybrid security in South Sudan

The hybrid nature of the security sector is clear in the wide range of armed groups that operate in South Sudan, ranging from the organised forces that can be deployed anywhere in the country, to community defence groups that have more of a localised remit and which are a focus of this report. Schomerus and Rigterink explain how the legacies of past conflicts continue to shape 'a diverse and ever-shifting landscape of armed groups, with the lines between state and non-state actors often as hazily drawn as those between the army and the government'.[42] Pendle describes the national army as 'a complex hybrid of incorporated clusters of armed men'. She says: 'The wars of the 1980s and 1990s in South Sudan (re)created a diverse swarm of armed groups who defended communities against the militarised, arbitrary violence of the SPLA or the Government of Sudan. After the 2005 Comprehensive Peace Agreement between the SPLA and the Government of Sudan, these forces remained armed and prolific.'[43]

Community defence groups in South Sudan emerged as a consequence of three dynamics: first, community resistance to the different forces fighting during the war of 1983–2005; second, political contests during that war between and within the various armed movements, which 'continued into a contest for state power when South Sudan became autonomous in 2005 and then independent in 2011'; and third, 'localised competition for resources that has occurred along ethnic lines, and which often escalates into all-out ethnic warfare'.[44]

Armed community defence groups play a significant role in local security provision, particularly in rural areas. Outside of towns, the state is too remote and too poorly financed, ill-equipped and under-staffed to be capable of protecting people or responding promptly to violent attacks or theft. Corruption in the administration of policing and justice also undermines people's confidence that the security and justice providers will act impartially. People cannot rely on the state for protection and so they take responsibility for protecting themselves. Armed community members take preventive measures – guarding and conducting patrols – to protect local assets and people. They are also the first to respond to incidents such as cattle theft or child abduction, typically by tracking, pursuing and confronting perpetrators. However, many of these same groups are often also involved in hostile acts such as cattle raids that target neighbouring populations. In some parts of the country the level of violence between

communities has escalated to the level at which conflicts can be described as 'communal wars', with hundreds or even thousands of casualties.[45] So while it is used here for ease of reference, and while it does convey a core function fulfilled by groups of armed community members, the term 'community defence group' does not convey all of the functions of and the actions that such groups are involved in, and the groups to which it refers are diverse. Nevertheless, community defence groups in South Sudan have been seen locally as legitimate when closely tied to their communities, providing protection and responding effectively to local security concerns, and deferring to community leaders and structures without abusing their power.[46]

In and around Torit, community defence groups are organised according to the *monyomiji* system, where 'age sets' of young to middle-aged men assume responsibility for governance and security at the community level for set periods of time.[47] A member of one *monyomiji* group interviewed described their role as being "like the military of the village".[48] A senior state government official in Torit explained: "The role of *monyomiji* first of all is to act like the army in the society. They are to manage the security of the people, the security of the village, or the security of whatever they have in their hands."[49] They do not operate in complete independence or isolation from government institutions. A *monyomiji* representative in Torit State said, "The government will hold *monyomiji* as law enforcement. We need you to arrange so and so."[50] Government officials direct or support the *monyomiji* to carry out local security functions, including through the provision of arms or ammunition, as was acknowledged to the research team both by government and South Sudan People's Defence Force (SSPDF) officials.

The prevalence of local armed groups gives rise to various tensions with government authorities. On the one hand, the provision of security services by community defence groups helps meet public security needs that would otherwise not be met, given that state institutions often fail to respond to people's security concerns. On the other hand, armed communities can represent a threat to their neighbours, and a threat to state authority. The functions of community defence groups have frequently been seen to change over time as they have taken on other roles beyond local security provision, such as mobilising in response to national political armed conflict.[51]

South Sudan's civil war is extensively documented as having involved frequent targeting of civilians by multiple armed actors, including the state. This has led to massacres and has triggered mass displacement, severe food insecurity and economic crisis. The R-ARCSS was signed by the government and the SPLA-IO in September 2018. However, this did not include all armed opposition groups involved in the conflict, and so did not stop fighting in some parts of the country – particularly in former Central and Western Equatoria States. There have been major delays in the implementation of the agreement, casting doubts as to different parties' commitments to full adherence.

Some (but not all) community defence groups have played a prominent role in the civil war, which started in 2013. Members of some of the ethnic Dinka *gelweng* (cattle guards) mobilised to fight alongside and on behalf of the government, notably in the Mathiang Anyoor (Brown Caterpillar) militia, carrying out atrocities against ethnic Nuer civilians in Juba in December 2013 and fighting elsewhere in the country over subsequent years of the conflict (as documented by Luka Biong Deng Kuol and Naomi Pendle).[52] The Nuer White Army, mobilised in retaliation to the widespread targeting of Nuer in December 2013, fought alongside the SPLA-IO against the government and aligned forces, also committing abuses against civilian populations (as documented by Briedlid and Arensen).[53] Other community defence groups such as the *monyomiji* in ethnic Otuho areas in Eastern Equatoria, where this research was conducted, have not played such an active part in the civil war. Chapter 2 of this report on 'Insecurity related to the civil war' explores how the *monyomiji* were discouraged from, and resisted being drawn into, the national conflict in the research areas.

> **"**
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> **The role of *monyomiji* first of all is to act like the army in the society. They are to manage the security of the people, the security of the village, or the security of whatever they have in their hands.**
>
> Senior state government official in Torit.
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> **"**

2.3
Local security and justice providers in Torit and Kapoeta

2.3.1 Age-set systems in Eastern Equatoria

Across South Sudan, a diverse range of customary institutions and practices shapes how communities govern themselves and how security and justice are provided by non-state actors. Gendered, 'age-set' systems are significant in Eastern Equatoria, particularly in and around Torit.

The *monyomiji* system is common among Otuho-speaking people[54] and several neighbouring groups, stretching from the eastern parts of former Juba County (now Jubek State) through Torit State to its border with Kapoeta in the east, and from Lopit in the north to parts of Magwi in the south.[55] The *monyomiji* is a patriarchal and exclusive system, consisting of age sets of young to middle-aged men who assume responsibility for governance and security at the community level for defined periods of time. This role is evident in the etymology of their name in which '*monye*' means 'owner' or 'father', and '*miji*' means 'land' or 'community'. Each generation of the *monyomiji* is an 'age grade' composed of four male age sets[56] that rule for a period ranging from ten to 24 years, depending on the community in question.[57] The *monyomiji* gather, deliberate and make decisions at the *amangat*, a meeting place which is typically an elevated wooden platform and from which women are excluded. Members' transitions from one *monyomiji* age group to another have a confrontational aspect in which the outgoing group is expected to cling to power and the incoming group is meant to demonstrate exemplary behaviour, particularly in its ability to protect the community. The reformist ethos of the incoming group is also articulated in its agenda for change in the community. The *monyomiji* provide a range of services to the community in addition to their security and governance functions, such as taking animals to graze, assisting with cultivation, constructing the home of the 'rainmaker' king,[58] constructing shared buildings, searching for missing people and digging graves. They do not receive payment for any of these services. Women's *monyomiji* exist in some communities, such as northern Lopit, but they do not fulfill security functions – rather, they are involved in activities such as brewing alcohol, dancing and making garments for the rainmaker. While they strengthen women's social networks, they also preserve the social order and reinforce gender roles locally.[59]

Unlike the *monyomiji* who serve as the primary units of political organisation in their communities, age sets among the Toposa and other tribes around Kapoeta are instead subordinate to older generations. Groups of young men play a critical role in protecting large herds of cattle (which are synonymous with wealth) and ensuring security in these communities. But unlike the *monyomiji*, their decision-making authority is limited. Common to both systems is the manner in which age sets provide a shared framework of norms and practices that cut across linguistic and ethnic boundaries.[60] In this regard, the age-set and generation systems as practised in both Torit and Kapoeta serve to counterbalance the role of territorial, kin and ethnic affiliations in providing collective security.

The relationship among these various systems is structured around a type of 'complementary opposition' in which they tend to unite against external threats.[61]

This mode of organisation can be seen as a means of self-protection in a context where the state is unable to guarantee security and access to justice. As such, it is an important characteristic of South Sudanese identity more broadly, which is often said to be based on a common resistance to external threats.[62]

2.3.2 Other traditional authorities

The structure of traditional authorities among Otuho-speaking people reflects the hybridity of these institutions and the balance between competing sources of authority in many local governance systems. Alongside the *monyomiji* is the rainmaker or king, who has responsibility for community welfare in relation to the natural environment and who also plays a role in conflict and peacemaking. A rainmaker is responsible for many villages. He uses stones (*afanga*) and spears for performing rituals and entrails of animals to predict the future. A 'landlord' or 'landlady' serves as an emissary to mediate disputes, performs traditional rituals (for example, in relation to hunting and disease control) and can protect or curse people in their areas of jurisdiction. Each landlord or landlady is responsible for a specific area of land within the village: one may be responsible only for a river and its fish, whereas another may be responsible for the bushes and pest control, or another for a mountain and snakes. There is also one landlord or landlady specifically designated to mediation.[63] The position of rainmaker is inherited patrilineally through family, unlike the *monyomiji* whose authority is derived from age groups. The position of landlord is also inherited patrilineally. On marriage, the wife of the landlord possesses the same powers as her husband, and in his absence or after his death she is able to perform his role. The role can also be occupied by the brother of the deceased landlord. Disputes sometimes arise between a landlady and the *monyomiji* regarding when her son is ready to assume the role of landlord and to replace her.[64]

The relationship between the *monyomiji* and rainmaker is characterised by varying degrees of competition and cooperation. In the past, the British colonial authority tended to favour the rainmaker, as its policy of 'indirect rule' relied on centralised authority and because the 'chiefly' character of the rainmaker was more familiar and attractive than the diffuse power of the *monyomiji*.[65] As a result, the position of rainmaker became strengthened relative to the *monyomiji* during the colonial period.[66] Rainmakers were able to secure preferential access

to weapons and in some cases were able to mobilise groups of armed men to counter the influence of the *monyomiji*. Nonetheless, rainmakers who were unlucky enough to rule during drought or who overplayed their hand politically risked being deposed or even killed by the *monyomiji*.[67]

According to a report from a 2009 conference to discuss a potential role for the *monyomiji* in local government: 'The relationship between the "rainmaker-king" and the *monyomiji* could be characterised as an antagonistic partnership. It is played out in the public domain. The *monyomiji* need the inputs of the rainmaker but they also have the power to dismiss him. The combination of antagonism and cooperation between the *monyomiji* and their "chiefs," evokes the relationship between government and parliament in the Westminster model."[68]

Another product of the colonial period is the position of the government chief, which coexists with the rainmaker, the *monyomiji* and other traditional authorities. Introduced as part of the pacification efforts of the British, government chiefs are endowed with administrative power and may or may not be members of families who had historically inherited customary leadership positions.[69] Unlike the rainmakers and the *monyomiji*, which are generally viewed as representatives of the communities they serve, government chiefs are regarded as locally appointed representatives of the central state – the legitimacy of which is varied. They typically do not enjoy the same social status as that of rainmakers, the *monyomiji* and landlords locally.

Schomerus and Rigterink outline this system further: 'Chiefs in South Sudan are officially part of the government system and are – at least nominally – paid a government salary. The set-up, established during colonial times … is, however, open to interpretation regarding the exact role of the chief: depending on personal relationships, a chief can be viewed as a government representative and, as such, with hostility or expectation, whereas in other situations, a chief can act as a buffer between government and people.'[70]

2.3.3 Relationship between traditional authorities, armed young men and the state

Successive civil wars since the independence of Anglo-Egyptian Sudan in 1956 have had a far-reaching impact on traditional authorities across South Sudan, including those of Eastern Equatoria. The militarisation of society as a result of these conflicts undermined traditional authorities and shifted the balance of power in favour of young armed men. Armed groups on different sides of the political divides relied heavily on communities for resources in terms of recruits, food and other forms of assistance, and traditional authorities often found themselves in the position of mediating between armed groups and their communities.[71] Armed youth became increasingly difficult to govern as many had become well armed and battle-hardened by decades of civil war.[72] This also played a role in undermining discipline and promoting militarised masculinities that tend towards lawlessness. This can be seen in numerous examples of cattle raiding, revenge killings and other forms of intercommunal conflict. According to Oosterom: '… the men's role as fighters in the SPLA had been in tension with losing the institutions of the *amangat* and the codes among the *monyomiji* that govern how fighting is done … Some elders expressed their concerns over the *monyomiji* who nowadays choose to fight where other resolutions are possible, which they view as one of the causes for conflict in Imatong [now Torit] state.'[73]

The *monyomiji* played an active role in supporting rebel groups fighting the central government in Khartoum in the previous two wars (1955–72 and 1983–2005). However, when the regionally autonomous Government of Southern Sudan was formed in 2005, the new local government structures formed under the framework of the Comprehensive Peace Agreement did not take them into account, causing many of the *monyomiji* to feel as though their sacrifices during the war went unnoticed. These feelings of alienation were exacerbated by narratives that emphasised the role of the Sudan People's Liberation Movement (SPLM)[74] in securing independence and which reduced the role of other South Sudanese to mere beneficiaries of a peace that was won by the ruling party.

This strained the relationship between the *monyomiji* and the government. A participant in a 2009 conference on the *monyomiji* (organised by the Monyomiji Support Group of church organisations and NGOs)[75] explained: "… the *monyomiji* system is currently a force of local resistance against the government rather than one of accommodation with the government. The historical sense of independence combined with the capacity for bottom-up organisation is responsible for a leaning to defiance of external authority, rebelliousness and criminality."[76]

Some efforts, primarily by NGOs, were made to incorporate the *monyomiji* into governance structures following the adoption of the Local Government Act in 2009 – but these were sporadic and were largely disrupted when the civil war reached the Equatorias in 2016. This report shows how the *monyomiji* and the state cooperate on

some issues, but also highlights how the relationship remains characterised by tensions and confrontations.

2.4
Gender norms in the research areas

Gender refers to the socially and politically constructed roles, behaviours and attributes that a given society considers most appropriate and valuable for men and women. It is a system of power that shapes the lives of women and men, as well as gender and sexual minorities. It affects people's needs, opportunities, rights, relationships and access to resources and decision-making.

Femininity refers to those behaviours and attributes that societies expect of and associate with women and girls, just as **masculinity** refers to those which are culturally and socially associated with and expected of men and boys. The costs of not conforming to gender norms vary, but include shaming and social exclusion, GBV and even death.

South Sudan, like many other societies, is deeply patriarchal and characterised by profound gender inequality. Men are regarded as dominant – they take decisions and occupy positions of power and influence. Protecting animals, women and the wider community with armed violence are also important aspects of a man's traditional role. Women tend to be seen as inferior and are excluded from decision-making. Their roles are typically associated with the home and domestic life. The country does have a history of women elders and spiritual and political leaders, although they are a small minority.[77] Gender norms in the country are complex and although there are national and international efforts to promote greater gender equality, the predominant expectations are that men should behave as 'providers' in terms of cattle, land and providing a home. This pressure is sometimes reinforced by women and girls who praise and favour those who accumulate wealth through raiding cattle.[78] In Torit, a male interviewee described how women react when a man returns from a successful cattle raid: "They sing very good songs to him because he's a brave person, songs of a warrior … We are not supposed to encourage a criminal … but according to [the women], they [the cattle raiders] are heroes."[79]

The expectation is that women should be dutiful wives, producing and rearing children and being subservient to their husbands or the male heads of household. These beliefs are often reinforced by the payment of bride price (see box on page 48), which many female interviewees equated with having been sold by their families and bought by their husband and his family.[80] They feel they are owned as 'property'.[81] This feeling of 'ownership' can be used to justify violence against women within marriage, which in turn reinforces women's subservience and maintains the gendered social order.

Despite the ongoing practice of bride price payment, research participants also suggested that gender roles are shifting in relation to courtship; for example, young people more frequently ignore calls from parents and church leaders to follow traditional marriage consultations and instead engage in their own courtships.[82]

Women and girls in South Sudan experience many forms of gendered violence and discrimination throughout the course of their lives. Intimate partner violence is extremely common. One survey conducted in multiple sites (but not including the areas researched in this report) found that between 54 per cent and 73 per cent of women who were married or had been married had experienced physical or sexual intimate partner violence (with the number varying by location). The same survey found that up to 33 per cent of women reported experiencing non-partner sexual violence (including rape, attempted rape or any other unwanted sexual acts) during their lifetime.[83] Girls are less likely than boys to go to school and almost half of women are married before the age of 18.[84] Women are generally not formally employed and are excluded from decision-making.[85] Married women are typically denied inheritance of their parents' properties, although divorced women are eligible for such inheritance. A widowed woman can inherit from her deceased husband, although there are cases in which brothers of the deceased will seize the property from her if she declines to marry one of them.[86] The customary practice of forcing a survivor of rape to marry the perpetrator encourages sexual violence and impunity, and denies women the right to pursue justice,[87] effectively silencing them. However, for some women this may be seen as the least bad option among many. If a woman marries her rapist, she avoids a public customary or civil court case and the associated stigmatisation and discrimination.[88]

Sexual violence against men and boys in South Sudan's conflicts remains underreported, partly due to the assumption that sexual violence only involves male perpetrators and female victims.[89] But there are indications that it occurs with some frequency.

A survey published in 2017 found that '9% of men [surveyed] in Juba and 6% in Rumbek reported having experienced some type of sexual violence (including: rape, attempted rape, unwanted touching or being forced to undress)'.[90] Sex between men is a criminal offence and homosexuality highly stigmatised, which entails a high risk of discrimination for male victims.[91] None of the research participants raised the issue of sexual violence against men or boys.

In a society where gender norms are embedded in the social fabric, access to security and justice – both state and non-state – poses different challenges for men and women and also varies according to age. In customary court settings, gender inequalities tend to be reproduced, with the emphasis on judges and decision makers (in most cases men, particularly in rural areas) wielding power over women regardless of variations in customary law and the rights accorded to women under South Sudan's statutory law.[92] A female SPLM Secretariat Member from Eastern Equatoria summarised the situation (in 2009): "There is a culture of gender-based violence, both in and outside of the home and there is no protection for women who suffer this brutality. The institutions themselves, including customary law, are often violent and do not safeguard women."[93]

The research team met very few women in decision-making roles within the customary governance system. This reflects a wider trend of women's absence from such roles. Across the two locations, the research team interviewed three female customary leaders, all of whom were landladies. One female research participant did explain that "there are women rainmakers. A man rainmaker will marry a daughter of a rainmaker. If the man dies, the woman takes over."[94] All other chiefs and traditional authorities who participated in the research (kings, rainmakers and landlords) were men (18 were consulted in the validation phase). In Kapoeta, multiple participants spoke of a female chief during the time of southern Sudan's liberation struggle, who had inherited the post from her husband when he died. It seems that the conflict enabled a change in role so that a woman was able to adopt a powerful position; but since the death of this female chief, interviewees could not recall another.[95] Customary leaders spoke of women's participation in *boma* courts – official local forums – in and around Torit, and that "in [these] court proceedings, women actively play a role in decision-making and contributing to the judgement".[96] The research team interviewed three women in influential positions in public office in Kapoeta.[97] On the whole, women and youth were better represented in women's organisations or youth unions.

Gender inequality is prevalent throughout the formal legal system. For example, section 247(3) of Southern Sudan's Penal Code Act 2008 states that 'Sexual intercourse by a married couple is not rape, within the meaning of this section'. Therefore, an act of sexual violence that takes place within a marriage – however violent – cannot legally be considered rape. Women indicated they were beaten or raped if they refused to have sex with their husband and there was "no one to report [this] to". They added that they would not speak of the incident in their community because of stigma – and if they reported such an incident to the police, the response would be "why do you refuse to sleep with your husband? You are the cause".[98] The police, who are supposed to protect women, are in this case reinforcing the social acceptability of domestic and sexual violence and following the law as prescribed in the penal code. This acceptability of GBV and the lack of consequences for men who abuse contribute to a culture of impunity for perpetrators of violence and abuse against women.

Gender inequality is even more pronounced in the security sector, where decades of conflict have contributed to the development of highly militarised masculinities that are central to institutions such as the SSPDF and the SPLA-IO, as well as to community defence groups such as the *monyomiji*. The *monyomiji* in Torit are perceived as legitimate 'protectors' of women and the "only provider of security and justice".[99] However, their masculine structure and practices are discriminatory and reinforce exclusion and subservience of women: "When there is decision making in *amangat*, they don't allow women to participate. [Women's] rights have been denied by men".[100] Not only are women not allowed to directly participate or influence decisions, they are also only allowed to approach the *amangat* on their knees[101] and are strictly prohibited since 'time immemorial' from sitting on the ceremonial platform.[102] One reason cited for why women are excluded from security decision-making is to protect them from being targeted by enemy communities; this is on the basis that the women have not been involved in men's decisions to go to war. A male customary leader in Torit also explained that women are excluded from traditional decision-making because of their perceived inability to keep matters of importance to themselves: "[the *monyomiji*'s] issues are supposed to be confidential, but women have no secrets – they will relay it anyhow".[103] This is partly a consequence of intermarriage, meaning that women have families in neighbouring communities. However, on the other side, one landlady

> **The research team met very few women in decision-making roles within the customary governance system. This reflects a wider trend of women's absence from such roles.**

interviewee reflected on her own status as a woman leader and decision maker, saying that there were no barriers to her taking part in 'sittings' or meetings with the *monyomiji* to provide advice, guidance or rituals. She did not see her gender as a 'contradiction' or a barrier to working with the *monyomiji*.[104]

In exclusively male security contexts dominated by armed men, women nevertheless find ways to engage security providers and seek their support. Women told the research team that they ask their husbands to invite *monyomiji* members to their houses to find opportunities to informally discuss an issue in the privacy of their homes. Other research highlights indirect forms of agency, for example women asking their husbands to take issues to the *amangat* on their behalf, or men sending women leaders to speak for them.[105]

Our research found that the gender norms and roles described in this section were more pronounced in rural areas, where women have little or no formal education and high levels of illiteracy – especially in Kapoeta where Toposa pastoralists equate women and girls with wealth.[106] In urban areas, where education levels are likely to be higher, the research team found that people were more aware of harmful gender norms and their effects (for example, forced and early marriage). However, awareness of the harmful nature of some gender norms and roles does not necessarily mean women (or men) are able to change their or others' behaviours based on this knowledge – particularly given the economic aspect of gender inequality where women and girls serve, in effect, as a form of currency. Women may be exchanged for cattle in bride price payments and girls may be exchanged in place of cattle in the practice of 'girl child compensation',[107] where daughters are given to other families as compensation for a killing, in place of cattle. While girl child compensation has been denounced by civil society and officials in Torit, and was said to be dying out, recent cases were reported to the research team, including by individuals personally involved in such transactions.

6
POLICE IN HIYALA
COVER 18 VILLAGES

2
POLICE IN KUDO
COVER 18 VILLAGES

1
OFFICIAL IN KAPOETA
ADMINISTERS AND PROSECUTES LEGAL CASES FOR THE WHOLE STATE (10 COUNTIES)

2.5
Security environment in the research areas

2.5.1 Limitations of state security and justice systems

In the research areas, and as reported across the rest of the country,[108] the state security and justice system is widely regarded to be ineffective due to a lack of resources and localised corruption. Unable to rely on the state, people turn to informal local systems to fill the gap and provide security and justice. Furthermore, rural populations do not always understand formal laws and court procedures, or do not accept that formal law should take precedence over customary practices in some disputes.[109] Research participants attributed this lack of familiarity with formal law in part to the state historically having been absent and the history of successive armed conflicts.[110]

Lack of resources

Although some centralised branches of the security sector benefit from a number of independent commercial revenue streams (particularly from the oil industry) and therefore do not depend entirely on government financial structures or funding,[111] the more public-facing security and justice institutions such as the police, the courts and the chiefs are largely dependent on their state salary, and are clearly under-resourced locally.

Research participants reported that there are insufficient state security or justice personnel deployed to provide effective security or justice in Torit and Kapoeta. The scarcity of police in rural areas was a concern in both places.[112] At the time of data collection, there were six police in Hiyala[113] and only two police in Kudo (each of these former *payams* comprises 18 villages).[114] Government legal personnel were not present at the county level,[115] making it necessary for people to travel to state capitals to access the formal legal system.[116] There was a backlog of legal cases to be processed in Kapoeta, where only one official is responsible for administering and prosecuting legal cases for the whole state (ten counties and one administrative area).[117]

Security and justice personnel are also insufficiently equipped to work effectively. Court personnel and police were reported to be under-skilled and under-trained.[118] Civil servants in South Sudan can go many months without pay and when it does come, inflation can render it almost worthless. People

Community centre, Kudo, December 2018.
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acknowledged that chiefs and police were underpaid, increasing their susceptibility to bribery.[119] They reported that police typically require direct payment to investigate a crime or make arrests.[120]

In rural areas of Torit, the police, army and chiefs lack necessary communications equipment or funds to pay for mobile phone calls, while the absence of telephone network coverage is also a challenge.[121] In Hiyala, one research participant said that due to a lack of food, police who are sent there promptly leave for Torit town within a few days of arriving.[122]

A lack of vehicles delays and impedes the police's ability to respond to security incidents. The police have no vehicles in Bur, Hiyala or Kudo. In Kudo, research participants explained "the two police cannot cover the whole area. If an incident happens, you have to hire a motorcycle to transport them to the incident area and then transport them back".[123] The army personnel stationed in Hiyala also do not have a vehicle.[124] Chiefs and church leaders were also constrained due to a lack of transportation, which inhibited their ability to help resolve disputes.[125]

Another barrier to providing security and justice is the lack of physical infrastructure. Police posts between towns are scarce.[126] The Paramount Chief in Kapoeta had received neither office supplies nor provision of a physical shelter from which to work.[127] Customary leaders in Torit said that the provision of buildings and basic supplies would help people believe that there was a functioning state system in place.[128] The absence of infrastructure informed people's perception that the state is incapable of meeting their security and justice needs.

Research participants described government responses to security incidents as being slow, if there were any responses at all.[129] They complained about the length of court proceedings.[130] There were also complaints about failures of security forces to respond to incidents, general inaction by government officials and chiefs, and the failure of courts to prosecute cases unless there was pressure and persistent follow-up by claimants.[131] Lack of funds has also frustrated plans to implement initiatives such as community policing or a conflict early-warning system.[132]

In the absence of the state, it is communities – particularly armed young men – that take the responsibility to provide security. This can be risky given the difficulty of holding them to account for their actions and their propensity towards armed retaliation and violent retribution. Given the logistical constraints and the lack of investigative capacity in the justice sector, when incidences of violence are not contained from the outset, they have the potential to rapidly escalate, becoming far more difficult to address.

Nepotism and corruption

Nepotism and corruption are a perennial problem across virtually every state institution in South Sudan, but they are especially problematic when they occur in the institutions responsible for upholding the rule of law. Research participants complained about how nepotism and corruption often obstruct justice. They said the army and police protect, hide away and redeploy their staff when they commit crimes.[133] They also reported that the SSPDF have on many occasions forcibly removed members of their forces from prison, with the government unable to prevent them from doing so.[134] Participants reported bribes being paid to police and prison wardens to secure the release of detained suspects.[135] It was also mentioned that if a suspect escapes detention, a family guarantor can be held in their place. In such a case, the only way that person can be released is by paying a bribe.[136] Powerful officials were reported to intervene to secure the release of people from custody, including their family members.[137] Both the release of perpetrators from prison and the failure to detain them promote a culture of impunity and fuel revenge attacks to compensate for the failure to punish offenders.[138] Without the deterrent effect of seeing criminals caught and punished, people can engage in increasingly brazen acts of violence and assume they will get away with it.

Chiefs sometimes ignore crimes to retain their popularity and not threaten their prospects for re-election.[139]

Recruitment into government posts in security and justice institutions supposedly depends on family and tribal connections, with little consideration given to an individual's qualifications for the role. This causes frustration and is cited as one of the factors motivating armed rebellion.[140] It also undermines confidence in the competence of state institutions and in their commitment to act impartially.

A 2009 SURVEY FOUND THAT:

38% OF HOUSEHOLDS IN EASTERN EQUATORIA REPORTED OWNING FIREARMS.

ACCORDING TO THE GOVERNOR AT THE TIME, ALMOST 400,000 FIREARMS WERE IN CIVILIAN HANDS IN EASTERN EQUATORIA STATE.

2.5.2 Prevalence and supply of firearms and ammunition

The widespread availability of firearms increases opportunities for criminality and the potential for violent conflict to become deadly. It also motivates and enables people to provide armed security for themselves and poses a challenge to the authority of state institutions and customary leaders.

Research participants universally acknowledged that firearms are widely owned by civilians around Torit and Kapoeta.[141] A 2009 survey found that 38 per cent of households in Eastern Equatoria reported owning firearms.[142] According to the governor at the time, almost 400,000 firearms were thought to be in civilian hands in Eastern Equatoria State (as it was then defined).[143] The majority of these weapons (around 200,000) were acquired during the Sudan People's Liberation Movement/Army (SPLM/A) rebellion (between 1983 and 2005) against the government in Khartoum. The *monyomiji* and communities in Eastern Equatoria obtained firearms when they fought alongside the SPLA. Research participants explained that weapons were obtained by looting government stocks, distributed by the SPLA, collected from the battlefield, or sold by SPLA soldiers to communities (often in exchange for livestock).[144] A significant proportion of the weapons in civilian hands is the legacy of various militia groups, some of which were aligned with and supplied by the Khartoum government during the 22-year civil war. Prior to the war, communities across Eastern Equatoria were mostly only armed with spears, arrows and clubs.[145]

Weapons also fell into civilian hands during South Sudan's post-independence civil war (2013–2015 and 2016–2018) as looting took place[146] and the army and the SPLA-IO each armed communities to fight on their side.[147]

Research participants explained that government officials and members of the state security services including the police, army and national security continue to supply communities with weapons and ammunition. Officials supply members of their own tribes and their own home villages. Senior government officials and commanders with large herds of livestock allegedly arm the *monyomiji* of their own communities to guard their animals,[148] thus strengthening their communities relative to their neighbours. Some participants felt that this practice was inappropriate and unfair:[149] "Government officials in the big boss positions, they favour their own relatives, their own villages. They favour their own villages rather than defending the whole *payam*."[150] However, authorities may also arm communities to meet a specific public security objective. Government and army officials reported

having recently provided ammunition to the *monyomiji* so that they could patrol and secure the roads around Torit, as explained in section 3.3 'Security on the roads'.[151]

Firearms also enter communities when soldiers returning home hold on to their weapons.[152] There is also a market in firearms. Soldiers sell ammunition and arms, sometimes out of poverty.[153] Guns can be bought and sold by traders in exchange for cattle.[154]

It was widely reported that chiefs were intimidated and faced threats from armed youth or soldiers and that this undermined their authority and impeded their ability to administer justice.[155]

Many research participants recommended that civilians be disarmed to improve peace and security.[156] Others felt that firearms were necessary for communities to protect themselves, and that removing them would leave them vulnerable.[157] One research participant felt that weapons used in aggressive or criminal acts should be confiscated but those used for protection should be left alone.[158] A range of research participants in Kapoeta recommended that civilian disarmament campaigns be conducted simultaneously across multiple communities – including in Uganda and Kenya – to prevent one tribe from becoming vulnerable to its neighbours.[159]

Government attempts to disarm communities in the research areas had previously turned violent. For example, one incident reported by Small Arms Survey cited a complaint made against SPLA military operations by the Otuho Community Association: 'SPLA soldiers were involved in a "peace enforcement operation" or forcible disarmament of two warring villages, Iloli and Oguruny, in Hiyala *payam* on 4 June 2008. Eight SPLA and 11 civilians were killed during the operation, which began at 4am, and several more after it. The SPLA then burned both villages to the ground in retaliation for the killings, forcing some 4,300 people to flee, arbitrarily arrested and beat up men from the villages, and slaughtered or kept cattle belonging to the population.'[160]

As is discussed in section 4.1.3 on 'Responses to conflict around livestock theft', the state government continues to use the threat of forceful disarmament as a way to compel the *monyomiji* to cooperate and hand over fugitives accused of killing members of other clans or tribes, when suspected perpetrators take refuge with their home communities.

Notes

38   Ibreck R, Logan H, Pendle N (2017), 'Negotiating Justice: Courts as local civil authority during the conflict in South Sudan', Justice and Security Research Programme, London School of Economics and Political Science, p 2.

39   Ryle J, Amuom M (2018), 'Peace is the Name of Our Cattle-Camp: Local responses to conflict in Eastern Lakes State, South Sudan', Rift Valley Institute, p 87.

40   *Payam* is the second-lowest level of administrative unit in South Sudan. The hierarchy, in descending order, is national, state, county, *payam*, *boma*.

41   Ibreck R (2019), *South Sudan's Injustice System: Law and Activism on the Frontline* (London: Zed Books), pp 81–82.

42   Schomerus M, Rigterink A (2016), 'Non-State Security Providers and Political Formation in South Sudan: The Case of Western Equatoria's Arrows Boys', Centre for Security Governance, April, p 7.

43   Pendle (2015), '"They Are Now Community Police": Negotiating the Boundaries and Nature of the Government in South Sudan through the Identity of Militarised Cattle-keepers', *International Journal on Minority and Group Rights* **22** (3), p 411.

44   Jok J (2017), 'Introduction: the state, security and community defence groups in South Sudan', in V Brereton (ed.), 'Informal armies: Community defence groups in South Sudan's civil war', Saferworld, February, pp 2–3.

45   Krause J (2019), 'Stabilization and Local Conflicts: Communal and Civil War in South Sudan', *Ethnopolitics* **18** (5), p 479.

46   Schomerus M, Taban C (2017), 'Arrow boys, armed groups and the SPLA: intensifying insecurity in the Western Equatorian states', in V Brereton (ed.), 'Informal armies: Community defence groups in South Sudan's civil war', Saferworld, February, pp 16–17.

47   The *monyomiji* system is explained in further detail in the section 'Age-set systems in Eastern Equatoria' on page 11.

48   Saferworld focus groups, December 2018.

49   Saferworld interview, March 2019.

50   Saferworld focus group, December 2018.

51   Jok J (2017), 'Conclusion: Community defence groups and the future of security in South Sudan', in V Brereton (ed.), 'Informal armies: Community defence groups in South Sudan's civil war', Saferworld, February.

52   Kuol LBD (2017), 'Dinka youth in civil war: between cattle, community and government', in V Brereton (ed.), 'Informal armies: Community defence groups in South Sudan's civil war', Saferworld, February, pp 24–5; Pendle (2015), '"They Are Now Community Police": Negotiating the Boundaries and Nature of the Government in South Sudan through the Identity of Militarised Cattle-keepers', *International Journal on Minority and Group Rights* **22** (3), p 431.

53   Breidlid I, Arensen M (2017), 'The Nuer White Armies: comprehending South Sudan's most infamous community defence group', in V Brereton (ed.), 'Informal armies: Community defence groups in South Sudan's civil war', Saferworld, February, p 27.

54   The name is also written 'Lotuho' or 'Lotuka', and is pronounced with an 'l' sound at the beginning, but it is spelt by the population themselves as 'Otuho', so this is the spelling used in this report.

55   Kurimoto E (1998), 'Resonance of Age Systems in Southeastern Sudan', in E Kurimoto, S Simonse (eds.), *Conflict, Age & Power in North East Africa: age systems in transition* (Oxford: James Currey), p 31.

56   Groups of people born within the same time period who are assigned a shared identity as well as social roles and responsibility by virtue of when they were born.

57   The precise moment of the transfer is determined by a range of factors, including political stability in the area.

58   See section on 'Other traditional authorities' on page 12.

59   Saferworld interview, Isao Murahashi, telephone, January 2019 and email correspondence, November 2019.

60   Kurimoto E (1998), 'Resonance of Age Systems in Southeastern Sudan', in E Kurimoto, S Simonse (eds.), *Conflict, Age & Power in North East Africa: age systems in transition* (Oxford: James Currey), p 45.

61   Simonse S (1998), 'Age, Conflict & Power in the Monyomiji Age Systems', in E Kurimoto, S Simonse (eds.), *Conflict, Age & Power in North East Africa: age systems in transition* (Oxford: James Currey), p 68.

62   Jok J (2011), 'Diversity, Unity, and Nation Building in South Sudan', United States Institute of Peace, Special Report 287, October (https://www.usip.org/sites/default/files/Diversity,%20Unity,%20and%20Nation%20Building%20in%20South%20Sudan%20(Jok).pdf)

63   Saferworld focus groups and interviews, November 2018.

64   Saferworld interview, September 2019.

65   Simonse S (1998), 'Age, Conflict & Power in the Monyomiji Age Systems', in E Kurimoto, S Simonse (eds.), *Conflict, Age & Power in North East Africa: age systems in transition* (Oxford: James Currey), p 72.

66   1890s to 1953.

67   Simonse S (2017), *Kings of Disaster: Dualism, Centrism and the Scapegoat King in Southeastern Sudan* revised, illustrated edition (Kampala: Fountain Publishers).

68   Simonse S, Kurimoto E (eds.) (2011), *Engaging monyomiji: bridging the governance gap in East Bank Equatoria. Proceedings of the conference, 26–28 November 2009, Torit* (Nairobi: Pax Christi Horn of Africa), pp 11–12.

69   Ibid, p 45.

70   Schomerus M, Rigterink A (2016), 'Non-State Security Providers and Political Formation in South Sudan: The Case of Western Equatoria's Arrows Boys', Centre for Security Governance, April, p 26.

71   Leonardi C (2019), 'Making Order Out of Disorder: Customary Authority in South Sudan', South Sudan Customary Authorities Project, Rift Valley Institute.

72   According to a survey conducted by Small Arms Survey and Danish Demining Group in 2009, 38 per cent of surveyed households in Eastern Equatoria reported owning firearms. Many weapons in circulation today come from non-integrated remnants of armed groups that were operating in the region during the previous war (1983–2005). Small Arms Survey (2010), 'Symptoms and causes: Insecurity and underdevelopment in Eastern Equatoria', Human Security Baseline Assessment, Sudan Issue Brief 16, April.

73   Oosterom M (2017), 'Gendered (in)security in South Sudan: masculinities and hybrid governance in Imatong state', *Peacebuilding* **5** (2), p 194.

74   The Sudan People's Liberation Movement is the ruling party in South Sudan. It was originally founded as the political wing of the SPLA.

75   This has included the Catholic Diocese of Torit, African Inland Church, PAX, Norwegian Church Aid and Catholic Relief Services.

76   Simonse S, Kurimoto E (eds.) (2011), *Engaging monyomiji: bridging the governance gap in East Bank Equatoria. Proceedings of the conference, 26–28 November 2009, Torit* (Nairobi: Pax Christi Horn of Africa), p 12.

77   Conflict Sensitive Resource Facility (2018), 'Gender in South Sudan', March, pp 1–2 (https://www.southsudanpeaceportal.com/wp-content/uploads/2018/03/Gender_final.pdf)

78   Saferworld interviews and focus groups, March 2019.

79   Saferworld interview, March 2019.

80   Saferworld focus groups, November 2018, March 2019.

81   Saferworld focus group, March 2019.

82   Saferworld focus group, March 2019.

83   What Works to Prevent Violence Against Women and Girls consortium (2017), 'No safe place: a lifetime of violence for conflict-affected women and girls in South Sudan', p 28 (https://www.rescue.org/sites/default/files/document/2293/southsudanlgonline.pdf)

84   See Girls Not Brides: https://www.girlsnotbrides.org/child-marriage/south-sudan/

85   What Works to Prevent Violence Against Women and Girls consortium (2018), 'Intersections of violence against women and girls with state building and peace-building: Lessons from Nepal, Sierra Leone and South Sudan', September, p 81 (https://www.rescue-uk.org/sites/default/files/document/1798/p784ircwhatworksreportlr.pdf)

86   Saferworld interview, September 2019.

87   Saferworld (2019), 'Peace and stability in South Sudan: Challenges and recommendations', June (https://www.saferworld.org.uk/resources/publications/1213-peace-and-stability-in-south-sudan-challenges-and-recommendations)

88   D'Awol A (2011), '"Sibu ana, sibu ana" ("Leave Me, Leave Me"): Survivors of Sexual Violence in South Sudan', in F Bubenzer, O Stern (eds.), *Hope, Pain and Patience: The Lives of Women in South Sudan* (Cape Town: Jacana), pp 61–62.

89   In recent years there has been more emphasis on this issue. See Amnesty International (2017), '"Do not remain silent": Survivors of sexual violence in South Sudan call for justice and reparations', pp 41–45 (https://www.amnesty.org/download/Documents/AFR6564692017ENGLISH.PDF), which contains a chapter on sexual violence against men and boys; and Dolan C (2017), 'Hidden Realities: Screening for Experiences of Violence amongst War-Affected South Sudanese Refugees in northern Uganda', Refugee Law Project, Working Paper 25, August (https://www.refugeelawproject.org/files/working_papers/RLP.WP25.pdf)

90   What Works to Prevent Violence Against Women and Girls consortium (2017), 'No safe place: a lifetime of violence for conflict-affected women and girls in South Sudan', p 36 (https://www.rescue.org/sites/default/files/document/2293/southsudanlgonline.pdf)

91   Amnesty International (2017), '"Do not remain silent". Survivors of sexual violence in South Sudan call for justice and reparations', July.

92   Ibreck R, Logan H, Pendle N (2017), 'Negotiating Justice: Courts as local civil authority during the conflict in South Sudan', Justice and Security Research Programme, London School of Economics and Political Science.

93   Simonse S, Kurimoto E (eds.) (2011), *Engaging monyomiji: bridging the governance gap in East Bank Equatoria. Proceedings of the conference, 26–28 November 2009, Torit* (Nairobi: Pax Christi Horn of Africa), p 103.

94   Saferworld focus group, March 2019.

95   For example, Saferworld interview, March 2019.

96   Saferworld focus group, March 2019.

97   For example, the State Minister for Gender and Mayor of Kapoeta are both women.

Notes continued

98 Saferworld focus group, December 2018.

99 Saferworld focus group, November 2018.

100 Ibid.

101 Saferworld focus group, November 2018; Saferworld interview, November 2018.

102 Saferworld focus group, December 2018.

103 Saferworld focus group, March 2019.

104 Ibid.

105 Oosterom M (2017), 'Gendered (in)security in South Sudan: masculinities and hybrid governance in Imatong state', *Peacebuilding* **5** (2), p 200.

106 Saferworld (2018), 'Justice for peace in South Sudan: Civil society perspectives', September (https://www.saferworld.org.uk/resources/publications/1192-justice-for-peace-in-south-sudan-civil-society-perspectives)

107 Girl child compensation is a form of traditional compensation practiced in one of the study's research locations, among the Otuho in and around Torit. It is not practiced in Kapoeta. If a person is killed and their death cannot be compensated by payment (for example, if the family does not have the means), an alternative is to give a young girl to the family of the deceased. She will be absorbed into their family and when she reaches marriageable age, they will receive a bride price for her.

108 Saferworld (2019), 'Peace and stability in South Sudan: Challenges and recommendations', June (https://www.saferworld.org.uk/resources/publications/1213-peace-and-stability-in-south-sudan-challenges-and-recommendations)

109 Saferworld interviews, November 2018.

110 Saferworld interviews and focus groups, November and December 2018, March 2019.

111 South Sudan Sanctions Committee (2019), 'Final report of the Panel of Experts on South Sudan submitted pursuant to resolution 2428 (2018)', April, p 16 (https://www.undocs.org/S/2019/301)

112 Saferworld focus group, November 2018; Saferworld focus group, March 2019.

113 Saferworld interview, November 2018.

114 Saferworld focus group, March 2019; International Organization for Migration (2013), 'Village Assessment Survey: County Atlas, Torit County, Eastern Equatoria State' (https://iomsouthsudan.org/tracking/sites/default/publicfiles/documents/EES_Torit_Atlas.pdf)

115 Saferworld interviews, November 2018.

116 Saferworld focus group, March 2019.

117 Saferworld interview, March 2019.

118 Saferworld focus groups, March 2019.

119 Saferworld focus groups, November 2018, March 2019.

120 Saferworld focus groups, November 2018, March 2019.

121 Saferworld focus groups, November and December 2018; Saferworld interview, November 2018.

122 Saferworld focus group, November 2018.

123 Saferworld focus group, March 2019.

124 Saferworld focus group, November 2018; Saferworld interview, November 2018.

125 Saferworld focus groups, November 2018, March 2019.

126 Saferworld focus group, December 2018.

127 Saferworld interview, November 2018.

128 Saferworld focus group, March 2019.

129 Saferworld focus groups, November and December 2018, March 2019.

130 Saferworld focus group, March 2019.

131 Ibid; Saferworld interviews, November and December 2018.

132 Saferworld interviews, November and December 2018.

133 Saferworld focus group, March 2019.

134 Saferworld interview, December 2018.

135 Saferworld interview, December 2018; Saferworld focus group, March 2019. The police can release the accused provided they are paid money.

136 Saferworld focus group, March 2019.

137 Saferworld interview, December 2018; Saferworld focus group, March 2019.

138 Ibid.

139 Saferworld focus group, March 2019.

140 Saferworld interview, December 2018; Saferworld focus groups, March 2019.

141 Multiple sources, including Saferworld interviews, November and December 2018; Saferworld focus groups, March 2019.

142 Small Arms Survey (2010), 'Symptoms and causes: Insecurity and underdevelopment in Eastern Equatoria', Human Security Baseline Assessment, Sudan Issue Brief 16, April.

143 Simonse S, Kurimoto E (eds.) (2011), *Engaging monyomiji: bridging the governance gap in East Bank Equatoria. Proceedings of the conference, 26–28 November 2009, Torit* (Nairobi: Pax Christi Horn of Africa), p 70.

144 Saferworld interview and focus groups, March 2019.

145 Saferworld interviews, December 2018, March 2019. Although the earliest firearms acquisitions came from Ethiopia prior to the pacification of South Sudan by the British (before the independence of Sudan) and during the Anyanya rebellion (1955–72).

146 Saferworld interview, March 2019.

147 Saferworld interview, January 2019.

148 Saferworld interview, March 2019.

149 Saferworld focus group, November 2018.

150 Ibid.

151 Saferworld interview and focus group, December 2018.

152 Saferworld focus groups, March 2019.

153 Saferworld interview and focus groups, March 2019.

154 Saferworld interview, January 2019; Saferworld focus group, March 2019.

155 This was mentioned in ten different Saferworld focus groups and interviews across the research sites.

156 For example, Saferworld focus groups, December 2018, March 2019.

157 Saferworld interviews, November 2018; Saferworld focus group, March 2019.

158 Saferworld focus group, March 2019.

159 Saferworld focus groups, March 2019; Saferworld interview, March 2019.

160 McEvoy C, Murray R (2008), 'Gauging Fear and Insecurity: Perspectives on Armed Violence in Eastern Equatoria and Turkana North', Small Arms Survey, Human Security Baseline Assessment Working Paper 14, July, p 33.

Civilian buildings, including a school, looted of windows and doors by soldiers during the post-2016 civil war period, Isaloro, December 2018.
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3

Insecurity related to the civil war, and security and justice cooperation involving armed opposition

South Sudan's post-independence civil war, which initially broke out in December 2013 and was paused in 2015 with the Agreement on Resolution of Conflict in South Sudan, first reached Eastern Equatoria in 2016 after the agreement had collapsed. Fighting between the SPLA-IO and the SPLA in Government (SPLA-IG) in the region predominantly took place to the south and south-west of Torit – for instance, in Pajeri along the road between Juba and Nimule, which led to the mass displacement of the Madi population,[161] and in Pajok where government troops were reported to have attacked the town in April 2017 – intentionally killing civilians and committing widespread looting (as documented in reports by the UN Commission on Human Rights in South Sudan and Human Rights Watch).[162]

The research areas around Torit town also experienced fighting and SPLA-IO activity, although to a lesser extent, with intermittent clashes between the SPLA-IG and the SPLA-IO reported in 2016 and 2017.[163] At the time of the research, SPLA-IO Division 9 were based in Isaloro to the south-west of Torit,[164] and clashes between them and the government had stopped.

Armed conflict was ongoing during the research period elsewhere in the country, namely in Yei River State in former Central Equatoria between the rebel National Salvation Front and the SSPDF, and between the National Salvation Front and the SPLA-IO, with multiple human rights abuses against civilians (documented by the UN Mission in South Sudan [UNMISS] and Human Rights Watch) attributed to all sides.[165]

3.1
The *monyomiji* and the civil war

Despite some individual members of the *monyomiji* joining the rebellion, they avoided being drawn collectively into the fighting between the SPLA-IO and the SPLA-IG on either side. As one *monyomiji* research participant said, "During the active conflict, the *monyomiji* didn't take sides and were friendly to all bodies. They made a clear mark: you have your own objectives for your fighting. Don't bring [it] to our localities. If you want to come back to your villages, come, but don't fight here. Just go back to the fight."[166] The *monyomiji* reportedly refused to join the SPLA-IO en masse when members from their villages returned home from the bush to conduct a recruitment campaign.[167] The *monyomiji* and landlords in the Torit area reportedly told the SPLA-IO to leave their areas, and the SPLA-IO reportedly complied with this.[168]

> **During the active conflict, the *monyomiji* didn't take sides and were friendly to all bodies. They made a clear mark: you have your own objectives for your fighting. Don't bring [it] to our localities.**
>
> **A *monyomiji* research participant.**

Those *monyomiji* who had joined the SPLA-IO were said to have refrained from armed activities in their home areas as they did not want the conflict to create insecurity there. An official explained: "*Monyomiji* who were involved in SPLA-IO, when they go back home they just stay under the responsibility of *monyomiji*. They don't practice their [rebel] activities there . . . because *monyomiji* are concerned about the security of the area."[169]

A senior official explained: "During the rebellion, the government went and talked to them so that they would not accept the rebellion, they don't accept any recruitments – otherwise it will spoil their villages and all this. So they . . . talk to the rebels, that we do not want you to come here."[170]

3.2
The *monyomiji* preventing opposition incursions, army looting and displacement

Army responses to the presence of the SPLA-IO were typically catastrophic for communities. The army was widely reported (and documented)[171] to have looted civilian property and killed civilians during the post-2016 conflict. In one case, the research team were told that the SPLA-IO had set up a barracks in Bur and the army retaliated by burning villages, looting, and killing some of the local youth.[172] In Isaloro, south-west of Torit, the research team drove past a complex of buildings that had previously been used as schools and were now pockmarked with bullet holes, with all the metal doors and windows removed. Numerous research participants stated that the army had taken the metal used for the doors, as well as civilian property, after the SPLA-IO had withdrawn from the area.[173]

A senior official acknowledged that "During the conflict, both sides made mistakes and the community became the victim".[174] In regard to the looting of iron sheets from buildings in Nimule, he said, "The army was involved . . . If you don't control the army, the civilians suffer."[175] Research participants from Torit also reported that both the SSPDF and the SPLA-IO had committed rapes in the area.[176] Both the SSPDF and the SPLA-IO are widely documented to have committed rape and sexual slavery during the conflict (including in reports by UNMISS and Human Rights Watch).[177]

The presence of the *monyomiji* was said to have protected people in the east of Torit State from predation both by the SPLA-IO and the SPLA-IG. According to one official, "The eastern side was not much affected, but the western side was affected [both] because this [the west] is where most of the rebellion was . . . [and] because the system of the eastern side is the *monyomiji* who are protecting all. . . . They will not allow any disaster to come in the community . . . The eastern *monyomiji* are very hostile – they can fight the army, they can fight the rebel."[178]

Another research participant corroborated that the presence of armed *monyomiji* was crucial in protecting communities, particularly from the national army. He said: "SPLA[-IG] attempted to raid

Ambushed vehicle, west of Torit, December 2018.
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villages in Torit around Loming and Lopit Mountain on the road to Kapoeta, but the *monyomiji* managed to defend against the SPLA[-IG] and protect and sustain their animals. Where there are no armed *monyomiji*, the SPLA-[IG] managed to destroy their whole village, vandalise the village, destroy houses, loot property. In Hiyala, Lopit East and Lopit West there were attempts by SPLA[-IG] soldiers to steal cows and destroy villages. *Monyomiji* repulsed them. Also . . . people in Imatong were able to protect themselves. In Ikotos there was a fierce battle: [SPLA-IG] soldiers wanted to loot and destroy but organised youth groups prevented them from doing so and destroyed the SPLA[-IG] garrison and managed to maintain most of their cows . . . Armed communities protected themselves, while unarmed communities were displaced."[179]

This evidence suggests that the *monyomiji* were able to resist and deter attacks by the army by being well-armed and organised, and by having clear lines of communication with the state and county governments. Meanwhile, by abstaining from collectively joining or harbouring the armed opposition, the *monyomiji* for the most part were

able to avoid government counter-insurgency attacks as well as the looting and violence against civilians associated with them.

3.3
Security on the roads

Ambushes and robberies along the Juba-Torit road, the roads around Torit and between Torit and Kapoeta were commonplace from 2016–18 and caused frequent injuries, deaths and loss of property.[180] This contributed to severe hunger and economic instability by cutting off access to the national capital, blocking access to fields so that people could not harvest crops, preventing people and goods from accessing markets, and disrupting aid supplies. Road banditry also provoked conflict between communities (see case study on 'Road banditry and intercommunal conflict between Torit West and Lafon' on page 27). Robberies and

ambushes on the roads were attributed to the SPLA-IO, to SPLA-IG forces and to armed criminals using the civil war as 'camouflage', expecting their actions to be blamed on the SPLA-IO.[181] Hunger, poverty and unemployment were all cited as factors motivating people to resort to banditry.[182] Kudo in particular suffered from acute food shortages, but food scarcity was reported by research participants in all rural areas and in Kapoeta town.[183] The research team saw evidence of violence on the roads: the burned-out shell of a pickup truck on the roadside between Torit and Hiyala, reported to be a police vehicle destroyed by opposition fighters with a rocket-propelled grenade, and a minibus strewn with bullet holes abandoned on the road between Torit and Kudo, said to have been full of passengers at the time of attack. In response, hybrid arrangements to secure roads emerged in Torit and the surrounding areas, involving cooperation between the *monyomiji*, the state government and the SPLA-IO.

Dialogue with the SPLA-IO before the R-ARCSS to secure the roads

The Torit State Governor prioritised securing the roads when he was appointed in February 2017.[184] To improve road safety, state and county government officials as well as church and community leaders engaged in dialogue with the SPLA-IO over the course of 2017. One *monyomiji* member who was involved explained that "it was purely for the protection of civilians, their access to services, production areas and the market".[185] According to a government official, "It was all about allowing the movement of the people – not to put restrictions and that resulted in dialogue [with] the rebels, first of all not to target civilians, commercial vehicles, and not to carry [out] lootings."[186]

Channels for dialogue included individual intermediaries speaking directly with the SPLA-IO, meetings between opposition, government officials and community leaders, as well as telephone conversations.[187] Participants in these dialogues emphasised their personal and local identities – as members of the community and as *monyomiji* – over their political affiliations. An official explained, "When the [SPLA-]IO move with *monyomiji* they reduce themselves to *monyomiji*" – in other words, they emphasise their identity as the *monyomiji* and not as opposition fighters. "When I went to meet with them, we went as the community, not as the government."[188] Common roots and interests in the local area, as well as a shared identity as *monyomiji*, incentivised and enabled the parties to engage in dialogue across political and military divides.

> An official explained, "When the [SPLA-]IO move with *monyomiji* they reduce themselves to *monyomiji*" – in other words, they emphasise their identity as the *monyomiji* and not as opposition fighters.

The army and local SPLA-IO agreed to control their forces and to discipline their troops should they commit any criminal acts. The SPLA-IO also agreed not to provide a safe haven to people who fled into their area of control after committing crimes.[189] A local SPLA-IO commander interviewed for this research described the agreement: "We will apprehend the criminal and hand over to the police. If anything happens on our side and the offender runs from our side to the government side, the police will apprehend and, if it's something that the chief here can solve, the chief will always come in. But if it's an offence that needs courts of law there, they will hand over to the courts – but with our consent."[190]

The dialogue was effective in helping build confidence between the state government and the SPLA-IO. One official said, "We were able to get a good understanding [so that] Torit was in peace before South Sudan achieved peace."[191] Another said, "that was how we managed to have peace here, before the signing of peace . . . Peace started in this state, before [the] Khartoum peace agreement was signed".[192] A change in SSPDF command and deployment of new SSPDF troops to Torit in mid-2017 was reported also to be a significant factor in improving the relationships between the army and local populations and in improving the security situation.[193]

The agreement reached in the informal dialogue appears to have been implemented. One government official said that after the dialogue, the SPLA-IO started punishing individuals involved in looting.[194] Another government official in Torit said that the SPLA-IO contacted youth in Torit to report that an individual who had killed a chief was in their custody, after which the government sent a vehicle from the town to collect him and take him to prison.[195] However, a government official based outside the town reported that the SPLA-IO had handed a fugitive who had killed a chief over to a community who then executed him.[196] It was not possible to confirm whether this was a conflicting report of the same case, or if it was a report of a different case. In either scenario it demonstrates that the SPLA-IO cooperated with other security and justice actors, although those may not have been state actors or have operated within the law.

Patrols on the roads by the *monyomiji* with government support

The *monyomiji* were patrolling the roads around Torit during the research period. On the outskirts of Torit, the research team saw a group of four armed men who were *monyomiji*, each in a different uniform, patrolling the road from Torit to Hiyala.[197] The *monyomiji* of Kudo and Bur were also coordinating

Road banditry and intercommunal conflict between Torit West and Lafon

The following case illustrates how the SPLA-IO, the *monyomiji* and the government jointly responded to a case of road banditry and how road banditry has the potential to provoke revenge killings and intercommunal conflict. It also highlights the tension between people's preference for local justice and retribution, and the formal administration of the law.

In September 2018, a doctor from Lowoe, Torit West, was shot dead on the road near Ofiri. The killing took place a few hours after a child had been abducted in Kudo, with the mother killed, fuelling suspicions that the incidents were connected.[198]

The governor contacted the SPLA-IO in the area at the time to discuss the incident. The SPLA-IO and the *monyomiji* of Kudo together traced footprints from the scene of the killing to Upuo village in Lafon. They did not enter the village or seek to apprehend the suspects themselves.[199]
The governor contacted the commissioner in Lafon, ordering that the suspects be arrested. Various research participants in Kudo reported that initially the Lafon Commissioner handed over weapons confiscated from the perpetrators, but not the individuals themselves.[200] This led to suspicions that the perpetrators were being protected. Tensions escalated, with the Kudo *monyomiji* mobilising to attack the Pari tribe in Lafon. The *monyomiji* from Kudo blamed the Pari for the killing and for protecting the perpetrators.[201]
The governor reportedly threatened the Lafon Commissioner, saying that he would send the army to apprehend the fugitives were they not handed over. The Pari, under threat of attack by the Kudo *monyomiji*, apprehended the accused themselves.[202] All four were imprisoned and the case was pursued in court.

The SPLA-IO said that they assisted in tracing the culprits to prove that they were not involved in the killing.[203] A government official acknowledged that

those responsible for this and other connected incidents along the road were not rebels but 'idle youth'.[204]

Police in Kudo reported that the road had been safe since October, when the accused were arrested.[205] However, tensions remained between the communities. The family of the victim initially demanded that the perpetrators be executed.[206] One family member expressed frustration with how the case was handled in court and said that most people do not understand court procedures and prefer to deal with crimes at the community level.[207] The accused had all reportedly claimed that they were under 18 years of age and therefore entitled to legal protection as minors. Members of the Kudo *monyomiji* said they believed that this was a deliberate deception by the Pari community. They also said that this led to tensions with the UN Human Rights Officer in Torit.[208] They did not share the view that a minor cannot be culpable for a crime, and in any case would expect the father to take responsibility for compensation should a crime be committed by a child.

People in Kudo expressed hostility towards the Pari tribe in relation to this incident, and suspected their complicity in child abductions. These tensions meant that the Pari feared being killed if crossing into the Kudo area and that movement was restricted between the two communities, disrupting local livelihoods (such as hunting). The Pari *monyomiji* reportedly wrote a letter to their counterparts in Kudo apologising for the incident, saying that they have no problem with the Kudo people and that the perpetrators should be executed to prevent similar incidents happening again.[209] The accused remained in government custody at the time of research validation (March 2019). The *monyomiji* in Kudo said, "We have decided that if the people responsible are killed, then we can talk. But if they are released then we will fight."[210]

Major General Victor Odong,
Commander of SSPDF Division 7
since March 2018, December 2018.
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their security activities to prevent robberies and child abductions.[211] Army, government and civilian research participants (including women) viewed the *monyomiji*'s patrolling activities as effective, stating that they had contributed to reducing crimes and improving security along the roads.[212]

According to one *monyomiji* representative: "*Monyomiji* took the initiative to take the security on their own. They told the military 'we'll be the ones doing the security, not you'."[213] Nevertheless, some *monyomiji* initiatives did receive government support. Both government and military officials stated that they had provided the *monyomiji* with ammunition to assist them in patrols. The *monyomiji* also provided information to the army. One army commander in Torit explained: "We formed a group . . . composed of police, prison [worker]s, army and even civilians. We reinforced the civilians who have arms in their villages, who stay along the road. We reinforce them with ammunition if they have guns so that they patrol along the road in order to deal with those criminals. So the civilians have really done their best – before we reach there they can get full information about the place, they bring the

report and if they have good precision then our patrol will go there . . . this is how we make our connection – the collective defence with the civilians".[214] Another research participant gave a more sceptical explanation for why communities had been armed: "[The] government have armed people to counteract [SPLA-]IO, and IO have armed people to counteract SPLA [now SSPDF]."[215]

The joint security initiatives also received support from the church and civil society. Informal dialogues convened by the Union of Monyomiji[216] with support from the Catholic Diocese of Torit and Norwegian Church Aid took place in September and October 2018, producing written resolutions specifying roles and responsibilities for the *monyomiji*, the SPLA-IO and the government to work together to secure roads and to prevent and respond to child abduction. The resolutions included provisions that the *monyomiji* would form security units to patrol specified roads and that they could make arrests, issue punishments and use 'maximum force' in certain circumstances.[217]

Ongoing confidence building between the SPLA-IO and the government after the signing of the peace agreement

Confidence-building processes continued between the government and the SPLA-IO during the research and validation process. In late November 2018, the governor sent a convoy to bring SPLA-IO representatives to Torit. They visited the army barracks and went together with the SSPDF to meet with the governor at the state secretariat.[218] The SPLA-IO stated that an important function of this visit was to demonstrate publicly that they were cooperating with the government and to reassure people that peace really had been achieved.[219] The CTSAMVM, with UNMISS, facilitated trust and confidence-building workshops between commanders of the SPLA-IO and the SSPDF in Torit, where they discussed the terms of the ceasefire agreement and the cessation of hostilities as well as practicalities of local implementation.[220]

The army and the SPLA-IO explained that their continuing cooperation included securing the roads, apprehending and returning fugitives, ensuring the free movement of civilians, and measures for regulating and facilitating the movement of SPLA-IO and army personnel between their respective areas of influence. An SPLA-IO commander described the latter arrangement: "When we talked with the general headquarters in Torit, the one for Division 7, we told them you should be free to go to our territories, the same as we have come to their territory – so long as you go unarmed, with civil clothes, and with a departure order…Another thing was they can only come in uniform, and with artillery and everything when they are on mission and the same thing applies to us."[221]

These arrangements appeared to be being followed at the time of the research. SPLA-IO commanders were reportedly moving freely within Torit. A SSPDF commander said, "Even the [SPLA-]IO who are still in their own bases, if they wish to come to the town they will come…and most of them have got their families in the town here. They could come and they go back with not any restrictions on the way."[222] In December 2018, an official in Torit said, "Yesterday evening [an SPLA-IO] brigadier was driving a motorbike with his daughter. When he saw me, he stopped and greeted me. I know him by name. They are inside here – they are around."[223] This case shows how, despite the national-level conflict between the SSPDF and the SPLA-IO, there are multiple levels of relationships binding the opposing groups together locally.

By March 2019, the research team were told that cooperation between the SPLA-IO and the SSPDF had extended to include sharing of intelligence, coordinating at checkpoints to confirm identities of people moving with goods and who were claiming to be SPLA-IO, and also communicating with the public about the peace agreement. The SSPDF and the SPLA-IO were meeting each other with the facilitation of the CTSAMVM and also without. A committee was said to be drafting a formal Memorandum of Understanding (MOU), as agreements on local cooperation up until that point had not been agreed in writing – but no further information about this MOU emerged. The CTSAMVM were conducting monitoring and verification missions in teams, including the SPLA-IO and the SSPDF, but were not engaging with community-based security providers (such as the *monyomiji*) and did not seem to be aware of their role in securing the roads.[224] This indicates a gap between the security arrangements of the formal peace process and the realities of how security arrangements work in practice.[225]

While the apparent openness and cooperation between the two sides appeared to be a constructive development, some civil society observers were concerned that individuals and communities now publicly associated with the SPLA-IO would be vulnerable to persecution and violent targeting in the future should the peace process break down.[226]

Overall effectiveness – increased security on the roads

During the research period, incidents of robberies on the roads were reported to have significantly decreased. Improvement was reported in Kapoeta as well as Torit, and was attributed to cooperation between the SPLA-IO and the government (in Torit State), to the revitalised peace agreement, to the *monyomiji*'s patrols (as mentioned previously) and to the arrest of the 'idle youth' who had been committing crimes along the road.[227] This improved security situation permitted the research team to travel to locations outside Torit, along roads that had previously been insecure. Banditry remained a concern in one area to the east of Hiyala known as Hakuma Mafi (meaning 'there's no government'). For instance, a priest was robbed while driving there on 4 March 2019.[228] The area was said to be "gaining the status of no man's land yet there are three villages that are supposed to be maintaining the security of that place".[229] The insecurity was in part attributed to the area falling across an administrative boundary between counties.[230]

In spite of the continued robberies around Hakuma Mafi, the cooperation of the *monyomiji*, the SPLA-IO and the government in Torit, with support from church and civil society, is an example of hybrid

> "
> [There is] a gap between the security arrangements of the formal peace process and the realities of how security arrangements work in practice.
> "

security cooperation perceived as effective and legitimate by communities and authorities. It shows how security arrangements can depend on and be enabled by local dynamics and informal relationships, and involve institutions that may not be visible to international observers.

In spite of the apparent effectiveness of its approach, the government's strategy of arming the *monyomiji* poses risks over the longer term in the absence of oversight or accountability for the use of the weapons provided, and given the risks that they could be used for unauthorised purposes or diverted to unauthorised individuals. Some guidance was given to the *monyomiji* around appropriate conduct and use of firearms. There was no indication as to whether those who were armed had received training in safe handling or storage of weapons to mitigate the risk of accidents or theft of weapons. Availability of firearms was a widely reported threat to security, and this security response has increased weapons in civilian hands. The security cooperation involved the government, armed opposition and community defence groups, and was facilitated by civil society and the church. Women were involved in advocating directly with the SPLA-IO – denouncing road robberies and killings. However, neither the SPLA-IO nor the SSPDF demonstrated any insight into women's security and justice concerns when interviewed for this research (although in February 2019, UNMISS delivered a command order to the SPLA-IO in Isaloro issued by their leader Riek Machar prohibiting all forms of sexual violence).[231]

> "
> **The government's strategy of arming the *monyomiji* poses risks over the longer term in the absence of oversight or accountability for the use of the weapons provided.**
> "

3.4
Child abduction

Child abduction is a major concern for people in Kudo,[232] Torit West, causing fear and anger[233] and leaving a profound psychological impact on families who lose their children and on the children themselves.[234] Abductors have also killed people – either guardians accompanying the children[235] or those who witnessed something that could implicate the abductors.[236]

The problem began in the early 2000s.[237] An assessment by a local civil society organisation found that 59 children had been abducted since 2008.[238] Between nine and 13 children were reported abducted in Kudo in 2018.[239]

Child abduction is also a prominent issue in Kapoeta, particularly affecting remote rural areas.[240] The extent of it is not clear from the data collected. Six children were reported abducted from Rwoto, a Toposa village, in October 2018,[241] and two children were reported abducted (and eventually returned) from Kauto, near the Ethiopian border, in 2018.[242] Although the data on children reported abducted was not disaggregated by sex, cases were reported of both girls and boys being abducted.

Research participants almost universally blamed the Murle tribe as being responsible for the abductions.[243] This reflects a common accusation levelled against the Murle since before South Sudan's independence, particularly during their conflict with the Lou Nuer in Jonglei.[244] In Kudo and Torit, people suspected the Pari and Tennet tribes of abducting children for sale (some reported it was in exchange for cows) for eventual supply to Murle.[245] Suspicions of the Pari's involvement in child abduction – linked to the case of the killing of the doctor[246] – fuelled hostility and threats of violence against the tribe from people in Kudo at the time of the research.[247]
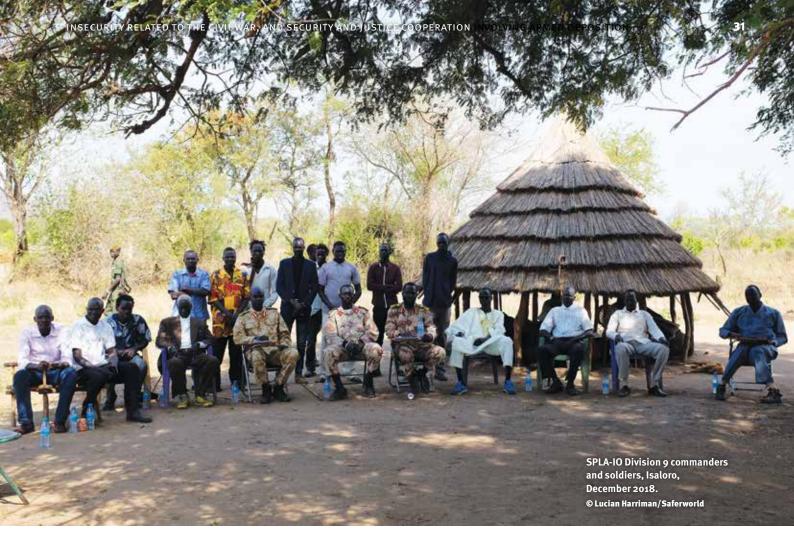
Responses to child abduction

Responses to child abduction have involved cooperation between the state, the *monyomiji* and the SPLA-IO – drawing on a sense of common public interest in addressing the problem – and facilitated by participants' shared identities as local community members and the *monyomiji*.

The *monyomiji* are the first responders to child abduction. When cases occur, they sound an alarm (either a drum or a bell[248]) and pursue the abductors by tracking their footprints. Women said they would immediately seek help from the *monyomiji* in cases of abduction.[249]

The *monyomiji* also report cases to government authorities. The police in Kudo said they meet with the army and accompany the *monyomiji* in chasing abductors.[250] An army official in Torit said that the army would not itself chase abductors but could intervene if abductors had fought with and overpowered the *monyomiji* and police.[251] The SPLA-IO reported that their members accompany the *monyomiji* when chasing child abductors. Prior to the revitalised agreement they would do so in their individual capacities as the *monyomiji*. After the agreement they could do so in an official capacity as SPLA-IO, but not always in uniform: "They go as *monyomiji*. That was before the signing [of the revitalised peace agreement]. When they go to curb the security issue, they go as *monyomiji*. But now, if anything happens, after the signing [of the revitalised peace agreement], we will send them as SPLA-IO. We don't want to put *monyomiji* at

SPLA-IO Division 9 commanders
and soldiers, Isaloro,
December 2018.
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loggerheads with the government, so usually they go in their plain clothes to try and rescue the situation."[252] Civil society were involved in facilitating dialogue between the SPLA-IO and groups of the *monyomiji* on how they could address abduction.[253]

The probability of capturing abductors or retrieving children is low. Challenges include losing track of the abductors[254] or having to end the pursuit due to insufficient water supplies.[255] The *monyomiji* might spend two or three days tracking and pursuing abductors.[256] Only five of the children abducted from Torit State since 2008 were reported recovered.[257] One boy who escaped and returned to Torit years after being abducted eventually returned to the Murle in Pibor, reportedly because conditions there were better, with a wider variety of food available.[258]

In Kapoeta, youth attempt to follow and retrieve abducted children, but typically without success and without support from the government.[259] Delays in communicating with the government from remote areas[260] and delays in government responses contribute to the difficulties they face in curbing abductions.[261]

Monyomiji patrols with government-supplied ammunition

The *monyomiji* in Kudo organised patrols coordinated between villages specifically to prevent child abduction. In one discussion, *monyomiji* representatives said that "We will work together with security organs, including the SPLA [SSPDF] and police, to protect and rescue."[262] One official emphasised the importance of the *monyomiji* being armed to prevent abduction. He said, "When we disarm the community, the abductors come and take the children. The government is trying to help the community themselves to have ammunition to protect their people. When there is peace, that is when there will be general disarmament."[263]

A possible political response

Torit State officials had communicated with the government in Murle areas to discuss the abduction issue.[264] Officials in Torit mentioned that they were seeking to organise a forum between the governments of all affected states (reportedly Jonglei, Pibor, Kapoeta, Torit and Jubek) to discuss abduction.[265] This idea was supported by local civil

> " When we disarm the community, the abductors come and take the children. The government is trying to help the community themselves to have ammunition to protect their people.
>
> **An official.** "

society.[266] An official in Kapoeta said such an initiative had been previously attempted but had failed, although the government continued to coordinate on the issue.[267]

Cooperation around a common concern

Responses to child abduction in Torit demonstrate how hybrid security provision can be cooperative when a threat is understood as a common concern. Informal community defence groups – the *monyomiji* in Torit and armed youth in Kapoeta – serve as primary security providers responding immediately to incidents, and calling on state support for backup. The *monyomiji* conduct preventive patrols, cooperating across communities. When members of the local armed opposition (the SPLA-IO) participate, they emphasise their identity as *monyomiji* rather than highlighting their political or military affiliations, even if acting under the SPLA-IO's command. The state's provision of ammunition to the *monyomiji* serves as practical material support as well as legitimisation of their role. It also poses risks by increasing the number of weapons in circulation in the absence of accountability as to how weapons and ammunition are used. Male and female civilians, government and armed opposition all describe the *monyomiji* as a legitimate actor to fulfil these security functions. The effectiveness of the *monyomiji* varies based on the nature of the security threat; while their patrolling appears to have reduced banditry on the roads, they are less effective in preventing abductions, apprehending abductors or retrieving children (although this is understandable given that they also experience the resource constraints that hamper police, such as lack of vehicles or communications equipment).

Notes

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162 Human Rights Watch (2017), '"Soldiers Assume We Are Rebels": Escalating Violence and Abuses in South Sudan's Equatorias', 1 August (https://www.hrw.org/report/2017/08/01/soldiers-assume-we-are-rebels/escalating-violence-and-abuses-south-sudans); Commission on Human Rights in South Sudan (2018), 'Report of the Commission on Human Rights in South Sudan', Office of the High Commissioner for Human Rights, A/HRC/37/71, 13 March (https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session37/Documents/A_HRC_37_71_EN.docx)

163 For example, see REACH (2017), 'Southern Torit County Displacement and Service Access Brief', November (https://www.impact-repository.org/document/reach/f58fd494/reach_ssd_profile_southerntoritcountydisplacementandserviceaccessbrief_november2017.pdf)

164 Salifu S (2019), 'Striving for harmony: A peacekeeping tale on the importance of timely information', United Nations Mission in South Sudan, 28 February (https://unmiss.unmissions.org/striving-harmony-peacekeeping-tale-importance-timely-information)

165 United Nations Mission in South Sudan (2019), 'Conflict-related violations and abuses in Central Equatoria: September 2018–April 2019', 3 July (https://unmiss.unmissions.org/sites/default/files/final_-_human_rights_division_report_on_central_equatoria_-_3_july_2019.pdf); Human Rights Watch (2019), 'South Sudan: Government Forces Abusing Civilians: Rein in Troops, Ensure Justice for Abuse by All Sides', 4 June (https://www.hrw.org/news/2019/06/04/south-sudan-government-forces-abusing-civilians)

166 Saferworld focus group, March 2019.

167 Ibid.

168 Saferworld interview, December 2018.

169 Ibid.

170 Saferworld interview, March 2019.

171 Saferworld interviews, March 2019; Saferworld focus groups, March 2019; Human Rights Watch (2017), '"Soldiers Assume We Are Rebels": Escalating Violence and Abuses in South Sudan's Equatorias', 1 August (https://www.hrw.org/report/2017/08/01/soldiers-assume-we-are-rebels/escalating-violence-and-abuses-south-sudans); Commission on Human Rights in South Sudan (2018), 'Report of the Commission on Human Rights in South Sudan', Office of the High Commissioner for Human Rights, A/HRC/37/71, 13 March (https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session37/Documents/A_HRC_37_71_EN.docx)

172 Saferworld focus group, March 2019.

173 Saferworld interviews, December 2018; Saferworld interviews and research discussions, December 2018.

174 Saferworld interview, March 2019.

175 Ibid.

176 Saferworld interviews, September 2019.

177 For example, Human Rights Watch (2019), 'South Sudan: Government Forces Abusing Civilians: Rein in Troops, Ensure Justice for Abuse by All Sides', 4 June (https://www.hrw.org/news/2019/06/04/south-sudan-government-forces-abusing-civilians); United Nations Mission in South Sudan (2019), 'Conflict-related violations and abuses in Central Equatoria: September 2018–April 2019', 3 July (https://unmiss.unmissions.org/sites/default/files/final_-_human_rights_division_report_on_central_equatoria_-_3_july_2019.pdf)

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179 Saferworld interview, January 2019.

180 For example, see *Radio Tamazuj* (2016), 'Citizens complain of insecurity along Juba-Torit road', 25 September (https://radiotamazuj.org/en/news/article/citizens-complain-of-insecurity-along-juba-torit-road); Aurelio D (2016), 'Five Killed in South Sudan Road Ambushes', *Voice of America*, 6 July (https://www.voanews.com/africa/five-killed-south-sudan-road-ambushes)

181 Saferworld interviews, December 2018.

182 Saferworld focus groups, November and December 2018, March 2019; Saferworld interview, March 2019.

183 Saferworld focus group, March 2019.

184 Saferworld interview, March 2019.

185 Saferworld interview, March 2019.

186 Saferworld interview, March 2019.

187 Saferworld interview, March 2019.

188 Saferworld interview, December 2018.

189 Ibid.

190 Saferworld interview, December 2018.

191 Saferworld interview, March 2019.

192 Saferworld interview, March 2019. One research participant expressed a more skeptical view of the dialogue process, stating that it was politicised and had been used by the government for military purposes, and that the army had attacked SPLA-IO on one occasion when a dialogue had been scheduled. Saferworld interview, January 2019.

193 Saferworld focus groups, December 2018, March 2019.

194 Saferworld interview, March 2019.

195 Saferworld interview, March 2019.

196 Saferworld interview, December 2018. It is unclear whether these were two different cases or differing accounts of the same case.

197 Observation en route to Hiyala, November 2018.

198 Saferworld interview, November 2018.

199 Saferworld interview, November 2018; Saferworld focus group, November 2018; Saferworld interview, December 2018.

200 Ibid.

201 Saferworld focus groups, November 2018, March 2019.

202 Saferworld interview, December 2018.

203 Saferworld interview, December 2018.

204 Saferworld interviews, December 2018, March 2019.

205 Saferworld interview, December 2018.

206 Saferworld interview, December 2018.

Notes continued

207 Saferworld focus group, March 2019.

208 Saferworld focus group, November 2018.

209 Saferworld interview, December 2018.

210 Saferworld focus group, November 2018.

211 Saferworld focus group, March 2019.

212 Saferworld interview, December 2018; Saferworld focus groups, December 2018, March 2019.

213 Saferworld focus group, March 2019.

214 Saferworld focus group, December 2018. The speaker added "and also without them [armed civilians], our patrol will go along the road . . . when we hear the news about the abductors."

215 Saferworld interview, January 2019.

216 The Union of Monyomiji is an organisation that was established by some individual *monyomiji* members on 24 August 2013 to engage the *monyomiji* of different communities in peacebuilding initiatives. *Radio Miraya* (2016), 'How to mitigate and resolve community conflicts – The Torit story', United Nations Mission in South Sudan, 3 August (https://unmiss.unmissions.org/how-mitigate-and-resolve-community-conflicts-%E2%80%93-torit-story)

217 Resolutions of Road Safety, Civil-Military Relations and Child Abduction Forums, 6–7 September 2018 in Kudo, Torit West County and 25–26 October 2018 in Gunyoro-Isaloro Boma.

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221 Saferworld interview, December 2018.

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223 Saferworld interview, December 2018.

224 Saferworld interview, March 2019.

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226 Saferworld focus group, March 2019.

227 Saferworld focus groups, March 2019.

228 Saferworld interview, March 2019; Saferworld focus group, March 2019.

229 Saferworld focus group, March 2019.

230 Ibid.

231 Salifu S (2019), 'Striving for harmony: A peacekeeping tale on the importance of timely information', United Nations Mission in South Sudan, 28 February (https://unmiss.unmissions.org/striving-harmony-peacekeeping-tale-importance-timely-information)

232 Saferworld interview, November 2018. Child abduction was not reported as a concern in Bur or Hiyala.

233 Saferworld focus group, December 2018.

234 Saferworld interview, December 2018.

235 Saferworld interview, November 2018.

236 Saferworld interview, December 2018.

237 Saferworld focus group and Saferworld interview, November 2018.

238 Saferworld interview, December 2018.

239 Nine according to Saferworld focus group, November 2018, 12 according to Saferworld interview, December 2018, and 13 according to Saferworld focus group, November 2018.

240 Saferworld focus group, November 2018; Saferworld focus groups and Saferworld interview, March 2019.

241 Saferworld focus group, November 2018.

242 Saferworld interview, March 2019.

243 Multiple interviews and focus groups.

244 McCallum J (2017), 'The Murle and the security complex in the South Sudan-Ethiopia borderlands', *Horn of Africa Bulletin* **29** (3), Life & Peace Institute.

245 Saferworld interview, December 2018; Saferworld focus groups, November 2018, March 2019.

246 See box on page 27.

247 Saferworld interview, March 2019.

248 Saferworld interview, December 2018; Saferworld focus group, November 2018.

249 Saferworld focus group, December 2018.

250 Saferworld interview, December 2018.

251 Saferworld focus group, December 2018.

252 Saferworld interview, December 2018.

253 Saferworld interview, December 2018.

254 Saferworld interviews, November 2018; Saferworld focus group, December 2018.

255 Saferworld interview, November 2018.

256 Saferworld focus group, December 2018.

257 Saferworld interview, December 2018.

258 Saferworld interviews, November and December 2018.

259 Saferworld focus group, March 2019.

260 Ibid.

261 Saferworld focus group, March 2019.

262 Saferworld focus group, November 2018.

263 Saferworld interview, November 2018.

264 Ibid; Saferworld interview, December 2018.

265 Saferworld interviews, November 2018, March 2019.

266 Saferworld interview, December 2018.

267 Saferworld interview, March 2019.

Watchtower built by a *monyomiji* age-set group upon assuming power in 1998, Murahatiha, Hiyala, 1999.
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4

Intercommunal conflict

In relation to intercommunal conflict, where communities mobilise violently against one another, the relationship between the *monyomiji* and the state can be more antagonistic. One state government official explained: "*Monyomiji* is [sic] working in two ways. Sometimes they cooperate and sometimes they don't."[268] When conflicts escalate to a level that local leaders cannot manage, communities sometimes seek government support, and government authorities become involved in mediation processes. The government also frequently uses threats and coercion when responding to intercommunal violence – whether to stop fighting, retrieve stolen assets or to apprehend fugitives. Misconduct by soldiers during such interventions undermines the government's legitimacy and can be met with armed resistance from the *monyomiji*.

4.1
Livestock theft and cattle raiding

The most widely cited cause of intercommunal conflict by all research participants – both men and women – was livestock theft or cattle raiding. While research participants typically use the terms 'theft' and 'raiding' interchangeably (when interpreted into English), government officials distinguish between the two. According to the officials interviewed, 'raiding' describes a larger-scale, more organised, militarised and confrontational activity. 'Theft' might involve stealthily stealing a small number of goats or cows during the night, undetected. While some government officials said that cases of raiding were diminishing,[269] research participants from Kapoeta – including other government officials – remained concerned about larger raids and cited cases that took place in 2018 and 2019.[270] People often retaliate with their own thefts or raids, leading to patterns of revenge and escalation.[271] Even small-scale animal theft has the potential to escalate into destructive intercommunal conflict, as the displacement of Tangul from Tirrangore demonstrates (as shown in the case study on page 36).

4.1.1 **Drivers of livestock theft and raiding**

Livestock theft and raiding are, in many ways, shaped by and are consequences of gender norms. Men conduct the raids. The need for cattle to pay bride price[272] was the most widely cited driving factor. Men without cattle are unable to marry.[273] One youth participant in Kapoeta explained: "There is no other way to get a woman without cattle, unless you go and steal."[274]

Local notions of masculinity also motivate men to raid. Youth in Kapoeta said, "Men who don't raid are perceived as women and so are not respected in the communities."[275] Men receive praise, particularly from women, for raiding cattle and killing people.[276]

> "
> **The tradition says that a cowardly young man is a useless person. If a man goes and takes a cow, the woman praises him because he is brave.**
>
> A civil society organisation representative in Torit.
> "

According to a civil society organisation representative in Torit, "The tradition says that a cowardly young man is a useless person. If a man goes and takes a cow, the woman praises him because he is brave."[277]

Women in Hiyala also explained that if a family was suffering from extreme hunger, a husband would resort to raiding to provide for his family.[278] Raiding could understandably be driven by desperation given severe food insecurity and economic crisis precipitated by the civil war. Other factors mentioned that fuel raiding include lack of education, limited economic opportunities,[279] impunity and lack of government response.[280] Animals are also sometimes stolen during conflicts linked to competition over grazing land.[281]

The availability of small arms enables raiding and intensifies its consequences.[282] The practice is not new, although raids used to take place with spears rather than firearms before the Sudanese civil war.[283] Government officials and commanders in possession of cows provide firearms and ammunition to the *monyomiji* to guard their herds.[284] People also exchange firearms for cows – both serve as a form of currency.[285]

4.1.2 **Impacts of livestock theft and raiding**

Theft and raiding frequently lead to killings of raiders – making young men particularly vulnerable to being killed – and of members of the communities from where animals are stolen.[286] These killings often lead to cycles of revenge. Raids can deprive a community of most of its cattle, which tend to be some of its most valuable assets.[287] Animal thefts and intercommunal conflicts also disrupt people's

Case study: Animal theft, intercommunal conflict and displacement in Tirrangore

One survivor recounted a conflict[288] in Tirrangore, west of Hiyala, between the communities of Ifarang and Tangul, which started with the theft of one goat but quickly escalated with reciprocal thefts carried out by each side – leading to fighting and the destruction of a village and the displacement of its entire population (said by one research participant to be up to 1,200 people). The *monyomiji* of each village had refused their neighbours' requests to apprehend the thieves within their own communities, which increased the frustrations of those whose animals had been stolen. Fighting between the communities occurred twice, first in 2013 and later in 2015. In each instance, three people were killed. In the second instance, when shooting broke out one evening, the chief of one of the communities instructed his own people to cease fighting and contacted the other community's chief to call a halt to the violence. Fighting stopped that evening, but then continued in the early morning of the following day. That morning, when the Tangul community ran out of ammunition, they withdrew – at which point their neighbours looted and burnt down their homes.

The population of Tangul fled. A local NGO (and the government's Relief and Rehabilitation Commission) provided humanitarian relief and registered them as displaced. A community-based women's organisation, the local NGO and the then-governor convened a peace dialogue and the groups agreed to reconcile. Looted items, such as iron sheets and saucepans (but not cash), were returned. It was unclear from the survivor's account whether stolen animals were retrieved. Nobody received compensation for killings, as this depended on the identification of perpetrators and none were identified. The Tangul population have not returned to Tirrangore, and have mostly integrated into Hiyala.

When asked if he was satisfied with how the conflict had been managed, the interviewed survivor said: "The right people were involved – elders, chiefs, rainmakers of the two areas, the kingdoms were here . . . All the villages and kingdoms could join: there were many women, including mothers of those who were killed."

freedom of movement, as they fear being attacked should they come into contact with members of opposing communities.[289] Restrictions on movement affect economic activity and further limit people's access to food. Intercommunal conflict in Tirrangore triggered by recurring animal theft led to the displacement of an entire community.[290]

This case illustrates how chiefs, while present in communities, have limited influence over armed youth to prevent or put a halt to violence. The state's organised forces did not intervene to prevent or stop the fighting either. After the fighting was over, the resolution process took on a hybrid form in that it involved a mixture of participants: government authorities attended and endorsed mediation efforts made by NGOs, and traditional leaders appeared to give the process legitimacy. The mediation appeared to have been effective in preventing further violence and in achieving a limited degree of restitution, although it did not lead to the return of the displaced population, and it did not provide any form of justice for the deaths of community members.

Cycles of revenge

It is common for people to seek or demand retribution in response to a killing – whether connected to raiding or not. Revenge can be directed towards a specific perpetrator or towards that person's community (or both).

A revenge killing might be sufficient to settle a conflict between families within the same community. The team were informed that in March 2019, a man who had killed a man from another family was killed in turn by his victim's sisters. The *monyomiji* buried the dead and the case was considered solved without involvement of the government.[291]

Cycles of revenge escalate during intercommunal conflict when retribution is directed at a community rather than an individual perpetrator. As one research participant reported: "In Torit East, I witnessed when there was a problem between Iloli and Oguruny. A man from Iloli killed someone from Oguruny. And then the *monyomiji* from Oguruny went and killed two girls from Iloli. The situation was escalating. The Iloli . . . went to kill a doctor in a clinic. From there this issue escalated." The conflict had the effect of restricting the movement of the two tribes during a period of extreme food scarcity.[292]

Eventually the chiefs of the Iloli and Oguruny agreed they needed to talk to each other, so they contacted the commissioner, who had mediated between the villages in October 2017. The communities came together, and individual perpetrators were identified in relation to each killing – each perpetrator agreed to pay compensation to the families of the deceased,

either immediately or once they had been able to obtain the requisite cattle.[293]

When acceptable to the families of those killed, blood compensation – the payment of cattle and other assets to the family of the deceased – is the preferred means for ending cycles of escalating violence in and around Torit. It is seen as effective, legitimate and in line with Otuho customary norms. A woman in Bur said: "Compensation could be paid to reduce conflict. If compensation is done, the case is resolved. They will forget the past and open a new chapter for living."[294] This solution is often inadequate in terms of deterrence, as killing does not incur a personal cost to a perpetrator beyond the material or financial expense of providing compensation.

As well as applying to intercommunal conflict, compensation is also a commonly used means of resolving murder cases that occur within communities. Justice processes are not always consistent, however; cases were reported where suspects of intra-communal killings were reported to the police, arrested and sent to court and ultimately to prison in Torit. Officially, all cases of intentional killing are supposed to be handled by the police and court system, but research participants also reported many examples of compensation being mediated in relation to murder cases.

The formal legal system in some ways mirrors the options available in customary processes by offering families whose relatives have been killed the options of having the perpetrator jailed for life or executed, or they can receive compensation. According to the penal code,[295] a prison sentence of up to ten years is still required alongside the payment of compensation. This theoretically poses a greater potential deterrent than compensation alone. However, cases of killings are frequently resolved outside the formal system – which people tend to distrust or not understand, instead preferring informal resolutions. Individuals and their families may feel unfairly penalised if they are prosecuted, convicted and punished according to the formal system, when others who have killed are spared formal punishment and pay compensation only in a locally mediated settlement. Individuals can also feel unfairly singled out when facing punishment or when they are required to pay compensation if their violent action was seen to be on behalf of their community rather than based on a personal grievance.

> **Cases of killings are frequently resolved outside the formal system – which people tend to distrust or not understand, instead preferring informal resolutions.**

Honorable German Charles Ojok, Chair, South Sudan Peace Commission, Torit State, coordinates responses to intercommunal conflict, December 2018.
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Barriers to effective state responses

Some participants complained about government inaction in response to cattle raiding, which they felt amounted to negligence.[296] One senior official from Kapoeta, whose cattle had been raided, said: "Even for me to open a case in the police is meaningless, because you know very well that it cannot happen."[297] Another possible explanation for the police's reluctance to respond is that raiders are likely to be better organised and armed. As mentioned previously, the absence of communications infrastructure is another obstacle to promptly reporting raiding to the authorities.[298] Furthermore, the scarcity of state personnel in rural areas and their lack of transportation, equipment, training or income compromises their ability to respond.

In one focus group, participants mentioned that those committing raids would give chiefs their cattle to persuade them to neglect their duty to assist people who have lost animals.[299] Chiefs may also fear violent reprisals, including being killed by raiders, were they to report their activities.[300] As mentioned before, chiefs sometimes ignore crimes so they do not jeopardise their prospects for re-election.[301]

4.1.3 Responses to conflict around livestock theft

In Torit State, the *monyomiji* set up day and night patrols to protect against raiding and theft.[302] In one case, they killed a man found at a *kraal* (cattle enclosure) in Hiyala, who they believed was planning to steal cattle. They subsequently had to justify their actions to the government. This did not seem to have led to any formal government response.[303]

The *monyomiji* are also the first responders to cases of raiding or livestock theft. They chase after the

thieves and fight them to retrieve their property.[304] One *monyomiji* explained: "They react automatically – they don't search for the police or for anybody else. They gather, they go in a group, and try to help find the cows."[305] Women sometimes support them in their missions by bringing water and preparing food.[306]

Customary leaders in Bur reported that the *monyomiji* can also contact the County Commissioner to seek support. The commissioner contacts the *monyomiji* in the area from which the thieves came, notifies them of the theft and requests that they apprehend the thieves and return the cattle.[307] In Kapoeta, people said that chiefs sometimes (although rarely) demand that members of their community return stolen animals.[308] The *monyomiji* sometimes request support from the government when they want to avoid clashing directly with raiders or the communities they come from.[309] Government support can also give one community leverage over another. The police and army sometimes deploy in joint operations when the *monyomiji* are unable to retrieve stolen cattle themselves.[310]

In some cases, police did arrest and detain animal thieves.[311] Police and the army are potentially vulnerable to attack when they do pursue cases. A woman interviewed in Torit said: "Customary law is quick when cattle are being raided, and the *monyomiji* will organise and run after the perpetrators and fight until this is returned and solved. If it's legal law and your cattle happen to be raided and the perpetrators have taken it to their own location, it will be very complicated for the owners to go to that location as they might be killed."[312] They cited a case where a police officer was injured and a soldier killed in an ambush as they were investigating a case.[313]

The army's efforts to retrieve stolen cattle can be heavy handed, or can appear biased by serving elite interests – thus undermining their legitimacy. People in Hiyala reported a case when they felt unfairly targeted by the government and the army. Having lost cattle due to theft from a neighbouring community, they reported to government authorities – but no action was taken. They admitted to having retaliated by stealing cattle from the community that initially stole from them. The government then demanded that the Hiyala people return the cattle. When they refused, the government responded with force by sending the army, who reportedly beat people, looted properties, raped women and killed a member of the community. A woman also died after becoming lost in the bush after she fled the attack. The army also allegedly tortured a child to get them to name the individuals who had stolen the cattle from the neighbouring

community. They concluded their mission by taking back the cattle.

The people in Hiyala found out that they had stolen cattle belonging to a senior person working in the office of the president. They said: "If the cattle had not belonged to a big person, the government would not have responded. Therefore, we sense that security providers favour government officials over other people. That situation was injustice, that's why the *monyomiji* cannot respect the chief and police."[314] While the response to this incident could be seen as effective by the state (since it secured the return of stolen cattle), at the same time it clearly undermined government legitimacy in the eyes of the people who felt that the initial injustice had been ignored, that the state had abused them, and that the army had not acted impartially in the public interest.

The state government also uses the army to threaten communities to stop fighting. In relation to a recurring conflict involving animal theft between Chilamini and Hiyala, where many attempts to mediate had been made, "there was a time they brought the SPLA, the Chilamini and the Hiyala together and told them to reconcile. The soldiers said 'let this problem end here – if you repeat it, you will also face the consequence'. From that time on, they kept silent. The SPLA come to intervene and stop the conflict". The research participant explaining this further acknowledged that it was not the army that provided a lasting resolution to the dispute: "the organisations that brought the peace until now are Saferworld, NCA [Norwegian Church Aid] and SARRA." She also highlighted the involvement of a community-based organisation called Itwak in the process.[315]

In some cases related to intercommunal killings, communities try to protect people from arrest by the government, leading to threats or coercion from the authorities.[316] In one case, the government demanded that the *monyomiji* of Lohutok arrest suspects said to have killed five people. When they refused, the governor gave them an ultimatum. He reportedly said: "If you don't surrender, we are going to disarm you." This persuaded the *monyomiji* to cooperate.[317] In another case, the threat to send in armed forces convinced the *monyomiji* in Lafon to apprehend and hand over fugitives. In another instance, the army was said to have surrounded a village to compel the *monyomiji* there to apprehend and hand over a fugitive.[318] The case of the killing of the doctor from Kudo (see page 27) is another example of how both the threat of attack by the *monyomiji* and the threat of deployment of the army

> **We sense that security providers favour government officials over other people . . . that's why the *monyomiji* cannot respect the chief and police.**
>
> A research participant in Hiyala.

Case study: resolution of a protracted intercommunal conflict generated by a land dispute

One case illustrates how a minor land dispute, which escalated into intercommunal violence that killed 43 people, was resolved using a hybrid mediation process.

Background to violence between Omorwo and Baari

The Loudo area, within Bur *payam*, contains five villages: Ibalany, Muttarram, Osito, Omorwo and Baari. Historically, the villages were close – sharing traditions, participating in ceremonies at dancing grounds and intermarrying.[319] In April 2013, this changed when violence broke out between the Omorwo and Baari communities. The cost was high. Over five years, 43 people were killed, including women and children. In one instance, 13 women were summarily killed as an act of revenge.

The violence between communities began as a minor dispute between two families over land boundaries relating to gardening areas. One of those involved in the initial dispute was a recently returned internally displaced person from Khartoum, who was unsure of the agreed boundaries. Communities from each side – Omorwo and Baari – weighed in with support for their respective community members.

When it was still a small-scale non-violent grievance, the case was raised with the *payam* chief, who requested the two families meet with him so he could hear the case. However, only one side attended the hearing, at which point the case was referred to the paramount chief in Torit. Before the paramount chief was able to respond, violent conflict broke out. Six people died in the first attack, at which point the incident was escalated to the commissioner. Members of the two families involved were arrested and held in prison in 2013. While in jail, revenge killings between both communities continued, resulting in further deaths, abductions, looting of cattle and other animals, and the destruction of property and the burning of the whole Baari settlement. Ironically, the people whose land was contested lived "in peace and they ha[d] no more problems"[320] once they were released. However, the cycles of revenge killing had caused a rift between the two communities that seemed insurmountable. Multiple efforts were made to mediate and end the violence by elders and traditional leaders from within the two communities, as well as by members of the church and the state government,

but the efforts "failed to reconcile those people".[321] Though open hostilities ended, there was no mechanism for reconciliation, which meant when people (particularly the *monyomiji*) from the opposing sides came face to face, they would clash.[322]

Peace and reconciliation dialogue and compensation

The communities on both sides requested mediation and dialogue support from SARRA and Saferworld in May 2018. A process of engagement between the two communities of Baari and Omorwo in peace and reconciliation dialogue began in collaboration with the State Peace and Reconciliation Commission and the office of Torit's County Commissioner. Following preparation meetings, a pivotal three-day dialogue was held in June 2018, mediated by SARRA with support from Saferworld and attended by the two communities, representatives from the state and county governments, the church, elders and traditional leaders such as rainmakers, landlords/ladies and the *monyomiji* from both sides.[323] Previous efforts had also involved mediation, but the decisive factor this time according to research participants was that perpetrators agreed to pay compensation – according to local and customary norms of the Otuho ethnic group[324] – to the families of those killed during the conflict.

The majority of research participants in Bur confirmed the effectiveness of the compensation approach. A woman whose entire family was killed in front of her reflected that the decision to compensate was taken "by the people from the grassroots" and that she had "no problem" with the approach.[325] Compensation was described by a state government official as an innovative "new methodology"[326] – but in fact its effectiveness seemed to derive from it being accepted by people who share cultural traditions and values and who are using the same restorative measures used by generations before them. However, it was not without its tensions, particularly as individuals resented being held personally responsible for acts of violence that they felt they had taken on behalf of the collective community. Not everyone supported compensation, with some requiring persuasion. A few senior members of the *monyomiji* indicated people were generally "not happy with the decision . . . the perpetrator may not be happy because he is given a burden to search

for what he might not have [cows or goats for compensation]. And even if he has it, he is going to lose it. Because it was a community fight that is now narrowed to him, he feels that he is carrying a heavy burden."[327] The reference to individual burden and the feeling that reparations must be made by an individual on behalf of the whole community is telling. There is frustration from perpetrators who are required to use their own or their families' wealth as compensation to restore peace to the wider community. But there is also a strong feeling that without compensation, violence would continue. The *monyomiji* from both sides agreed to pay compensation in the event that perpetrators could not be identified[328] or when perpetrators could not afford to pay. This increased their legitimacy among their communities, as they were taking responsibility to prevent further violence.

A clear example of hybridity, this case shows how security and justice actors have drawn on multiple and overlapping identities and sources of legitimacy, rather than on a distinct and bounded system (state or non-state)[329] in their efforts at resolution. Compensation – a customary mechanism – and other traditional practices[330] are complemented by formal legal elements. A lawyer was hired after the peace and reconciliation dialogue to follow the cases and gather signatures for the legally binding formal resolution, and to interact with the perpetrators and victims.[331]

Two perpetrators were jailed prior to the compensation process starting. Once the peace and reconciliation dialogue agreed compensation as a justice mechanism, the families of the two jailed men appealed for their release, requesting that they pay compensation as an alternative to imprisonment. However, the penal code provides that a jail term should accompany compensation, and one of the victim's families felt that justice was being served through the jail sentence. At the time of research it remained to be seen what the outcome would be. This situation illustrates how inconsistencies can arise in hybrid justice contexts, even in relation to the same case, as well as the possible tension between achieving justice for individuals or families and reconciling communities.

Other tensions exist within this case relating to structural gender inequalities. Generally, participants agreed that women and men were treated similarly through the dialogue and compensation process, and mentioned that women were given more space to participate than was usually allowed by Otuho custom (perhaps because of NGO involvement).[332] It was clear that compensation was paid for the same amount, regardless of sex. However, given that gender norms dictate that widowed women must marry a brother, uncle or cousin within the deceased husband's family, compensation is not being paid to a woman as an individual – which could provide opportunities for her to be self-sufficient – but instead to her dead husband's family, reinforcing gender inequality and tying women to the family into which she has married.[333]

Collaboration among security and justice actors

The Bur case involved collaboration between a wide range of security and justice actors, state officials and bodies, international and South Sudanese NGOs, church leaders, formal legal and customary leaders, elders and youth. As a result of the peace and reconciliation dialogue, two committees were formed: one focused on land, and the other on truth-telling, compensation and reconciliation. According to the agreement, the committees are responsible for following up and mediating resolutions from the dialogue. The agreement further states that 'The county authorities (Commissioner, Payam Administrator, and Chiefs) in collaboration with State Peace Commission shall ensure that these resolutions are fully implemented in letter and spirit, and that any violation or obstructions of these resolutions shall be apprehended and subjected to due process of the law.'[334] Research participants seemed to feel these were effective methods, in part because they involved a broad range of actors, including members of the community themselves[335] – though the committees are dominated by men. Two spaces out of 11 are expressly designated for women in the truth-telling committee, but none in the land committee.

persuaded a population (again in Lafon) to apprehend suspects within their own community.

Mediation by community-based organisations, county and state government authorities as well as local and international NGOs is a common response to intercommunal conflicts associated with cattle raiding. Government officials also conduct advocacy visits and speak to communities to discourage cattle raiding. They claim that this has helped reduce the problem.[336] Church leaders in Kapoeta are involved in activities encouraging commerce, inter-marriage and sports to build relationships and interdependence between communities that had previously been involved in raiding each other's livestock.[337]

4.2
Conflict over land and natural resources

Competition over land and natural resources was another commonly reported driver of intercommunal conflict. Tensions over access to grazing land, sources of water, fishing areas, agricultural land[338] and hunting areas[339] were all said to trigger violence. Disputes over borders between neighbours' lands, borders between different communities or tribes[340] or over demarcation of county boundaries also fuelled tensions. Logging and gold mining created tensions between communities, the government and private companies.

People often attributed resource scarcity to driving conflicts. In Kapoeta, drought and scarcity of water and grazing lands in dry season compel populations to move into areas where they come into conflict with other tribes.[341] Water scarcity is particularly problematic in the Toposa corridor,[342] leading Toposa to move into Didinga land during the dry season.[343] Conflict over water and grazing land for cattle was also reported in Kureng, a border point between Buya and Didinga.[344] In both Torit and Kapoeta, cattle are stolen when brought by one ethnic community to graze on lands occupied by another. This can then lead to intercommunal violence.[345] For example, in Torit State, conflict arose when people from Hiyala went with cattle to Chilamini to access water. People from Chilamini then approached and stole cattle from them. When the monyomiji of those who lost the cattle tracked and attempted to retrieve the animals, they came under fire.[346]

Fighting also takes place over fishing areas.[347] In Hiyala, initial fighting between women over access to fishing areas where the communal borders were unclear led to escalating conflict and men becoming involved.[348] One case in Torit East in 2017 led to the death of three people – two of whom were women.[349]

Political influences

The political agendas of politicians were reported among the factors driving conflict over intercommunal boundaries in Hiyala.[350] The delimitation of county boundaries, and the promotion of *bomas* to *payams*, generated tensions between communities which led to some people threatening others' lives should they cross into their perceived territory. Some reported that this escalation of tensions between populations was instigated by politicians.[351]

Logging

Logging generated anger and resistance from communities that had either not been consulted or did not see any benefit. In Kudo, the military logged trees, and a man who had questioned their right to do so was arrested and detained. This led to dialogue between the *monyomiji* and the military, with the commissioner eventually releasing him. Reportedly the *monyomiji* had mobilised to fight the army, and had advised the government to replace the military commander involved in the logging. He was replaced and this was said to have quelled the tension.[352] This case demonstrates that the *monyomiji* sometimes have sufficient power to exert pressure on the government.

Also in Kudo, people claimed that Acholi from Magwi were cutting trees without the consent of people living there. Reportedly, agreements were made between the National Ministry of Forestry in Juba and investors, and the Torit State government was instructed to facilitate these arrangements. But the affected communities had not been consulted and were not benefiting.[353] This situation generated intercommunal tension, which some felt might develop into fighting.[354]

Gold mining

Gold mining is a source of tension between communities, government and mining companies in Kapoeta.[355] Research participants reported that companies make agreements with the government without consulting nearby communities or informing the chiefs in advance. One research participant said, "They come here and exploit – they carry and go. We don't even know the name of the company." Communities and the government are in dispute over who owns the land.

Many communities feel that they do not benefit from the mining in their areas, and that no services are provided to communities by the mining companies.

Ongodo Sebit Opermoi, County Secretary, Hiyala, who was displaced and lost a family member in the 2015 intercommunal violence in Tirrangore, November 2018.
© Lucian Harriman/Saferworld

Mining was reported to damage the land, with large pits being left in the ground (causing injury to cattle), and with people being displaced when mining was carried out in the areas where they lived. One research participant said that "they promise services in return for taking the community land, but they don't honour their promises".

Research participants expected to see a direct benefit from a percentage of the revenue generated by mining, in a similar manner to how section 5.5 of the 2005 Comprehensive Peace Agreement designated that 'at least two percent (2%) of oil revenue should be allocated to the oil producing states/regions in proportion to the output produced in such states/regions'. Research participants seemed to believe that communities in Unity and Upper Nile received their percentage of oil revenue directly from the government. They complained about a lack of transparency in relation to the revenue from mining. More than one person claimed that some government officials were benefiting

personally. In two different locations (Lotiyen, which is inhabited by Toposa, and Nauru, which is inhabited by Didinga), armed youth reportedly forced mining companies to cease operations and leave. In Nauru, a compromise was reached with the Chinese mining company there, which agreed to build a small school in return for continuing their mining operations.

One research participant said that in some instances, individuals were forced to mine. Others were permitted to dig for gold themselves but restricted in who they could sell it to – and were forced to sell it below market rate through a centralised system. Theft of gold was reported as a problem by one senior government official in Kapoeta.

> " [Mining companies] promise services in return for taking the community land, but they don't honour their promises.
>
> **A research participant.**

4.2.1 Management of land and resource disputes

Numerous parties are involved in seeking to manage resource-related conflicts. Landlords are meant to know the locations of historic borders between communities.[356] The *monyomiji* negotiate over borders between communities and see themselves as the appropriate interlocutors between the government and landlords.[357] The paramount chief in Torit mediates resource disputes. He explained: "If there is a conflict between communities, I talk to one side and the other side. I have to go and see the place related to the complaint. For example, fishing places and water places for grazing."[358] Cases can also be escalated to the commissioner, who might himself mediate. Through the South Sudan Peace Commission, the state government coordinates with NGOs, which often accompany and assist dialogue processes.[359]

In Kapoeta, the custom of sending messengers to inform host communities in advance that another tribe intends to graze on their land was said to have worked well in the past. One research participant said tribes now forcefully enter without any prior warning, and fight over grazing land.[360] Another said the practice is still in place but with varied effectiveness, depending on who the messenger was and if they were able to access the location. Youth are fitter and can travel further, but chiefs are more trusted and so they are more likely to be effective.[361]

> **Communities lack confidence in state justice provision through the courts, and tend to prefer local resolutions or to pursue violent conflict.**

4.3 Conclusion on intercommunal conflict

The previous section has shown how, in the absence of state security provision, when armed community defence groups respond to intercommunal conflicts, these often escalate into cycles of revenge killing. The research found that communities lack confidence in state justice provision through the courts, and tend to prefer local resolutions or to pursue violent conflict. They may also request support from the government in relation to the conflict. Government authorities use threats and coercion to stop fighting, retrieve stolen animals or to secure custody of suspects. While such use of state power can be effective in achieving these aims, it lacks legitimacy in the eyes of the people when it is seen to be done with bias, and when the security providers use excessive violence or steal from communities.

The state is also involved in resolving intercommunal conflict through hybrid mediation processes including government officials, customary leaders and civil society organisations. Provision of blood compensation in the research areas is the main way that cycles of revenge are disrupted and it appears to be an effective means of halting violence and settling disputes, if not a means of preventing cycles of violence from starting. There can be tensions between this method of resolving conflict, which emphasises preventing further intercommunal violence, and securing justice for individuals in line with the law and their preferences. While hybrid mediation processes appear to include women more than local customary processes, and the lives of men and women are typically equally valued in terms of the amount of compensation required to be paid if they are killed, significant structural gender inequalities remain – such as in terms of who benefits from compensation, as well as in relation to women's limited influence over how dispute resolution processes are conducted.

Notes

268 Saferworld interview, March 2019.

269 Saferworld interviews, March 2019.

270 Saferworld interviews, November and December 2018, March 2019; Saferworld focus group, March 2019.

271 Saferworld interview, December 2018.

272 'Bride price' or 'bride wealth' includes animals (often cows or goats), money, property or other items paid by a prospective groom to the family of the woman he wishes to marry to secure the marriage.

273 This was mentioned in at least 12 different interviews and focus groups.

274 Saferworld focus group, March 2019. This practice is not universal. Among the Dinka, a man would not traditionally be able to marry with cattle that are raided, nor with cattle that are bought at the market.

275 Saferworld focus group, November 2018.

276 Saferworld interviews, November 2018, March 2019, and numerous other sources.

277 Saferworld focus group, March 2019.

278 Saferworld focus group, November 2018.

279 Saferworld interview, November 2018; Saferworld focus group, March 2019.

280 Saferworld interviews, November 2018; Saferworld focus group, November 2018.

281 Saferworld focus group, November 2018.

282 Saferworld focus groups, November 2018, March 2019.

283 Saferworld interview, November 2018.

284 Saferworld focus group, March 2019.

285 Saferworld focus group, March 2019.

286 Saferworld focus groups, November and December 2018; Saferworld interview, December 2018.

287 Saferworld focus group, November 2018.

288 Saferworld interview, November 2018.

289 Saferworld interview, November 2018.

290 Saferworld focus group, November 2018. See Tirrangore case study on page 36.

291 Saferworld focus group, March 2019.

292 Saferworld focus group, November 2018.

293 Ibid.

294 Saferworld focus group, November 2018.

295 Southern Sudan Penal Code Act 2008, chapter XVI, section 206 'Murder'.

296 For example, Saferworld focus group, November 2018.

297 Saferworld interview, November 2018.

298 Saferworld focus group, March 2019.

299 Saferworld focus group, March 2019.

300 Saferworld focus group, March 2019.

301 Saferworld focus group, March 2019.

302 Saferworld focus group, November 2018; Saferworld interviews, December 2018.

303 Saferworld focus group, November 2018.

304 Saferworld focus groups, November and December 2018, March 2019.

305 Saferworld focus groups, December 2018.

306 Saferworld focus group, March 2019.

307 Saferworld focus group, December 2018.

308 Saferworld focus group, November 2018.

309 Saferworld focus group, December 2018.

310 Saferworld focus group, December 2018.

311 Saferworld interview, March 2019.

312 Saferworld focus group, March 2019.

313 Saferworld focus group, March 2019.

314 Saferworld focus group, November 2018.

315 Saferworld focus group, November 2018.

316 Saferworld focus groups, November 2018, March 2019.

317 Saferworld interview, March 2019.

318 Saferworld focus group, March 2019.

319 Resolutions of peace and reconciliation dialogue between Omorwo and Baari communities, June 2018.

320 Saferworld focus group, November 2018.

321 Saferworld interview, December 2018.

322 Resolutions of peace and reconciliation dialogue between Omorwo and Baari communities, June 2018.

323 Saferworld interview, December 2018.

324 Resolutions of peace and reconciliation dialogue between Omorwo and Baari communities, June 2018. Regardless of whether the deceased is male or female, compensation for a life among Otuho was confirmed by multiple research participants as: 13 cows and 120 goats in addition to funeral expenses of five cows, ten tins of sorghum and ten tins of fermented maize (alcohol known as 'marissa' or 'white stuff').

325 Saferworld interview, November 2018.

326 Saferworld interview, December 2018.

327 Saferworld focus group, December 2018.

328 Resolutions of peace and reconciliation dialogue between Omorwo and Baari communities, June 2018.

329 Kyed H (2011), 'Introduction to the Special Issue: Legal Pluralism and International Development Interventions', *Journal of Legal Pluralism and Unofficial Law* **63**, pp 1–23.

330 Traditions such as sharing dancing ceremonies, calling ancestors, drinking and eating together and "putting soil together and praying together" were practiced. Saferworld interview, November 2018.

331 Saferworld interview, November 2018.

332 Saferworld interview, November 2018.

333 Ibid.

334 Saferworld interview, November 2018.

335 Saferworld interview, December 2018.

336 Saferworld interviews, November and December 2018, March 2019.

337 Saferworld focus group, March 2019.

338 Saferworld focus group, November 2018.

339 Saferworld interview, December 2018.

340 Saferworld interview, November 2018; Saferworld focus group, November 2018.

341 Saferworld interviews, November 2018, March 2019; Saferworld focus groups, March 2019.

342 Saferworld interview, November 2018.

343 Saferworld focus group, March 2019.

344 Saferworld focus group, December 2018.

345 Saferworld focus groups, November 2018, March 2019.

346 Saferworld focus group, November 2018.

347 Saferworld interviews, November 2018, March 2019.

348 Saferworld focus group, November 2018; Saferworld interviews, November 2018, March 2019.

349 Saferworld interview, November 2018.

350 Saferworld interview, December 2018.

351 Saferworld interview, March 2019.

352 Saferworld focus group, November 2018.

353 Saferworld interview, March 2019.

354 Saferworld focus group, March 2019.

355 Data in this section is from a number of Saferworld interviews and focus groups.

356 Saferworld interview, March 2019.

357 Saferworld focus group, December 2018.

358 Saferworld interview, November 2018.

359 Saferworld focus group, November 2018.

360 Saferworld interview, November 2018.

361 Saferworld focus group, March 2019.

Funeral in Lohutok, 2013 – women interviewed in Torit said that in such gatherings they might raise concerns about serious cases of domestic abuse to the *monyomiji*.

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5

Gendered violence within communities

In this report, violence *within* communities is defined as including both physical violence and discriminatory imposition of power within families and among people living in the same settlement (whether a neighbourhood or village).

Research participants cited multiple forms of violence within communities, including murder, accidental killing and SGBV. Of these, by far the most common – which was discussed at length and in detail by women across the research locations (and to a much lesser degree by men) – was SGBV. This is unsurprising given the highly patriarchal and unequal gender norms in the research areas, and across South Sudan more broadly (as described in section 2.4 on gender concepts and context). This chapter of the report examines people's lived experiences and interactions with security and justice actors, institutions and systems in relation to the dimensions of SGBV most frequently mentioned by research participants, namely: intimate partner violence, early and forced marriage, rape and girl child compensation – which is a custom practised in Torit but not Kapoeta.

Surrounding this is a consideration of what drives gendered violence within communities, its impacts, how the different security and justice mechanisms respond, and what this means for who is included and excluded by the overlapping state and non-state security and justice systems. The ways in which gender norms and roles play a part in these different experiences is discussed in this chapter, as are the legitimacy and effectiveness of the responses and how they perpetuate or mitigate gendered violence.

5.1
Drivers and impacts

Despite national legislation on gender equality and efforts to increase women's participation in public life in South Sudan,[362] deeply patriarchal gender norms persist. These are often discriminatory towards women and contribute to SGBV within communities, as well as to the exclusion of women from internal decision-making processes and engagement with those outside the immediate community. When reflecting on gender norms, people described women as submissive, as domestic 'helpers'[363] to their husbands, and as 'vulnerable' – whereas men were depicted as warriors.[364] The expectation is that women operate at the domestic level – procreating and looking after children, cooking, serving food and cleaning the home. Toposa women cultivate land and build shelters, but Otuho women do not do so unless they are widowed.[365] There are some exceptions to this; for example, the research team interviewed women who held public office at the state level, one of whom reflected that in terms of women's participation in politics, "Women are coming up now – it is not like before."[366] However, women are still a small minority of those in public office. In rural areas, where women and girls have far less access to education, it is clear that gender roles are more entrenched and that the pace of change will be much slower.[367]

Another driver of SGBV in the research areas is a culture of impunity surrounding crimes of domestic and sexual violence – which is worsened by the stigmatisation and opposition women face when speaking about or reporting such incidents. When reporting SGBV, women are forced to navigate tensions within the formal and customary systems. While the state claims to uphold international norms, the reality is that if women experience abuse, they are most likely to seek justice through family or customary community mechanisms, and these tend to reinforce gender inequalities both in how cases are handled, how women complainants are treated, and in the outcomes themselves. Women in Kapoeta summed up the challenges they face in accessing justice by saying they were "condemned at every turn" by customary and formal mechanisms. The same group reflected that women who did report cases of domestic and sexual violence and who were able to access the formal system (more likely to be those living in urban

> **Women in Kapoeta summed up the challenges they face in accessing justice by saying they were "condemned at every turn" by customary and formal mechanisms.**

settings) were likely to be "sen[t] back to the family and chiefs and label[led] . . . as not a good woman".[368]

Bride price was frequently mentioned as a factor enabling SGBV within communities (see box below for more information). However, bride price has a practical element: 'Cattle are exchanged in order to compensate the bride's family for the loss of a family member. Concurrently, the new bride is expected to "replace the cows" of her husband's family by giving birth to many children'.[369] Bride price is also theoretically a symbol of a family's pride in their daughter to help ensure the new family values and respects her.[370]

> **"Dowry [bride price] should not be received from the husband; no cattle should be taken; it is good to stay free. Then if any problem arises you should go back to your parents' home".**
>
> **An Otuho woman in Hiyala.**
>
> A 'bride price' or 'bride wealth' is made up of animals (often cows or goats), money, property or other traditional items paid by a prospective groom to the family of the woman he wishes to marry. The tradition of bride price is particularly strong in pastoralist communities in South Sudan, which include the Toposa tribe in and around Kapoeta. Research participants often referred to the practice as 'dowry' when they were referring to bride price.

The bride price system also has several negative connotations, and for many of the women interviewed (and some men), it was seen as a transactional arrangement where women are sold and then 'owned' by their husbands,[371] with women and girls serving as a form of currency and property. People cited payment having been made as a way to explain and justify the treatment of women, including domestic and sexual violence, because "the husband [has] paid full bride price – even if he beats her, she will stay with him; she will not run away".[372]

Bride price is also associated with a woman's lack of decision-making and agency. For example, a woman in Kapoeta described her attempts to persuade her husband not to marry off their young daughter to a much older man of 60 or 70. The husband reportedly responded: "who are you to question me? I bought you with cows and I can give my daughter to anyone who pays with cows".[373]

Another important aspect of gender norms that fuels violence within communities in former Eastern

Equatoria is masculinities. As mentioned both in the sections on gender norms and intercommunal conflict earlier, men and women in both research locations reflected that men who take part in cattle raiding and who successfully steal cattle are commended, often in the form of traditional songs and ululations praising those who do take part as 'brave' or denouncing those who did not raid as 'cowards' or 'women'.[374] One of the (male) research participants reflected that these songs were not helpful, and he wished women would not sing them at traditional ceremonies. This also extends into the domestic sphere where men are conditioned to be aggressive, dominant and to wield power within their relationships and families. To do otherwise means that they are seen as weak or as cowards. Some exceptions to this were mentioned, but on the whole masculinities in the research areas are a contributing factor to violence against women and girls.

5.2
Intimate partner violence

Violence in the home does not occur in a vacuum, and the backdrop across the country over the past decades is of high levels of violence caused by decades of war which have led to human suffering, destruction of property and livelihoods, massive displacement and an increase in armed groups.[375] The scale of sexual violence in conflict in South Sudan has been well documented and is extreme in its scope and levels of brutality.[376]

Against this backdrop it is unsurprising that there is violence in the home and within marital relationships. It is seen by many men as entirely appropriate[377] for a South Sudanese husband to physically 'discipline' his wife and children.[378]

When describing common types of violence within communities and the home, female research participants talked in graphic detail of their husbands beating or harming them with their fists or with weapons. One woman carried a visible wound from her husband biting her. A woman working on GBV in Kapoeta described it as "normal" and something that men "simply get away with".[379] During a focus group discussion in Torit, another young woman remarked that "if you are beaten by your husband, it is a sign of love".[380] Women cited various reasons for being beaten such as being late with bringing or preparing food,[381] not washing

clothes and refusing intercourse.[382] Many women mentioned that alcohol worsened beatings.[383]

Women linked payment of bride price to a perception that a man has a right to be violent: "he will beat her because he paid the full [bride price]", said one woman.[384] Women feel trapped in abusive marriages partly because of the stigmatisation and associated repercussions they are likely to face if they go public. Women indicated they would not dare to speak out against their husbands for fear of ridicule within the community or of retaliatory violence, and instead would probably remain silent. If a woman went to the police to report her husband, "the village will talk the whole day . . . They will say that she should be quiet and not accuse her husband. Women are not allowed to speak."[385] The more obvious reasons women feel trapped within their marriages include some practical difficulties of paying back the cows that could allow them to divorce, as well as the fear they might lose the right to see their children or of their children being neglected.[386] If a woman leaves or divorces her husband, the children still 'belong' to her husband, and he decides whether they can live with her or spend time with her.

One woman said that if the cattle used to pay bride price were not available to be returned (often those contributed by other relatives), then there was "no way out" of an abusive marriage, even if a woman was beaten to the "point of death".[387] In the event that a husband murders his wife, one woman said that he would not be reported to a justice provider unless it was by his own brothers or family, and that the family of the deceased wife would not be allowed to report the case.[388] This highlights the extreme difficulties women face in negotiating a marriage system that many feel associates bride price with ownership of a woman as her husband's possession or 'property'.[389]

In theory, a woman is allowed to divorce and remarry if she has good grounds, but the bride price must be returned to the husband's family. However, in practice divorce is rare. Local custom does not typically provide for divorce. It is only acceptable when the claimant can demonstrate a high level of violence in the household that affects their children, or if a woman commits adultery. It is made more complicated by the fact that any children 'belong' to the husband, and as such, he decides where they will live – normally with the husband unless the children are very young. In Kapoeta, the payment of bride price is negotiated as a communal practice among men family members – with those who come from larger families benefiting as the overall number

> **Women linked payment of bride price to a perception that a man has a right to be violent: "he will beat her because he paid the full [bride price]", said one woman.**

of cows increases. So if a man is paying 100 cows,[390] these will come from a range of family members (uncles, brothers and cousins for instance) with the expectation that if the prospective marriage produces daughters, those family members "will come and take the cattle back from the girls . . . It is a form of banking".[391] This banking analogy highlights how women serve as a form of currency and property. Research participants in Kapoeta widely agreed that the communal nature of negotiated bride price in the area makes it hard to imagine how it could be capped or reduced, as the expectation is that the level at which your mother was married should be maintained, if not increased, as the cattle given by family members need to be returned. Failure to honour this traditional 'banking system' results in shame and dishonour on families – where a man's character and that of his family is taken into consideration when a girl's family decides which suitor will be successful – and can result in a combination of retaliatory violence or court action.

> "
> **There is a clear sense that family and customary hearings aim to restore the status quo as opposed to resolving grievances by addressing injustice.**
> "

Intimate partner violence between a husband and wife was described as "minor" and, during a women's focus group discussion, a woman indicated that it would be dealt with inside the family, "by a friend or relative of the husband".[392] This was corroborated by male participants: "If there's a problem between me or another friend with the wife fighting, they will report to the youth (*monyomiji*). [But] if it is between a wife and husband they will report to family members. If you want to use something sharp to attack your wife (such as a stone or stick or *panga* [blade]), *monyomiji* will become involved and they will be the ones to solve the issue."[393] One woman said that if a case involved a weapon and had resulted in more serious wounds, she would go directly to the police, bypassing the family, elders and youth.[394] However, this is only possible where police officers are present, and so does not apply in most rural areas. The different ways that men and women describe seeking justice for a crime involving a weapon – either by going to the youth groups or by bypassing them and going directly to the police – may reflect perceptions among the men that the youth (the *monyomiji*) are likely to make decisions along existing patriarchal lines and thus judge in the husband's favour. Conversely, women who mentioned feelings of exclusion and discrimination by elders and youth may feel that the *monyomiji* cannot be trusted to genuinely investigate cases of domestic abuse because they are part of the system that oppresses and dominates women. Other women in Torit indicated if a case was more serious, they would go to funeral gatherings where men and women are both present, and would present their

case to the *monyomiji* so that the man could be "challenged and advised at the same time".[395]

Research participants were clear that if a dispute between man and wife cannot be resolved within the family, it is referred to traditional elders and decision makers – chiefs, youth (in Torit, the *monyomiji*) or rainmakers – for further mediation. Both parties (and any witnesses) are brought to sit and speak, with the elders and decision makers passing judgement. The guilty party is sometimes fined for misdemeanours, or asked to bring something in lieu of payment, such as grain.[396] Men who are seen as unacceptably violent are counselled by the elders and peers to moderate their behaviour[397] and – given the shared acceptance of domestic violence as a norm within households – women are often told to return to their homes, even if they are unsafe environments. A woman remarked that after "my husband beats me and we resolve that case, then he [my husband] will tell me now I have nothing and there is no problem, and our issue is already resolved: 'you go back home'. That is the resolution."[398] There is a clear sense that family and customary hearings aim to restore the status quo as opposed to resolving grievances by addressing injustice. The focus is generally on compensation and reconciliation, rather than on punishment.[399]

If a case cannot be resolved satisfactorily by customary processes, it might be referred on to the police and formal courts. Multiple participants mentioned that the police demand bribes in order to respond. For example, a woman described not being given Form 8, which is a document required to access treatment and care from health professionals.[400] If the woman is unable to pay and get Form 8, she is not only denied healthcare but the case is also stopped from progressing, as Form 8 is required for a doctor to take evidence to inform and support the investigation.[401] As with customary processes, when cases are referred to formal courts, the focus is on 'restoring relations in order to stem tension and violence within and between families, or in the community', as opposed to remedying the harms done to the woman.[402]

5.3
Early and forced marriage

Early marriage (or child marriage) is defined as a marriage or a union between two people where one (or both of them) is under the age of 18. It affects

both girls and boys, but the majority of cases involve underage girls.[403] This was clear from the research, where only one example was mentioned of a boy under 18 getting married.[404] All other references were to girls. Forced marriage can be defined as a case where one or both people involved do not consent to the marriage, and where pressure or abuse is used. Where this affects children, it is child abuse.[405] The Universal Declaration of Human Rights (article 16[2]) states that people have a right to 'free and full' consent to a marriage, acknowledging that consent cannot be free and full if one of the individuals is still a child and not sufficiently mature to make an informed decision about a life partner. Any case of early marriage is also forced. Both are forms of violence against boys and girls and men and women, and are violations of human rights. They were extremely common in the research areas, despite child marriage being illegal according to the South Sudan Child Act 2008 (section 23[1]).

The definition of an 'adult', and particularly a 'woman', in South Sudan is unclear and exacerbates the frequency of early and forced marriage in former Eastern Equatoria. The South Sudan Penal Code (section 36[c]) sets the age of consent as 18 years and above,[406] but cultural norms paint a more complex picture, with research participants indicating someone (a girl) is of 'marriageable age' when she starts to menstruate and is therefore able to bear children. The Transitional Constitution of South Sudan 2011 is also unclear on this topic, referring to 'marriageable age' but not defining it. A male state government official reflected on local perceptions of a woman's age linked to marriage: "when a girl is about 15 years or 16 years, she has a very good body and can get married. Fifteen years is normal. Sixteen years is normal. Seventeen is normal. Eighteen they say the girl is already old . . . Nobody is supposed to marry her."[407] Just as families can exert pressure on girls to marry while they are underage, peer influence and community social expectations can play a part. When a girl's 'age mates' (her peers) are getting married, there is a sense that a woman who waits until after that time may permanently fail to find a husband, which is a huge taboo in some South Sudanese communities, as it means a woman cannot fulfil the social expectations of being a wife and mother. Similarly, when church leaders were asked at what age they felt a girl was ready to be married, the answer was 16 years and above. When a member of the research team responded that this contravened the Child Act, there were wry smiles and a self-correction – that 20 years and above was, on further consideration, a "really good age".[408]

The issue of early marriage was mentioned more in Kapoeta than in Torit, though it may not reflect actual frequency of cases. Still, early marriage is likely more prevalent in Kapoeta as it is home to predominantly pastoralist tribes that tend not to have a cap on bride price, and so marrying off daughters at a young age can be a lucrative (or necessary) way to accumulate wealth. Those with higher levels of education or who have worked with NGOs or held public office acknowledged it was a "harmful cultural practice",[409] but that there was a widespread view that the practice is not seen as a crime among those who are less educated[410] – particularly in rural areas in Kapoeta where the "belief [is] that cattle are more important than their children" and that a girl being married at ten or 12 years is acceptable.[411]

One of the drivers of early marriage in Kapoeta is poverty. In an environment where girls are a source of wealth (because of the bride price they bring) and cattle are the main source of livelihood, "when a family is in extreme poverty or hunger and there is a girl child who is around the age of 12, 14 or 15, the parents say 'why don't we marry her off so we can get cows?'"[412] Another factor mentioned was funding the practice of polygamy. Some fathers would marry their daughters off before the age of 18 to get cows that they could in turn use to secure their own additional wives.[413]

This tension between what is culturally acceptable (and allowed under customary law) and what is codified in formal legal instruments reflects the broader issues in the security and justice landscape in former Eastern Equatoria. Customary practices, based on shared cultural norms and internal legitimacy, dictate that early marriage is allowed. However, formal mechanisms such as the Child Act criminalise the practice. What matters most to research participants – particularly those from rural areas – seem to be their own cultures and values, reflected in customary law and not in national or international laws or Western norms, which are seen as alien to local traditions. The fact remains that cultural traditions tend to discriminate against women and privilege men's power. Other barriers to reporting (should people seek to) are long distances and prohibitive costs to travel to urban centres to inform police or other justice providers – meaning that cases go unreported.[414] According to a group of young men in Kapoeta, there had been some efforts to raise awareness on the illegality of child marriage. Parents knew that the practice was illegal, but many did not report cases, either because they did not want to or because the distance and cost were too great.

Wife inheritance, practiced in some parts of South Sudan, occurs when a man dies and his wife is expected to marry one of his relatives – for example,

> **When a family is in extreme poverty or hunger and there is a girl child who is around the age of 12, 14 or 15, the parents say 'why don't we marry her off so we can get cows?'**
>
> **A research participant.**

his brother, uncle or cousin. As death does not end a marriage, a woman is not free to remarry once her husband dies and therefore without wife inheritance, the widow could in theory be left without a husband or any male protection or support for the remainder of her life.[415] The practice is said to provide a socio-economic safety net and support system for widows who have married into and form part of their (now deceased) husband's family.[416] It underlines that marriage is a union between two families, with ties of kinship and support, and not just between two people. It is also intended to prevent future conflicts among the woman's children over the resources of the deceased. The new husband (typically the brother of the deceased) is supposed to provide security for the wife and her assets.

Research participants in both locations confirmed that the practice of wife inheritance continues,[417] as does forced marriage. Despite the safety net aspect, wife inheritance can have hugely negative impacts on women, including suicide if the marriage is against their wishes.[418] Women reflected that some of the factors causing forced marriage are exclusion of women from decision-making and low levels of education and awareness: "if the mother is not empowered, how will she know that forced marriage is a crime? We need to have a voice in such issues".[419] A number of men commented on the now-defunct practice of putting necklaces or metal bands on the wrists of a girl who had been promised to a man in marriage, but who was not yet deemed mature enough.[420] This no longer exists and as one respondent mentioned, as "small [i.e. young] as she is she can marry".[421] A state government official in Kapoeta reinforced the difficulties of changing culture and customs that legitimise and enable forced and early marriages, saying that those who advocated for change were ridiculed – "they will sing a song about you" – or even cursed on occasion.[422]

> **Marriage to a perpetrator is often seen as the best of a series of bad options for women; it is a way to preserve family honour and ensure that a woman can marry.**

5.4
Rape

Rape as an act of sexual violence against women and girls is pervasive in the research locations. Rape is defined in international humanitarian law and international criminal law as 'a physical invasion of a sexual nature, committed on a person under circumstances which are coercive'.[423] Rape of women and girls was mentioned frequently, in the contexts of opportunistic attacks, attacks by young men whose courtship had been rejected by the victims, rape of married and unmarried women and also rape alleged to have been perpetrated by people in uniform. Research participants made no mention of rape of men or boys. In terms of rape occurring during intercommunal violence, the male participants in and around Torit who talked of it indicated it was "rare".[424] One reflected that "we have these laws [beliefs] that if you rape while you are fighting you will die soon".[425] When speaking to community members about the Baari-Omorwo conflict,[426] rape was categorically denied to have taken place. However, a lawyer who had been investigating the same conflict was more doubtful, saying there was 'speculation' that rape had occurred: "just imagine a place where people kill women – can there be no possibility of rape? There were 13 women killed at once, and there was no confession because all of them were killed."[427] In Kapoeta the picture was different, with faith leaders indicating that rape of women does occur during intercommunal violence,[428] though this was not an issue mentioned by other participants. Female research participants did not link rape explicitly to intercommunal conflict, although they did express fear of rape by perpetrators when they were outside of their home areas. This would likely be perpetrated by members of communities other than their own, although that in itself does not indicate that the fear and threat are driven by poor intercommunal relations.

Women reported fearing rape by unknown perpetrators – for example, when they went to collect water far from their homes.[429] One case was mentioned where a criminal attempted to rob a woman and, when finding she had no money, instead raped her.[430] However, on the whole, people spoke of rape in the context of marriage – either as a way to try and force marriage[431] or to lower the bride price, or in cases where a rape survivor had to marry the perpetrator of the attack.[432] A woman in Bur talked about her daughter being raped by a man who had asked for her hand in marriage but who she had refused. His response was to "mobilise a team [who] came and held the girl's legs down as he raped her".[433] The mother's response was to report the incident through her brother to the police in town, who investigated the complaint and secured compensation from the man for the girl's family. In this example, the daughter did not marry her rapist, though this is certainly seen as a solution. Marriage to a perpetrator is often seen as the best of a series of bad options for women; it is a way to preserve family honour and ensure that a woman can marry (if she refuses to marry the perpetrator, she may not receive another proposal because she is seen as 'spoilt goods'), and it can be a step towards

reconciliation to prevent a potential revenge attack.[434] Female interviewees described the chain of events if a girl is raped: "[the] first step has to be engagement. If she accepts that man, he will pay full dowry [sic] and take her as a wife in the house. But if she refuses, he [the girl's father] will not give the girl to the guy, [and the father will say] 'you have spoilt the name of my daughter'."[435] Girls whose reputations are 'spoilt' are not able to secure as high a bride price. In addition to the harm to the health and reputation of the individual survivor, there are also negative financial implications for the girl's family.[436]

This SGBV occurs in the context of huge gender inequality, where the institutions charged with protection and justice tend to be dominated by men who, according to entrenched societal and cultural norms, are expected to wield power and influence over women. Even in formal justice institutions such as the police, female research participants said that they are "condemned" and likely to be sent back to their families and communities for being "bad women"[437] if they report a case to formal institutions directly. Most violence against women is dealt with either within the family or by customary mechanisms, which prioritise family relations and compensation over individual justice or safety of the victim.[438] By bypassing family and customary mechanisms, women are exercising their agency and choice but come up against societal and cultural norms that dictate otherwise. Multiple male and female participants across both locations spoke of the stigmatisation and discrimination a woman faces if a case is disclosed, or if it becomes public knowledge against her will – not just for the individual but also for her family or community.[439] For this reason, it is perhaps unsurprising that women are reluctant to report cases of sexual violence through either customary or formal systems.

People did describe the options open to women who are raped and want to (or are forced by circumstance) to make the case public. They can tell their fathers or husbands (if they are married), who could take her to the chief or sub-chief to present the case.[440] Attempts would be made at the local level to apprehend the perpetrator and, if this is not possible or if "there is fear maybe that somebody will be killed [in revenge]",[441] the case will be referred to the police. Others indicated they would go directly to the police or formal justice system in the case of a rape. There was wide agreement that rape is a criminal matter[442] and ideally should be dealt with through the formal process of referral to the police, the issuing of Form 8, investigation, psychological and health support, and potentially support through a GBV referral process (if it exists). Women preferred cases of sexual violence to be dealt with by women,

in safe and confidential surroundings with support from multiple agencies – NGOs, government and police – but acknowledged that this was only possible in urban centres because of overstretched and under-resourced services. "Referrals are only effective in Kapoeta town and a few places just outside. In rural areas, they [women] just endure, [cases of sexual violence] are unreported and nobody talks about them. There are few policemen in the rural areas".[443]

Rape within marriage is said to be common in South Sudan.[444] Section 247(3) of the 2008 Penal Code Act does not recognise it as a crime, stating 'Sexual intercourse between a married couple is not rape'. Many female interviewees described a man beating his wife if she refuses intercourse. Men unilaterally making decisions about when they have sex[445] with their wives is a form of control that echoes the broader power imbalance in society between men and women, which provides an enabling environment where violence against women flourishes.

Another manifestation, spoken about in Torit only, was rape perpetrated by people in uniform. An SPLA-IO soldier who mentioned rape was quick to assert that any incidents of sexual violence "were certainly not us" but were the work of "criminals" taking advantage of conflict conditions.[446] As described in the section on 'Responses to conflict around livestock theft' in chapter 4 ('Intercommunal conflict') of this report, rape committed by the national army (then known as the SPLA, and now as the SSPDF) when forcibly retrieving stolen cattle in Hiyala that had belonged to a senior government figure[447] reinforced feelings that government officials, military commanders and the elites are able to act with impunity.

A few other people in Torit indicated that rape was perpetrated by SSPDF "soldiers who are deployed [in the area]",[448] and one research participant talked about an SSPDF soldier who raped a 15-year-old orphaned girl. When the girl informed her guardian, he did not take the matter further. But when the soldier raped her again, the girl informed a lawyer directly. Despite appearing in court once, the alleged perpetrator then skipped trial. Other barriers the girl faced in accessing justice was a lack of family support in getting the case through the court or to pay legal fees. A lawyer reflected: "When the complainant does not have family following [up] the case, the case naturally dies."[449]

> **Section 247(3) of the 2008 Penal Code Act does not recognise [rape] as a crime, stating 'Sexual intercourse between a married couple is not rape'.**

5.5
Girl child compensation

Girl child compensation is a form of customary compensation practiced in one of the study's research locations, among the Otuho tribe in and around Torit (as described in the section on gender norms in the research areas, in chapter 2 of this report). It is not practiced in Kapoeta. If a person is killed and their life cannot be compensated by payment of cattle (when the family does not have the means), an alternative is to give a young girl to the family of the deceased. This child will be absorbed into the family and, when she reaches marriageable age, they will receive a bride price for her. One customary leader in Torit explained: "If there are no cattle, you compensate using your sister, you pay [with] your sister."[450]

While many said that the practice was dying out or no longer in place (with a government official explaining it was illegal and that anyone involved in giving or receiving daughters as compensation would be arrested), two recent cases were reported to the research team. One was reported by a man who was expecting to receive a child as compensation for the killing of his brother. The child was offered in compensation by the perpetrator, in a case heard by a military court (the dispute was between soldiers). Another case was reported by a man who gave his daughter in compensation to the family of a child killed by his nephew. Both of these cases took place in Bur, as did previous cases, but historical cases were also reported in Hiyala.

> **Both the bride price economy and wider social attitudes towards gender are deeply embedded in South Sudanese culture and identity.**

A male research participant reflected on women's agency in relation to girl child compensation: "What's clear is that women are not involved in making decisions like when a girl is to be given away",[451] even if that girl is the woman's daughter.

While some research participants stated that girls provided in compensation would be treated the same as the other girls born into the family, others mentioned that girls provided in compensation were at risk of abuse. "There are some corrupt practices around when you compensate a girl. Some will choose immediately to take her as a wife, and if she doesn't love him you are going to force her into that relationship. You might begin thinking how you lost your brother and displace your anger about [it] on to her. It is not appropriate. You continue punishing her, because your brother or father was killed."[452]

Civil society representatives in Torit expressed frustration that the practice was defended by the *monyomiji* and said they would engage with the groups to persuade them that the practice was unjust. Some suspected that government authorities were also tolerating girl child compensation so as not to alienate communities, while condemning the practice publicly. Girl child compensation is a practice with contested legitimacy. It may serve to compensate for a killing and give a sense of justice to the family of the person killed, but at the same time it punishes a child and her mother for a crime that they did not commit.

Violence in the research areas and some parts of South Sudan is highly gendered. In a context of scarcity, the economic system of bride price may be accompanied by norms (masculinities) that drive intercommunal conflict, encouraging men to steal livestock and act violently, and leading to harmful practices such as girl child compensation. The bride price system effectively turns women into a form of currency and property. The social acceptance and prevalence of intimate partner violence in the household as a means to discipline women, and the obstacles preventing women from seeking justice for domestic abuse or from escaping abusive marriages, collectively serve to disempower women and perpetuate men's dominance in society. Both the bride price economy and wider social attitudes towards gender are deeply embedded in South Sudanese culture and identity. Changing these will require long-term engagement and will be met with significant resistance. Nevertheless, in the words of one woman in Kapoeta, "Do not be discouraged. Something can be done. There is some light as compared to the past. In the past you cannot eat with your husband, but now we can. And before we could not make a statement in front of my husband; now we can."[453]

Notes

362 Section 16 of the Transitional Constitution of the Republic of South Sudan, 2011 provides a range of rights to women and stipulates that 'All levels of government shall . . . promote women's participation in public life and their representation in the legislative and executive organs by at least twenty-five per cent as an affirmative action to redress imbalances created by history, customs, and traditions'.

363 Saferworld focus group, March 2019.

364 Saferworld focus group, November 2018.

365 Saferworld focus groups, November and December 2018, March 2019.

366 Saferworld interview, March 2019.

367 Saferworld focus group, March 2019; Saferworld interview, March 2019.

368 Saferworld focus group, March 2019.

369 Burton J (1978), 'Ghost marriage and the cattle trade among the Atuot of the Southern Sudan', *Journal of the International African Institute* **48**(4), pp 398–405.

370 Stern O (2011), '"This is how marriage happens sometimes": Women and marriage in South Sudan' in F Bubenzer, O Stern (eds.), *Hope, Pain and Patience: The Lives of Women in South Sudan* (Cape Town: Jacana), p 10.

371 Saferworld focus groups, November and December 2018, March 2019.

372 Saferworld focus group, November 2018.

373 Saferworld focus group, March 2019.

374 Saferworld focus group, November 2018; Saferworld interview, March 2013.

375 Saferworld (2019), 'Peace and stability in South Sudan: Challenges and recommendations', June (https://www.saferworld.org.uk/resources/publications/1213-peace-and-stability-in-south-sudan-challenges-and-recommendations)

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377 Ward J (2005), '"Because now men are really sitting on our heads and pressing us down": Report of a Preliminary Assessment of Gender-based Violence in Rumbek, Aweil (East and West), and Rashad County, Nuba Mountains', USAID and University of Missouri, p 19 (http://pdf.usaid.gov/pdf_docs/PNADT830.pdf)

378 Springvale Monash Legal Service (2008), 'Comparative analysis of South Sudanese customary law and Victorian law' (http://www.smls.com.au/pdfs/publications/2008/comparative_paper.pdf)

379 Saferworld interview, November 2018.

380 Saferworld focus group, November 2018.

381 Saferworld focus groups, November and December 2018.

382 Saferworld focus group, December 2018.

383 Saferworld focus group, November 2018.

384 Saferworld focus group, March 2019.

385 Saferworld focus groups, March 2019.

386 Saferworld focus group, December 2018.

387 Saferworld focus group, November 2018.

388 Saferworld focus group, March 2019.

389 Ibid.

390 Bride prices are much higher among the Toposa than the Otuho. In and around Kapoeta, it is not unusual for prospective grooms to pay upwards of a hundred cows, while in Otuho custom it is more likely to be between 17 to 26.

391 Saferworld interview, March 2019.

392 Saferworld focus group, March 2019.

393 Saferworld focus group, November 2018.

394 Saferworld focus group, November 2018.

395 Saferworld focus group, November 2018.

396 Saferworld focus group, December 2018.

397 Saferworld interview, November 2018.

398 Saferworld focus group, December 2018.

399 Ibreck R, Logan H, Pendle N (2017), 'Negotiating Justice: Courts as local civil authority during the conflict in South Sudan', Justice and Security Research Programme, London School of Economics and Political Science.

400 Saferworld focus group, November 2018.

401 Leonardi C (2013), *Dealing With Government in South Sudan: Histories of Chiefship, Community and State* (Woodbridge: James Currey), p 211.

402 Ibreck R, Logan H, Pendle N (2017), 'Negotiating Justice: Courts as local civil authority during the conflict in South Sudan', Justice and Security Research Programme, London School of Economics and Political Science.

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404 A boy of 14 years was reported to be getting married at the time we collected data in Torit. Saferworld interview, March 2019.

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406 South Sudan Democratic Engagement, Monitoring and Observation Programme and Conciliation Resources (2019), 'Fighting sexual and gender-based violence (SGBV): rape as an issue in South Sudan', March (https://www.c-r.org/resource/fighting-sexual-and-gender-based-violence)

407 Saferworld interview, March 2019.

408 Saferworld focus group, March 2019.

409 Saferworld interviews, November 2018, March 2019.

410 Saferworld interview, March 2019; Saferworld focus group, March 2019.

411 Saferworld focus groups, March 2019.

412 Saferworld focus group, March 2019.

413 Saferworld focus group, March 2019.

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416 Ibid.

417 Saferworld focus groups, November and December 2018.

418 Saferworld interview, March 2019; Saferworld focus group, December 2018.

419 Saferworld focus group, March 2019.

420 Saferworld focus group, March 2019; Saferworld interview, March 2019.

421 Saferworld interview, March 2019.

422 Ibid.

423 International Criminal Tribunal for Rwanda (1998), 'Judgement. The Prosecutor versus Jean-Paul Akayesu, Case No. ICTR-96-4-T', 2 September, para. 688 (https://unictr.irmct.org/sites/unictr.org/files/case-documents/ictr-96-4/trial-judgements/en/980902.pdf); see also International Committee of the Red Cross, Customary IHL Database, 'Rule 93. Rape and Other forms of Sexual Violence' (https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule93#Fn_91B758A1_00026)

424 Saferworld interview, November 2018; Saferworld focus group, November 2018.

425 Saferworld focus group, November 2018.

426 In the Bur intercommunal conflict between Bari and Omorwo, respondents indicated there had been no reports of rape during the history of the conflict. Saferworld focus group, November 2018.

427 Saferworld interview, November 2018.

428 Saferworld focus group, November 2018.

429 Saferworld focus group, November 2018.

430 Saferworld focus group, March 2019.

431 This is also referenced in a report from a *monyomiji* conference, where a neighbour of the Otuho people voices their "concern about the way Otuho young men obtain wives. They take girls by force [rape]. If the lady refuses, she is just forced by the future husband."

432 Saferworld focus groups, November 2018, March 2019; Saferworld interview, November 2018.

433 Saferworld focus group, November 2018.

434 D'Awol A (2011), '"Sibu ana, sibu ana" ("Leave Me, Leave Me"): Survivors of Sexual Violence in South Sudan', in F Bubenzer, O Stern (eds.), *Hope, Pain and Patience: The Lives of Women in South Sudan* (Cape Town: Jacana), p 62.

435 Saferworld focus group, November 2018.

436 D'Awol A (2011), '"Sibu ana, sibu ana" ("Leave Me, Leave Me"): Survivors of Sexual Violence in South Sudan', in F Bubenzer, O Stern (eds.), *Hope, Pain and Patience: The Lives of Women in South Sudan* (Cape Town: Jacana), p 62.

437 Saferworld focus group, March 2019.

438 South Sudan Democratic Engagement, Monitoring and Observation Programme and Conciliation Resources (2019), 'Fighting sexual and gender-based violence (SGBV): rape as an issue in South Sudan', March (https://www.c-r.org/resource/fighting-sexual-and-gender-based-violence)

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444 Stern O (2011), '"This is how marriage happens sometimes": Women and marriage in South Sudan' in F Bubenzer, O Stern (eds.), *Hope, Pain and Patience: The Lives of Women in South Sudan* (Cape Town: Jacana), p 17.

445 Ibid.

446 Saferworld interview, December 2018.

447 Saferworld focus group, November 2018.

448 Saferworld focus group, November 2018.

449 Saferworld interview, November 2018.

450 Saferworld focus group, March 2019.

451 Saferworld interview, December 2018.

452 Saferworld focus group, March 2019.

453 Saferworld focus group, March 2019.

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Women's Association, Torit State,
November 2018.
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6

Recommendations for more inclusive approaches to security and justice

Security and justice are fundamental human needs, and the provision of security and justice is essential in any society – especially those affected by conflict. When seeking to support more effective security and justice provision, it is important first to map the existing range of security and justice actors and to understand the different systems in operation (including the histories of these systems and the motivations, resources and constraints of the actors involved). There needs to be a strong understanding of who is providing security and justice in a particular context, how they are delivered, who benefits and which groups are excluded. Understanding how different systems function (or don't) provides a starting point for designing strategies and interventions to support more effective, inclusive and legitimate security and justice provision.

This report focused on the former Eastern Equatoria State in South Sudan. The research findings detailed in previous chapters reveal how community defence groups – notably but not only the *monyomiji* – play a central role in the provision of security and justice at the local level, and how they can be seen as the primary providers. This concluding chapter considers the prospect for external actors to engage with the *monyomiji* and comparable community defence groups, and explores the associated risks and opportunities. It also highlights the gendered drivers of violent conflict in South Sudan, structural gender power imbalances including the exclusion of women from both formal and customary security and justice systems, and the importance of supporting a more inclusive and gender-transformative approach that analyses and addresses the root causes of conflict and gender inequalities. Lastly, this chapter considers the priorities for support in the justice sector.

There are common security and justice challenges across South Sudan, but there is also significant variation according to location. These variations are the result of a number of factors, including: the relationships between government, armed opposition groups and communities; the different social and cultural norms and practices of the various tribes; the extent to which conflicts between communities interact with national political conflict; and the scale of past or current violence. As a result, different challenges and opportunities present themselves depending on location. Strategies to improve people's security and justice must be informed by, and respond to, these local dynamics.

The particular dynamics identified in the areas of former Eastern Equatoria where the research took place inform the following considerations for more inclusive security and justice programming. While these recommendations are intended to be relevant across the country, local contextual dynamics must be taken into account when exploring whether and how they could be implemented or adapted elsewhere in the country. With this caveat, the report's authors hope these considerations will be useful for security and justice programming in other contexts characterised by state fragility, a history of protracted conflict, and the presence of multiple formal and informal security and justice actors.

> **International donors and policymakers should consider complementary strategies that focus on enhancing security and justice provision as it currently exists at the local level.**

6.1
Balancing support for national and local security and justice systems

Beware reinforcing elite exploitation of national security sector reform processes

The political economy of national security arrangements and security sector reform in South Sudan has been described by the London School of Economics' Conflict Research Programme as characterised by elite manipulation of external support to strengthen their patronage networks and enrich themselves personally. In relation to the R-ARCSS, the Conflict Research Programme's analysis found that the signatory parties were using the cantonment process stipulated in the agreement's security arrangements as an opportunity to recruit additional forces to build up their military capabilities in case the war resumes, to access financial resources through salaries and disarmament, demobilisation and reintegration (DDR) packages, and to increase their political influence and patronage networks. This was described as '(at best) a vehicle for corruption and (at worst) a means of facilitating a new war', increasing the number of organised armed men who could be mobilised in response to future political disputes. The same analysis asserted that 'There is no realistic prospect of any force integration for the foreseeable future'.[454]

Investment in national reform processes should be complemented by support for local systems

While not all will share such a bleak view of prospects for security sector reform in South Sudan, the risks of investing all external support in national-level government institutions are all too clear. At the same time, prospects for the success and sustainability of the national peace process are far from certain. Given these risks and uncertainties, plus the fact that non-state actors provide localised security and justice for much of the population, international donors and policymakers should consider complementary strategies that focus on enhancing security and justice provision as it currently exists at the local level, rather than focusing support solely on ambitious plans to build a national unified security and justice system. This could entail engaging with and building on informal systems where they are demonstrated to be effective, and supporting local actors seen as legitimate – including, in some cases, community defence groups. In this way, international donors and policymakers could help sustain and strengthen the provision of security and justice from the bottom up.[455] This should include challenging the gender inequalities associated with these systems and the gendered drivers of conflict, and enhancing women's protection and responses to GBV – making sure to involve women throughout the process.

Assess the role of community defence groups in confidence and security building, and in the peace process

Such an approach requires a nuanced analysis of the roles of community defence groups. Some groups in South Sudan have been directly involved in the national conflict, have fought alongside or on behalf of the government and armed opposition, and have committed serious human rights abuses. However, in other cases – as with the *monyomiji* in former Eastern Equatoria – community defence groups have resisted being drawn into the national conflict. As armed actors with an interest in (and influence on) the local security situation, community defence groups are important security actors who should be taken into consideration by external parties seeking to support the ceasefire and security arrangements related to the peace process. In the case of the *monyomiji*, this is particularly crucial given that they play a central role in implementing local security arrangements agreed between the government and armed opposition.

Sometimes community defence groups have become a channel for confidence building and cooperation between warring parties when there are common security interests, such as – in the case of this

research – ensuring free movement along the roads or tackling child abduction. Membership of traditional structures and identities, such as the *monyomiji*, can be shared across opposing armed forces, providing a channel for cooperation that cuts across political and state or non-state lines. These structures can also provide an entry point for dialogue between the parties to the civil war, should other more formal channels break down.

External support for confidence- and security-building measures in South Sudan, such as ceasefire monitoring, needs to take these sort of local dynamics into consideration, acknowledging the role of community defence groups and potentially engaging with them, even if they are not formal parties to the peace process. However, in any given location this would require assessments of the capabilities, interests and alliances of community defence groups – keeping in mind that dynamics vary across the country and change over time. The following section considers the risks and the opportunities of engaging with community defence groups in South Sudan.

6.2
Engaging with community defence groups: risks

Risk of disrupting functioning local security arrangements

Any external engagement with informal systems, such as community defence groups, should be informed by a granular understanding of local security dynamics. There is a risk that external support for local security arrangements could distort the incentives of the different groups involved, and overly formalise or politicise systems that appear to work in part precisely because they are informal. Security cooperation between the SSPDF, the SPLA-IO and the *monyomiji* in the Torit area likely benefited initially from not being associated with a formal political process, being based instead on dialogue between local government and armed opposition outside the official negotiations.

Therefore, where informal local initiatives are seen to be helping improve people's security or have the potential to do so, the risks and benefits of external support should be carefully weighed up. It is important to avoid undermining local initiatives by changing participants' perceptions about how they

might benefit and generating competition – for instance by introducing material incentives, or by raising their profile in ways that might increase their political exposure and inhibit engagement.

Community defence groups in relation to the government

One South Sudanese analyst describes how community defence groups pose a dilemma for the government: 'To support them as extensions of its security apparatus risks outsourcing a dangerous enterprise to entities that are not constrained by the central command and control of the national army. To disband them or fight them as they become sources of insecurity risks further militarising community-state relationships. Their removal also risks creating a security vacuum that the state is currently fundamentally unable to fill'.[456]

The approach of the government in Torit has been to support the *monyomiji* as an extension of the security apparatus by providing them with ammunition and coordinating with them in relation to securing the roads. This has contributed to improving security in the area, according to a wide range of research participants. However, there are obvious risks in increasing the amount of weaponry in circulation, particularly in the absence of formal oversight of or accountability for how it is used, and without measures for tracing weapons or ensuring safe storage.

Risks relating to integration of community defence groups

Chapter 2 of the R-ARCSS provides for all signatory parties' forces either to be integrated into the state security apparatus or to be referred for DDR into civilian society. Section 2.1.3 of the agreement requires 'compliance' of 'all forces, allies and affiliates under their command or influence', but it is unclear from the text whether integration or DDR are open to 'allies or affiliates', and whether community defence groups, such as the *monyomiji*, would qualify as either.

During the research period, there were no indications of plans to integrate the *monyomiji* formally into the state security apparatus. Attempts to integrate them into police or military command structures could shift accountability away from local populations and generate tensions with local norms (including in relation to how age sets assume their role as *monyomiji* and subsequently hand over power to younger generations). Furthermore, this

> To support [community defence groups] as extensions of [the government's] security apparatus risks outsourcing a dangerous enterprise to entities that are not constrained by the central command and control of the national army.
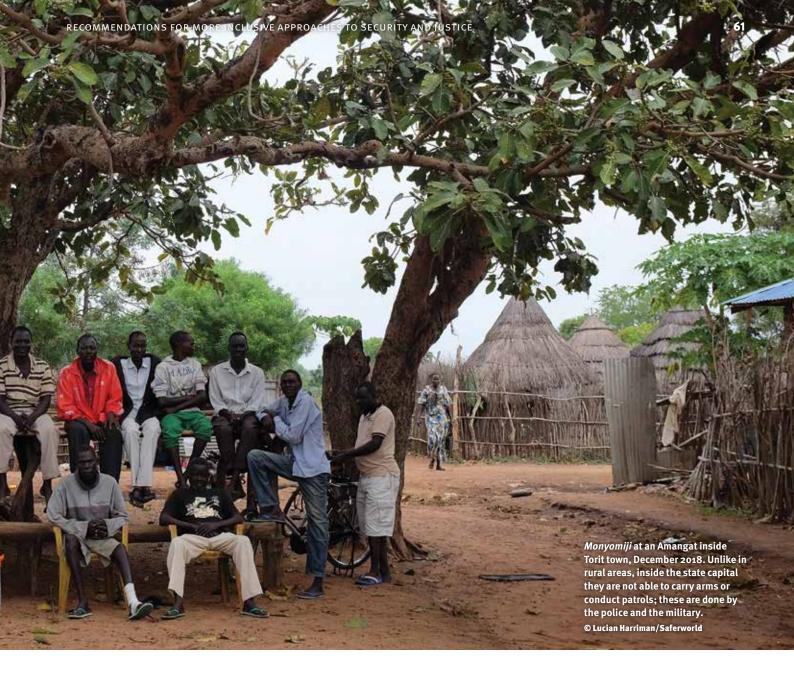>
> **A South Sudanese analyst.**

could also potentially pull the *monyomiji* into politicised armed violence, should the civil war resume. The *monyomiji* have largely succeeded in avoiding this so far, and as a result local populations in the Torit area have mostly been spared from collective punishment by either the army or armed opposition.

Risks of disarming community defence groups

Past attempts at disarmament in South Sudan have often resulted in a loss of life, and have had limited effect in terms of improving people's security or reducing levels of violence.[457] Small arms possession undoubtedly fuels violence in South Sudan but is also a consequence of the lack of effective state security provision. Comprehensive, peaceful and orderly civilian disarmament was recommended by many participants in this research as well as by civil society groups across South Sudan.[458] But it will not be possible until the state has extended a degree of protection to the population, and built confidence in

itself as an impartial actor – reducing the perceived need for self-defence and the associated demand for small arms.

In the absence of responsive and trusted security provision by state institutions, community defence groups, including the *monyomiji*, are unlikely to be willing to disarm voluntarily. Attempts at forceful disarmament would likely be met with violent resistance leading to loss of life, further erosion of trust in the state, and increased vulnerability of people living in affected areas (as has been the case with previous disarmament initiatives). Some armed groups have reportedly launched rebellions against the state specifically in order to obtain jobs and income through anticipated integration processes, or to receive the benefits of anticipated DDR packages.[459]

Monyomiji at an Amangat inside Torit town, December 2018. Unlike in rural areas, inside the state capital they are not able to carry arms or conduct patrols; these are done by the police and the military.
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For these reasons, neither integration into the national security forces nor disarmament of the *monyomiji* or comparable community defence groups is advisable, at least in the short to medium term. In light of this, we look to ways of supporting the positive role that community defence groups can play in South Sudan. This entails not just enhancing the contribution that community defence groups can make to local security, but also mitigating the risks of them becoming perpetrators of violent conflict, and extending their accountability to women and other marginalised groups.

6.3
Engaging with community defence groups: opportunities

Promote increased accountability of community defence groups

Community defence groups in South Sudan are most often perceived as legitimate by locals when they are closely tied to their communities, provide protection, respond effectively to security threats, and defer to community leaders and structures without abusing their power.[460] These criteria broadly apply to the *monyomiji* in and around Torit according to the evidence gathered in this research.

Nevertheless, the accountability of the *monyomiji* and comparable community defence groups tends

to be limited by gender and ethnicity. The *monyomiji* are exclusively men, exclude women from their decision-making, and generally serve the specific ethnic sub-group of their area. Support should be given to initiatives that encourage community defence groups to acknowledge the views and respond to the security concerns of all community members, particularly women and others who are traditionally excluded from decision-making. This can include supporting participation of women and women's organisations in discussions where decisions about security issues are made, such as in the *boma* councils which also integrate community defence group members that were supported by the Monyomiji Support Group coalition. It can also involve working to enhance community defence groups' and other local authorities' understandings of gender issues and women's concerns through training and advocacy.

Support cooperation between community defence groups and government authorities on local governance and policing

Rather than seeking the integration or disarmament of the *monyomiji*, government authorities can benefit from the *monyomiji*'s legitimacy among communities. For example, the Monyomiji Support Group coalition initiated a process to 'bridge the governance gap' by including members of the *monyomiji* in *boma* councils. Such an approach acknowledges the *monyomiji*'s role and legitimacy in their communities, while involving them in a more inclusive local governance process, as both women and youth are included in *boma* councils. The groups also aim to facilitate dialogue and cooperation between the *monyomiji* and the government in relation to their policing functions. This sort of approach could be introduced in other areas of South Sudan to minimise tensions between community defence groups and the government.

> " Rather than seeking the integration or disarmament of the *monyomiji*, government authorities can benefit from the *monyomiji*'s legitimacy among communities. "

Support dialogue and cooperation between defence groups of different communities

Support for dialogue and cooperation between neighbouring groups of *monyomiji* or comparable community defence groups could also help to reduce intercommunal conflict. As detailed in the research findings, and as is the case across South Sudan, intercommunal conflicts all too often are a result of cycles of revenge killing, as the victims blame acts of violence or theft on whole communities rather than individual perpetrators and then retaliate against the community instead of (or in addition to) seeking accountability for the actions of those individuals.

Identifying platforms for cooperation between the defence groups of neighbouring communities, oriented towards promoting their collective security, could help prevent the escalation of revenge killings into intercommunal violence. The Union of Monyomiji in Torit, for example, could serve as one such platform. Such an approach would require the *monyomiji* to expand their mandate from solely protecting their own communities to providing a secure environment for multiple communities in cooperation with others. Such activity should be undertaken in a manner that does not circumvent local dispute resolution mechanisms and should be conducted in coordination with other local peacebuilding initiatives.

This research shows that the *monyomiji* of different communities have cooperated to provide a secure environment in response to shared threats, such as road banditry and child abduction. Were they to acknowledge the mutual benefit of avoiding intercommunal violence, and cooperate to prevent escalation, then they would be more likely to support accountability for crimes committed by members of their own communities against others – reducing tensions and confrontations with government authorities. It would also help instil a culture of individuals being held accountable for crimes rather than whole communities.

Support community-based approaches to small arms control (and enhance oversight of state-held weapons and ammunition)

While civilian disarmament is unlikely to be possible in South Sudan in the short term without undermining people's sense of security and triggering significant violence, interim measures should nevertheless be taken to mitigate the risks associated with widespread ownership and proliferation of small arms, including those held by community defence groups. Public risk-awareness campaigns promoting safe behaviours and safe storage can reduce incidences of accidents and or theft of firearms. Local-level initiatives can also facilitate agreements within communities, limiting where weapons are held and stored. Examples include the centralised storage, control and oversight in 'cattle camps' of community defence groups' firearms, and agreements to create gun-free zones in public places, such as markets, schools, health clinics, and during public ceremonies and other gatherings.[461] Because the formal state forces are the primary source of small arms in South Sudan, authorities could help restrict and track weapons (including if they go missing) by putting in place registration and marking of firearms in the hands of state security personnel, as well as proper storage, dispatch management and monitoring of state-owned arms and ammunition.

6.4
Promoting more gender-sensitive security and justice provision

Address the gendered drivers of violence and insecurity

As detailed throughout this report, social and patriarchal norms and practices are major drivers of violence and insecurity in the research areas and across South Sudan more widely. Notions of masculinity, for instance, valorise aggressive behaviour and encourage men to raid cattle from neighbouring communities. Meanwhile, the bride price system effectively turns young women into a form of currency, and leads to them being seen as the property of their husbands and as having little or no voice in decisions at family and community levels. These norms and associated practices reflect the profound gender inequalities that characterise South Sudanese society. Violence associated with these norms and practices is exacerbated in circumstances of armed conflict, extreme poverty and food insecurity. As they are so deeply entrenched, attempts to deconstruct and change gender norms and roles are often perceived as alien to local culture and can be met with resistance or derision.

Still, however daunting the challenge, identifying and addressing the gendered drivers of violence is an essential element of improving security and justice in South Sudan. Although there have been some positive changes in gender relations in recent decades – while many female research participants affirmed their determination to redress existing inequalities – women's experiences of safety and security are not prioritised and addressed by most security and justice actors and mechanisms, and inclusive access is one of the main gaps in the existing system. Research participants also recommended finding ways to make concepts related to gender more accessible to communities, and also suggested acknowledging that while transforming gender norms in South Sudan is urgent, achieving it will require a considerable investment over time.

A number of practical entry points were suggested by research participants. For example, initiatives that set limits on the number of cattle paid for bride price could serve as a starting point for a process of deeper reflection on the whole practice. Beyond this,

there is an urgent need to create safe spaces where women and men can constructively reflect on how gender dynamics shape violence and insecurity in their localities, and to come up with practical measures to address this.

Provide support to survivors of GBV

The widespread acceptance of GBV in South Sudan reflects structural power imbalances and must be challenged, including by raising awareness of its far-reaching and destructive effects. Awareness raising should be targeted and conducted in ways that are relatable for communities, and it is local women and women's organisations who are best placed to do this. For example, research participants recommended emphasising the health risks for teenage girls of giving birth as part of advocacy efforts to prevent child marriage.

Survivors of GBV should be supported to access life-saving GBV services (such as medical care, psychosocial and other support) and the formal legal system. This means raising awareness about referral pathways and extending support systems beyond the towns so that they are also accessible in rural areas. This should also include working with security and justice actors, and ensuring a more gender-sensitive response to GBV and women's safety and security concerns. This can include increased deployment of mobile courts as well as the establishment of Special Protection Units (with women officers focusing largely on GBV) in a greater number of police stations. Investments in the formal justice system will be required to ensure that it is adequately resourced to respond to GBV cases, and also to mitigate the risks of nepotism and corruption so that penalties are enforced and abuses do not go unpunished.

> **There is an urgent need to create safe spaces where women and men can constructively reflect on how gender dynamics shape violence and insecurity in their localities.**

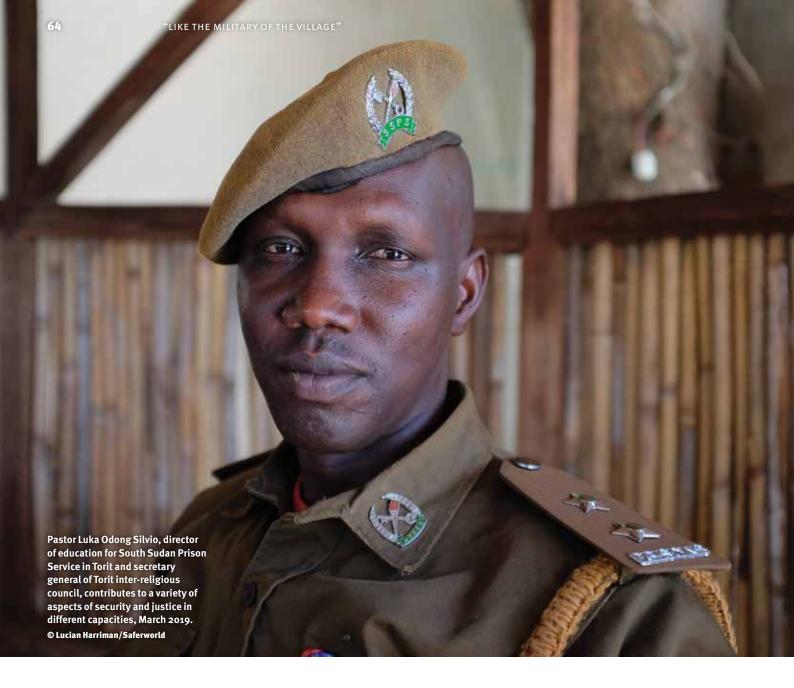### Strengthen women's legal protections and access to security and justice

South Sudanese laws need to be reformed and enforced so that they better protect women and girls. For example, section 247(3) of the 2008 Penal Code Act should be amended to allow for the possibility that non-consensual sex within marriage can be classified as rape, in line with the international criminal and humanitarian law definition of rape as 'a physical invasion of a sexual nature, committed on a person under circumstances which are coercive'.[462] Meanwhile, existing laws need to be properly enforced, such as the South Sudan Child Act 2008 section 23(1), which prohibits child marriage. New laws are also needed to strengthen

Pastor Luka Odong Silvio, director of education for South Sudan Prison Service in Torit and secretary general of Torit inter-religious council, contributes to a variety of aspects of security and justice in different capacities, March 2019.
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women and girls' protection from harmful practices and to ensure that their rights are upheld.

At the same time, women and girls need to be provided with much greater protection within the customary justice system. This necessitates engagement with community defence groups, and customary leaders and chiefs. Advocacy messages, and the means by which they are delivered, should be agreed as far as possible jointly with local women's groups and with government and traditional authorities before being disseminated to communities. In Torit and the surrounding areas, for instance, civil society, government officials and customary leaders are all involved in advocating against the practice of girl child compensation. More broadly, women's groups and women's organisations need sustained support so that they can continue to organise, provide solidarity and advocate for change in gender norms and practices as well as local peacebuilding initiatives.

Support women's participation in intercommunal conflict management

While women are all too often those most affected by intercommunal violence, they are invariably excluded from, or under-represented in, initiatives to manage these conflicts. Women should be enabled to meaningfully participate in conflict management processes to contribute to broad conflict resolution, but also so that their specific needs are addressed. Sometimes intercommunal conflicts stem from disputes between women, for instance over access to fishing areas. Women's participation is also important to understand how they themselves may adversely influence intercommunal violence, perpetuating harmful gender norms – such as when they encourage men to fight. The participation of women in conflict management can generate alternative approaches to peacemaking and reconciliation, drawing on their social networks and taking advantage of their different perspectives and roles in society.

Increase women's participation in the state security and justice system

Women's participation in formal security and justice institutions should be increased, both to ensure that these institutions are more accessible to women and that women participate in and influence decision-making. Achieving this will mean promoting and investing in the recruitment of women into state security and justice institutions, both in public-facing positions and in more senior decision-making roles. Additionally, women should be supported to communicate their needs to security and justice institutions and to hold them accountable. Support to women's organisations and civil society networks is essential towards achieving this goal.

6.5
Additional priorities for justice sector support

Clarify the relationship between formal and customary justice institutions

This research revealed many inconsistencies in how cases of inter- and intra-communal killings are resolved – whether through revenge, compensation agreed via mediation (with or without government participation) or through the formal justice system. South Sudanese civil society organisations from across the country have repeatedly called for clarification of the jurisdiction of the customary and statutory justice systems. This includes clarification of the mandates of statutory and customary courts, and clarification of their roles and responsibilities. It involves clarifying the roles of the different law enforcement bodies such as the police and criminal investigations departments, chiefs and traditional leaders, and rectifying overlaps and ambiguities.[463]

Raise awareness of, and increase resources for, the formal justice sector

The research revealed a widespread lack of understanding and acceptance of statutory law, particularly in rural areas. This underlines the importance of support for initiatives to raise public awareness about the content of the law, how the legal system protects people's rights, how justice can be accessed through the formal system, and which other lawful processes are available for resolving disputes.

At the same time, there needs to be massive investment in the formal justice system if it is to become more responsive to people's needs, to be better able to manage its caseload in a timely way, and to gain the confidence of the population. This includes resources for infrastructure, equipment, training, and personnel (including women) at decision-making levels. Police, prisons and court staff all require training in the law and in the procedures that they should follow. Measures to counteract nepotism and corruption also need to be strengthened to ensure that procedures are adhered to, and that all cases are handled fairly and consistently.

The impact and sustainability of such investments and reforms will depend on a systemic change in the governance of South Sudan, requiring progress in the national peace negotiations and commitment from the country's political leaders. Only then will the people of South Sudan gain greater confidence and trust in state security and justice provision. Until then, people in South Sudan will continue to rely on informal actors, such as the *monyomiji* and other community defence groups, to provide the security and justice they so desperately need.

In the long term, the strong hope is that the South Sudanese state becomes more legitimate, effective and inclusive. Nevertheless, there will likely still be a role for community defence groups, such as the *monyomiji*, in security and justice provision at the local level due to their cultural significance and central role in how communities govern themselves; and also given that across sub-Saharan Africa, legal pluralism remains the norm and non-state actors provide the majority of security and justice.[464]

Notes

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461 For more information, see Saferworld (2018), 'Communities tackling small arms and light weapons in South Sudan: lessons learnt and best practices', July (https://www.saferworld.org.uk/resources/publications/1179-communities-tackling-small-arms-and-light-weapons-in-south-sudan-lessons-learnt-and-best-practices-)

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463 Saferworld (2019), 'Peace and stability in South Sudan: Challenges and recommendations', June (https://www.saferworld.org.uk/resources/publications/1213-peace-and-stability-in-south-sudan-challenges-and-recommendations)

464 Organisation for Economic Co-operation and Development (OECD) (2007), 'Enhancing the Delivery of Justice and Security: Governance, Peace and Security', p 27 (https://www.oecd.org/dac/conflict-fragility-resilience/docs/38434642.pdf); OECD (2007), *The OECD DAC Handbook on Security System Reform: Supporting Security and Justice* (Paris: OECD Publishing), p 11 (https://issat.dcaf.ch/content/download/478/3015/file/OECD%20DAC%20Handbook%20on%20SSR.pdf)

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