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**Article (Accepted version)
(Refereed)**

Original citation:

Pendle, Naomi (2017) "*The dead are just to drink from*": recycling ideas of revenge amongst the western Dinka, South Sudan. [Africa](#). ISSN 0001-9720

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Available in LSE Research Online: November 2017

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**“THE DEAD ARE JUST TO DRINK FROM”: RECYCLING
IDEAS OF REVENGE AMONGST THE WESTERN DINKA,
SOUTH SUDAN.**

Naomi Pendle

ABSTRACT

Governments in South Sudan have long built their authority on their ability to fashion changing regimes of revenge and compensation, war and peace. Governments’ capture of these regimes has resulted in the secularisation of compensation despite the ongoing spiritual consequences of lethal violence. This article explores these issues by focusing on the western Dinka of Greater Gogrial. In recent years, they have been closely linked to the highest levels of government through familial networks and comradeship. Violent revenge amongst the western Dinka is best understood not as revealing the absence of institutions of government, but as a consequence of the projection of governments’ powers over the details of local, normative codes and sanctions. In this age of post-state violence with automatic weapons, oil-wealthy elites and ambiguous rights, government authority and intention has often been erratic. As government authority now backs up these regimes of compensation and revenge, governments’ shifting nature has reshaped their meaning. In the last decade, the declining political space for peace and the disruption of the cattle economy has undermined the current value of compensation and its ability to appease the spiritual and moral demands for revenge. It has even distorted regimes to the extent that children become legitimate targets for revenge. The article is informed by archival sources and based on ethnographic research amongst the western Dinka (South Sudan) between 2010 and 2013, and further research in South Sudan until 2015.

It was May 2012 and my journey to the dry season grazing lands (*toc*) in the flood plain of the western Dinka in northern South Sudan passed the homestead of Chief Madholⁱ. He was one of the longest serving chiefs in Greater Gogrial. The SPLA's control of the Government of Southern Sudan since 2005 had brought sons of Greater Gogrial to the very heart of government leadership. Even President Salva Kiir himself was known to graze his cattle in the nearby *toc*. As I reached the chief's homestead, I stopped to greet him. As we sat and drank tea, Chief Madhol's son brought out his camera to show me photos of men who had recently been killed. The photos showed them lying where they had fallen in the *toc*. The vivid images of their violent deaths were now immortalized and propagated on the small screen of his digital camera. The chief's son, in his twenties, presented these to me as part of his explanation of the need for 'revenge' (*guor*). As we talked, the chief agreed with his son's demand for revenge but he was visibly disheartened by his inability to provide an adequate, peaceful alternative. For centuries, local authorities amongst the western Dinka have used cattle compensation (*puk*) as a socio-legal tool to peacefully satisfy people's spiritual and moral demands after being aggrieved by lethal violence against their family. In so doing, these authorities asserted their own normative authority over lethal violence and conduct in warfare. Yet, Chief Madhol claimed that compensation now lacked the necessary spiritual and legal significance. According to Madhol, the cattle of compensation have become of only material benefit for milk, making the dead nothing more than a vessel to drink from. Now, of the dead, people say –

'Yin abi ruëth ajïëp'.

'We will use them as a gourd of milk'. (Chief Madhol)

For Chief Madhol and other western Dinka, the heart of the dilemma was whether *puk* could still recreate life after death. *Puk* could potentially do this by providing cattle for the marriage of a posthumous wife and legal children for the deceased (Deng 2010:131; Lienhardt 1961:25-26). Therefore, cattle could act as a substitute for a man (Lienhardt 1961:25) and, as Hutchinson described in relation to a similar practice amongst the Nuer, cattle enabled the dead to have a second chance at 'life' (Hutchinson 1992). Such a reversal of death cools the demand for revenge from the deceased's family and the deceased's ghost, creating peace at the very epicentres of

violence.ⁱⁱ A *bäny bith* (master of the fishing spear) would then have finally enacted the peace by hosting the peace-making sacrifice (Lienhardt:286-288). The feuding families then claimed a specific half of the sacrificed ox. Each family divided the animal between them based on their relationship to the deceased. When they ate their share of the meat, some people would even talk of eating the dead relative (Akec 2010:180).ⁱⁱⁱ

Therefore, when the dead are eaten, peace is made. Yet, as Chief Madhol highlighted, by 2012, the dead were just to drink from. The cattle of compensation were inadequate to acquire a posthumous wife, to satisfy the demands for revenge and for an ox to be slaughtered and shared to mark peace. Compensation no longer resulted in any peace making or eating, but only the immediate benefit of the cattle's milk.

The remaking of regimes of compensation and revenge has consequences for local feuding and lethal fights, but also for the national, 'government wars' in South Sudan. Amongst the western Dinka, there are no necessary, clear boundaries between the social meanings of lethal violence in incidents of homicide as compared to the deaths during times of war. As discussed below, governments in South Sudan have long tried to draw a distinction between the moral consequences of lethal violence if the government carries out the violence (Hutchinson 1998). SPLA commanders drew on these idioms in the 1980s in attempts to make a division between the 'government wars' and the feuding between home communities (Hutchinson 1998). Yet, if a division was ever established, recent years of warfare have erased any dividing line and entwined together patterns and idioms of feuding with the motives and modes of 'government wars'. Killing a man has long had consequences not just for the individuals involved but also for extended networks of the slayer and slain. These ideas have long been co-opted and manipulated by warring government elites. Therefore, regimes of revenge reshaped in local feuds have implications that reverberate in national conflicts and vice versa.

Since the early 20th Century, western Dinka regimes of compensation and revenge have been progressively secularized and bound up with government authority through the Chiefs' Courts. Regimes of revenge, compensation and lethal violence are not static but socio-legal processes entangled with relationships of power and legitimacy. Peace making practices have been detached from their original meanings. In Africa, revenge and a lack of subsequent peace has often been a consequence of

state government involvement interrupting previous cyclicities of lethal violence and peacemaking (Strathern and Stewart 2002). Therefore, revenge is often not indicative of the absence of government but the presence of government. This tallies with a broader literature on public authorities in rural Africa that has noticed the presence of government power despite initial appearances that it is absent (Boone 2013; Leonardi 2013; Lund 2013).

This article will explore how governments amongst the western Dinka since the early 20th Century have been progressively intrusive actors in the reshaping of these local, institutional, normative regimes of revenge and compensation, war and peace. Hutchinson documented similar changes amongst the Nuer (Hutchinson 1996). Governments have competed to capture control over revenge and compensation, diminishing the authority of religious leaders to govern these regimes. Governments have secularised and politicised the regimes of compensation and revenge. This has resulted in the stripping of the divine sanctions behind these regimes and their replacement with the erratic will and capabilities of governments. Government involvement has brought these regimes closer to national politics and global flows of money. This has left the laws of compensation on shaky ground and has often left compensation unable to appease the ongoing the ongoing spiritual demands for revenge after someone's death.

'Revenge' in conceptual debates

Revenge is often portrayed as a phenomenon that explains conflict in itself (Migiros 2015; Moon 2015). Revenge becomes about ancient rivalries (Kaldor 2013:4), 'mindless' mass action (Richards 2005:3), and a Hobbesian propensity to violence in the absence of the state. Outbursts of revenge in the post-Cold War era are explained by the lack of international intervention by super-power states (Kaplan 1994).

Admittedly, an account of 'revenge' must recognize the high passions involved (Stewart and Strathern 2002) and revenge can serve a psychological function (Keen 2007:87). Western Dinka speak of the pain of the heart until revenge is achieved. As a man in his twenties described, 'If you see the killer of your brother, you feel as if you want to kill him'.^{iv}

Yet, 'new barbarism' is not an inadequate explanation of 'new wars' (Duffield 2000; Richards 2005:9). 'Revenge' cannot simply be reduced to 'murder running rampant' (Boehm 1984:xi). Anthropologists, often with reference studies of the Nuer

and Dinka of Sudan, have long claimed that institutionalized revenge has regulatory functions that provide order in the absence of the state (Boehm 1984; Gluckman 1955). Feuds become evidence of moral order not chaos (Boehm 1984:xii). Plus, peace apparently exists within the feud (Gluckmann 1955) and the division between law, peace and feud is artificial (Caroll 2006). Recent interviews amongst the western Dinka echo this idea:

If you do not avenge the death of your relatives or anything bad done to you, it is a sign of weakness. Then anyone can challenge you anytime. By revenging, groups are kept in balance. Anyone tempted to do something bad will think of the reprisals they will face from the other side. In this way, anti-social acts are kept at bay because of this fear of revenge.^v

Commentators on South Sudan have argued that revenge provides order and protection because of the current absence of the state (Copnall 2014: 169; Hutton 2014: 18; Willems and Deng 2015:7). However, Johnson argues that these ideas of structural feuding misrepresent the historical record amongst the Nuer and Dinka and ignore the history of government's power becoming entangled with these normative regimes (Johnson 1981).^{vi}

Alternatively, Strathern and Stewart claim that endless wars of feuding are a result of the presence, not absence, of the state. Feuding and revenge are in transformation through dialectic interaction with political circumstances. 'We are dealing with old ideas recycled through new political circumstances and themselves changing rapidly as a result, often becoming heightened rather than disappearing' (Strathern and Stewart 2002:12). In contemporary contexts of the modern state, state structures interrupt the realisation of earlier historical ritual processes that allowed violence to switch to peace making (Strathern and Stewart 2011; Strathern and Stewart 2002:13). 'It is, in effect, the result of the existence of state structures and the mutual impingement of local and national processes that feuding systems cannot realise their own larger cyclicities of violence and peace-making' (Strathern and Stewart 2002:13). Once killings have escalated beyond a certain point, all controls are lost and compensation and reconciliation can no longer operate (Strathern and Stewart 2002:13). Then revenge appears to be endless.

Governments have long interfered with the process of revenge as they struggle to claim a monopoly on legitimate violence. Historians have documented how monarchs in Europe after the middle-ages constructed the illegitimacy of ‘revenge’ and private violence in order to build their own authority (Carroll 2006). Governments in South Sudan for a century have also tried to construct their authority through their control of normative regimes of revenge and compensation, war and peace. Therefore, the regimes of ‘revenge’ are partly a product of governments. They are also a product of local responses to government.

Is revenge and recent war in South Sudan inherently ‘bad’?

Since December 2013, the people of South Sudan have again been confronted with a national war that has added to the multiple government wars in the Sudans in the last century. Armed with evermore elaborate weapons, contemporary armies have stripped people of their homes, livelihoods, livestock and lives.^{vii} The international community, including the USA, Europe and China, has been quick to dismiss recent violence as illegitimate. During the 1980s and 1990s, the Sudan People’s Liberation Army (SPLA) waged a war against the Government of Sudan (GoS). By the mid-1990s, this war neatly fitted into the new European and American meta-narrative against strong Islamic governments, with these Western governments seeing the SPLA’s violence as justifiable to counter a strong, centralised, Islamic state (De Waal 2015; Woodward 2013). Yet, since 2011, South Sudan has been an independent country. In this context, European and American politicians have found the contemporary violence inexplicable and inherently ‘senseless’ (The White House 2013), especially when the violence is explained in terms of revenge. For western governments, the apparently private violence of revenge undermines their neo-liberal ideas of the state’s monopoly on violence. Until 2013, European and American governments supported a state building agenda in South Sudan that hoped, in part, to counter the proliferation of revenge.

Therefore, South Sudan has become a situation in which western governments try to set up in Africa “a dichotomy between war as some kind of inherent ‘bad’ (the world ruled by instincts and base desires), and peace as an ideal ‘good’ (the world ruled by principle and law) (Richards 2005:3). In this situation, revenge becomes necessarily illegitimate. Wars in Africa have been described as disease-like and a

‘common threat’ that needs to be countered through the imposition of a liberal peace (Richards 2005:3).

South Sudanese who have again been trapped in this context of violence are also desperate for it to end. Yet, many South Sudanese have perceived aspects of the lethal violence as legitimate. International government’s perception in the inherent ‘badness’ of this non-state violence has neither left room to understand the violence nor to differentiate between the just and unjust causes and conduct of the war. Instead, since the December 2013 outbreak of violence, international commentators have been eager to equally apportion culpability to both sides. By assuming that all non-government violence is wrong or ‘criminal’, there is less space for South Sudanese to protest against the violence of their government. There is also less space to understand how South Sudanese themselves understand, articulate and reshape the moral and legal boundaries of the violence they experience and execute.

War is best understood not in terms of momentary causes but instead in relation to evolving patterns of violence already embedded in society (Richards 2005:11). The political economy and competition between elites in late 2013 undoubtedly helped to cause the conflict that erupted (De Waal 2014; Douglas 2014). Yet, we also need to understand the impact of longer-term changes in regimes of lethal violence that allowed South Sudanese to perceive some of the post-December 2013 violence as legitimate. Institutional regimes of lethal violence, such as the laws governing compensation and revenge, play a part in these understandings. These ideas are contested and refashioned over time, in periods of war and peace, through violent conflict, but also through law and government. Western Dinka government elites are also entangled with regimes of revenge not just through momentary discourse or fluid networks of patronage but also through the long term reshaping of institutional regimes. Over time, the growing government sanction behind these regimes secularised compensation and made it vulnerable to the fluidity of government. As a result, Western Dinka have found it increasingly problematic to find permanent and peaceful resolutions that satisfy spiritual obligations in cases of lethal violence through the payment of blood-wealth cattle compensation.

As documented by Hutchinson, military leaders in South Sudan in the 1990s tried to draw a distinction between the moral and spiritual consequences of lethal killings during times of ‘government wars’. In the 1980s, Dr Riek Machar (then a Commander for the SPLA and currently former Vice President of South Sudan and

leader of the armed Opposition) argued that violent deaths during ‘government wars’ were devoid of the spiritual risks of pollution associated with acts of homicide and local feuding (Hutchinson 1996; Hutchinson 1998). This built on long term attempts by governments in South Sudan to make government acts of lethal violence morally distinct (Hutchinson 1998). Dinka have also long drawn distinctions between different types of fighting and its scale depending on whether sticks and clubs or spears were used (Howell 1951:263). However, Dinka still faced the same spiritual consequences for lethal killing irrespective of the type of fighting. The distinction just changed the likelihood of peaceful arbitration and reconciliation (Howell 1951:263).

The western Dinka, as other South Sudanese, have never wholly accepted the government’s clear distinction between the lethal violence of ‘government wars’ and the lethal violence of the most local feuding. Over the last decade, the changing character of government, government’s ideologies and the powerful weapons they have employed in shocking levels of inter-communal and government violence have further dissolved any dichotomy that had been drawn between ‘government war’ and ‘local feud’. This has had tragic consequences for South Sudanese men, women and children.

As elsewhere, wartime elites do use discourse of revenge to mobilise immediate support (Kaldor 2013:6). Lethal violence during times of war has also reshaped understandings of the consequences of death. For the western Dinka, there is no clear dichotomy between the moral boundaries of lethal violence in times of war and peace.

The article focuses on the western Dinka in Greater Gogrial. In recent decades, the western Dinka have been caught up in extended episodes of the civil wars fought between the Government of Sudan, the Sudan People’s Liberation Army (SPLA) and other armed Southern groups. They have experienced first hand the brute force of government and have been politically divided by competing political agendas. For example, Commander Kerubino Kuanyin Bol’s defection from John Garang’s SPLA in the early 1990s splintered communities and families. In recent politics, these lands of Gogrial have been the homelands of President Salva Kiir and many of his senior allies in the government and army of South Sudan.

The article is based on ethnographic research amongst the western Dinka in Gogrial East between 2009 and 2013, as well as further research in South Sudan until early 2015. The article focuses on evolving ideas of revenge and compensation since the peace agreements around the turn of the millennium that ended the wars of the 1980s and 1990s. The article is also informed by archival research in the South Sudan National Archive (Juba, South Sudan) and the Sudan Archive at Durham (UK).

First, I will discuss government capture of regimes of compensation and the subsequent secularisation of these regimes. I will also highlight how this has left revenge vulnerable to the changing politics and economic conditions of government. Therefore, the occurrence of revenge has often been as much a sign of government presence as its absence. I will then move on to discuss the consequences of this in the era since the end of the SPLA war with the Government of Sudan. Secondly, I will discuss how politicians have distorted the local cattle economy resulting in blood-wealth being no longer sufficient to marry a valuable posthumous wife for the deceased. Thirdly, I will argue that recurrent wars and government divisions have restricted the negotiating space for local government Dinka chiefs to resolve local feuds and homicide cases peacefully and permanently.

1) GOVERNMENTS' CAPTURE OF COMPENSATION

In 1922, the Anglo-Egyptian Condominium Government finally established a permanent administrative post in Gogrial after its defeat of the religious leader Ariathdit (Cormack 2014:64-70). By this time, throughout the Sudan, the government was using a system of Chiefs' Courts (Johnson 1986; Howell 1954). The courts promoted the legal fiction that the substantive content of the law was based on previous customs, while the system merged pre-existing social norms with government laws and procedures (Leonardi et al 2010:19).^{viii} South Sudanese quickly started regularly using these courts (Leonardi et al 2010).

Government officials incorporated compensation into the customary law as an alternative to revenge and, therefore, entrenched compensation in law. The courts also entrenched the norm that killing had collective consequences as the government conceded to compensation be extracted collectively (Johnson 1986:64). Government

officials also tried to make intentional killing an act against the government itself (Owen 1927; Wilson 1927). The Chiefs' Courts started issuing imprisonment and fines, as well as compensation.^{ix} These government claims to control regimes of compensation and revenge challenged the powers of other public authorities.

Previously, *bäny biths* had presided over the exchange of compensation as a pre-condition to the peace-making sacrifice of an ox to end feuds and their spiritual consequences. Compensation was necessary as it provided cattle for the marriage of a posthumous wife for the deceased. Through the biological paternity of a close relative, the deceased could acquire legal children. These children carried his name into posterity (Deng 2010:131; Lienhardt 1961:25-26) and provided the whole lineage with restoration (Deng 1971; Deng 2010; Madut 2013). If the deceased's brothers failed to fulfill their duty to acquire him a posthumous wife, they risked the curse of the dead man (Deng 2010:131). It is through this posterity that the deceased gained his immortality and challenged the consequences of death (Howell 1951). Therefore, cattle acted as a substitute for a man (Lienhardt 1961:25) and, as amongst the Nuer, provided him with a second chance at 'life' (Hutchinson 1992). With this second chance at life, righteous anger was cooled and the *bäny bith* could oversee the peace-ceremony.

The cattle of compensation are not necessarily immediately used for marriage, and may be delayed so that cattle can multiply before the negotiations (Howell 1951:276). However, the relatives who receive them are expected to contribute to the posthumous marriage (Deng 2010). Blood-wealth is paid even for those who already have children as death still reduces procreative capacity (Deng 2010:131). In the early 20th Century, those who were killed who already had children were even often compensated with fewer cattle (Titherington 1927).

As well as the exchange of compensation, the end of the feud needed the *bäny bith* to oversee the sacrifice of a young ox (*muɔr adɔɔr* – 'ox of peace' or *muɔr de yuom* – 'the ox of splitting' or, literally, 'the ox of the bone') in the presence of the warring families (Madut 2013:83-84). The *bäny bith* makes invocations over the *muɔr adɔɔr* before a member of each family throws the *muɔr adɔɔr* to the floor and spears it to death. The animal is then cut into equal halves and shared between the families. The entrails are thrown over the families. The *bäny bith* places the spears in the ground amongst the remains of the entrails. Representatives of each family bite the spears. The *bäny bith* ends the ceremony by sprinkling ash on their knees. The

splitting of the right leg of the *muər adɔər* takes place during this process (Lienhardt 1961:287–288). Spiritual sanctions would be threatened against those who reopened the feud.

With the government incorporation of compensation into the customary law of the Chiefs' Courts, the government claimed for itself authority over compensation, feuding and peacemaking. Yet, compensation was not immediately secularised. In Gogrial many of the first chiefs appointed by government were either close relatives of the *bäny bith* or were the *bäny bith* themselves (Cormack 2014:70-75). For example, Giir Thiik, the first government-appointed paramount chief of the Apuk Dinka in eastern Gogrial was the son of a *bäny bith*. As late as the 1940s, while Lienhardt was researching amongst the Dinka, despite over a decade of government involvement, a Dinka elder described compensation and the ability to reconcile as under the authority of the ancestors (Lienhardt 1961:286).

However, the government's creation of association between the *bäny bith* and the government chiefs subordinated the spiritual powers of the *bäny bith* to the powers of government. Proximity to government had also withered spiritual powers amongst the Nuer (Johnson 1996). When describing the situation amongst the Nuer, Johnson argued that there was "a progressive secularisation of Nuer leadership and justice" that left "a legal system very much dependent on government force as its main support" (Johnson 1986:68).

Through the courts, governments sought to both restrict the legality of lethal, non-government violence and claim the government's power to kill with impunity (Hutchinson 1998). Refusal to accept compensation, and to instead seek revenge, became as illicit as the initial act of killing.

From the 1940s, over a series of government-initiated chiefs' meetings, the government encouraged the standardisation of the western Dinka compensation rates that would become known as the Wanh-Alel. This initiative followed a conflict between people from Tonj and Rumbek.^x Western Dinka Chiefs do not only understand these laws of Wanh-Alel as a common code, but also as a governmental insistence on judicial redress as opposed to self-help justice. As one Executive Chief in Greater Gogrial explained:

If you give your cow to someone and he does not want to pay it back, then you go to *toc* and take another of his cows by force. Then that

person will fight you. If you then go to court, you will pay a fine also. The fine will be because you went to take a cow by force. Instead, you should have first come to the court. Wanh-Alel says that the person who takes the cow by force causes conflict.^{xi}

Government officials denied that previous authorities (such as the *bäny bith*) had been capable of enforcing compensation. They claimed that previously people had only agreed to compensation because of expediency (Howell 1951:275). Officials thought that religious leaders did not have executive authority (Howell 1951:275) or that slave raids had been disrupted their powers (Titherington 1927:160). Officials claimed that government allowed the evolution of Dinka law as the government created a new central authority capable of demanding compensation.^{xii} This ignored the previously active role of religious leaders such as the *bäny bith* in enforcing *puk* between sections.^{xiii}

At the same time, the government did not enforce the designation of *muor adöor* nor insist on a cow for the *bäny bith*'s services in mediation. The lack of a *muor adöor* detached compensation from the spiritual power that enforced reconciliation. Instead, now, the 31st cow paid of the 31 cattle compensation was given to the government (Mijak 2002:29). Plus, additional cattle may have been demanded for government as fines and fees. The government's taking of this payment reflected its assumed role as peacemaker.

Therefore, despite being legally bound to pay or accept compensation, a family might not still be willing to split the bone and seek reconciliation. This meant that compensation payments were no longer guaranteed to meet the spiritual demands needed for peace. Receipt of compensation often only delayed revenge for a generation. The children of the deceased (including via a posthumous wife acquired with the compensation) would have the duty of revenge. This can make matters even worse because children become reimagined as future avengers of their parents' deaths and themselves legitimate targets of lethal violence.

Plus, compensation became reliant on the government's political will and capacity. As Nuer chiefs explained in relation to Nuer – Dinka border courts: 'When the government is together [not politically or militarily divided], then the chiefs of the Nuer and Dinka can talk and there can be compensation. Yet, the border chiefs can only meet in the context of Nuer – Dinka peace, when there is government peace'.^{xiv}

At certain points, governments did promote Dinka-Dinka and Dinka-Nuer compensation and peace. By the 1940s in the western Dinka and Nuer, the Sudan government had formalised various cross-ethnic border courts and annual chiefs' meetings (Johnson 1986).^{xv} Similar policies in Upper Nile allowed Nuer to start to speak of their relationship with the Dinka as only an intermittent '*ter*' (feud) as oppose to a '*kar*' (war) (Johnson 2003:17). Yet, others in government had a growing concern that peace through government compensation did not end feuds. By the 1940s, there was Dinka frustration at the speed in which courts reached decisions, often long before people were willing to reconcile (Johnson 1986:74).

The government alleged their legitimacy to kill with impunity (Hutchinson 1998). As Hutchinson documents amongst the Nuer, this meant that Nuer government officials were to be devoid of the moral and spiritual consequences that usually resulted from Nuer-Nuer violence (Hutchinson 1998). Dinka chiefs and government officials faced the same conundrum. However, the government's power to kill with impunity has never been universally accepted. The government itself could be the legitimate target of revenge. In recent years, one Dinka elder explained that only if killed by *Nhialic* (God), through lightning or illness, is there not an obligation to demand revenge because 'we don't know where *Nhialic* lives'.

Government compensation after Sudan's independence

After Sudan's independence in 1956, governments continued to demand a lack of self-help justice and their authority to kill with impunity. In the 1960s, an armed, Southern rebellion fought against the Government in Khartoum leaving the government with limited ability to enforced Nuer-Dinka compensation. It was only in the peace of the 1970s that there was political will to re-establish compensation between these communities (Rec Ater 1999). This highlighted the vulnerability of Nuer-Dinka to the inclinations and capacities of government.

In 1982, the Ananya II movement rebelled against the Sudan Government and, in 1983, the SPLA started their armed opposition. Southerners feared that Khartoum would neglect Southern voices, normative regimes and values, including by imposing Sharia law at the cost of Southern customary laws. Southern intellectuals defended the value of the customary laws, visualising customary laws as expressions of being South Sudanese. Makec and Deng wrote accounts of the customary laws to show their consistency with modern values (Deng 1972; Makec 1988).

As the SPLA gained more territorial control, the SPLA became the quasi-government in many Southern regions. Chiefs' Courts in the western Dinka continued to settle cases of lethal killings in their jurisdictions by demanding compensation (Deng 2010:137). As previous governments, the SPLA claimed the right to use lethal violence with impunity (Hutchinson 1998). They also claimed moral authority over the boundaries of legitimate violence. Hutchinson has documented how Riek Machar – SPLA Zonal Commander of the Western Nuer – spearheaded an ideological revolution that classified killings during the war as acts of government detaching these killings from their usual spiritual dangers (Hutchinson 1998).

The western Dinka were also confronted with the new scale of deaths brought by the civil war. Families were left with inadequate cattle to provide wives for all those killed. Plus, there was no political space to hold courts or demand compensation. The increased use of the guns for killing also prompted ambiguity about whether death by shooting had the same spiritual consequences (Hutchinson 1998:63). Therefore, compensation no longer seemed possible and so did not have the power to combat death. So, could compensation still be a guiding legal tool if compensation's power was declining? However, western Dinka continued to hold firm to a belief in spiritual consequences of lethal violence.

The Christian church in parts of Sudan has also challenged the meta-ethical foundations of compensation and revenge. However, the Catholic Church has been the dominant Christian influence amongst the western Dinka near Gogrial. In practice in Gogrial, the Catholic Church has been tolerant of continuing custom, minimalising its challenge to these norms. Fear of God and the spiritual consequences of fatal contamination that can arise after lethal killing are still prevalent in the western Dinka (Mijak 2002:55-56).

Since the 2005 Comprehensive Peace Agreement (CPA) between the SPLA and GoS, people and courts in the western Dinka have actively tried to reassert the life-giving power of posthumous wives for the dead. For example, the husband and five sons of woman had all been killed during the SPLA wars. In 2011 she had invested in a young wife to provide new sons for her deceased husband. When the new wife ran away with another male relative, the Chiefs' Court enforced the widow's legal rights to claim the wife's children as the legal children of the widow's deceased husband.

2. COMPENSATION AND REVENGE SINCE 2005: ELITE INTERFERENCE WITH THE CATTLE ECONOMY and DINKA-DINKA PEACE

One significant change made by government officials to compensation since the 1930s, as mentioned above, was the attempted standardisation of compensation payments that were enforced by the Chiefs' Courts (Leonardi et al 2010). Standardisation was hoped to ease the exchange of compensation and promote the peaceful redress of grievances. Deng and Makec's writing of these common Dinka laws in the 1970s and the 1980s further entrenched the standardisation of compensation.

The western Dinka had never agreed compensation based only on bride price. Rates varied based on the moral outrage caused by the killing. Accidental killings had long resulted in reduced compensation (Deng 1971; Deng 2010:132-135). *Dheng piny* (death after a surprise attack) had been contrasted with *weec* (including negligent and accidental killing).

Yet, government-imposed standard rates of compensation detached compensation rates from fluid bride prices (Howell 1951). Previously, the main purpose of *puk* was for a bride price for a posthumous wife (Howell 1951:275). Standard compensation rates disconnected compensation from the certainty that death would be challenged through marriage and posthumous procreation (Deng 1971; Deng 2010). Over time, compensation rates were amended but not with the fluidity of bride prices.^{xvi}

Customary law under the government did differentiated compensation rates based on the form of the homicide. For example, in the 1940s, government officials prescribed different rates for accidental killing and culpable homicide (Stubbs 1945). In addition, blood-wealth did evolve over time. For example, amongst the Ngok Dinka, it evolved from 20 cattle in the 1950s to 31 cattle by the 2000s (Howell 1951; Mijak 2002). Yet, compensation rates did not vary with bride price. For example, in 1951, Howell noted that Ngok Dinka blood-wealth was fixed at twenty head of cattle while bridewealth had risen to about thirty cattle. At other times, blood-wealth exceeded bride price (Deng 2010:153). Therefore, there was no longer certainty that compensation would satisfy the spiritual demands after killing.

In 1951, Howell posited that the disparity between bride wealth and blood-wealth might be overcome as the family of the deceased often kept the cattle a few years before marriage so that the herd could multiply (Howell 1951:276). However, since the wars of the 1980s, growing insecurity and conflict in the grazing lands has decreased the safety of herds and any confidence that waiting will result in a larger herd.

In recent years, some Dinka chiefs have been proactive in their creative application of the law to make compensation capable of ending a feud irrespective of governments' reshaping of compensation. For example, in 2012, a state governor created a special customary court headed by a western Dinka paramount chief to oversee cases after a series of lethal clan clashes. The court's mandate was limited to unintentional killings. If there had been intention, the court had to adhere to the governor's interpretation of the penal code, and refer the cases to the statutory High Court. The High Court at the time favoured the death sentence over the payment of compensation. The paramount chief perceived that such a death sentence would only add to the dead and create further demand for revenge, as opposed to offering a spiritual and moral solution. Therefore, the paramount chief employed a very narrow interpretation of 'intention'. If people warned before they attacked, even if they shot and intended to kill during that attack, the chief interpreted this as a lack of intention to kill; the principal intention had been to raid cattle and not cause death. This allowed the chief to keep these cases in his court and demand compensation. The paramount chief thought this more likely to absolve the demand for revenge and keep the peace.

However, since 2005, elite interference with the cattle economy has made it increasingly impossible for even the most proactive Dinka chiefs to interpret the law in a way that makes compensation adequate. One of the most direct ways the Dinka see the powers of global money is through the restructuring of cattle ownership and the elite acquisition of large herds of cattle.

In 2005, the Sudan–SPLA civil war was formally ended with the CPA. This CPA also created the nascent Government of South Sudan (GOSS) and funded it with half of the Sudan's oil revenue. Politico-military elites circulated the majority of this revenue amongst themselves (De Waal 2014; Pinaud 2014). This 'new aristocracy' spent money on large houses and cars in Juba and internationally (De Waal 2014; Pinaud 2014). Yet, this opulent wealth was invisible to most South Sudanese who

never travelled to Juba.^{xvii} Instead, the western Dinka most clearly saw the elite's oil wealth through their acquisition of thousands of cattle in their own grazing lands. Elites armed their kinsmen to defend their herds. Cattle herders believed there was an implicit expectation on them to raid to ensure each herd remained large. The elite leadership used these herds to build relationships, patronage and secure wealthy futures.

These shifts in the cattle economy impact compensation's relevance. When compensation is owed from such large herds, for the kinsmen of the deceased the set rate of thirty-one cattle is minimal and meaningless; the loss of these cattle brings no real suffering to the kinsmen of the killer.

The elites' cattle wealth has also inflated bride prices (Sommers and Schwartz 2011). From their vast herds, the elite seek wives to construct their status in the community, extend their personal networks of socio-political power and construct a posterity through which their name will survive their death. At the time of writing, cattle alone still legally confer paternity and are adequate for bride wealth amongst western Dinka.^{xviii} This inflation in bride price means that the static *puk* rates are now far below the contemporary bride price for a valuable wife. For example, in 2013, government leaders in Gogrial were paying bride prices of as much as four hundred cattle. Members in the Diaspora were purchasing brides with two hundred cattle. It was routine for bride prices to be between fifty and one hundred cattle. Compensation for homicide at the time was just thirty-one cattle. The compensation is therefore neither able to resource a wife for the deceased nor to reduce the spiritual and social consequences of his death. As described in the introduction, this has reduced cattle of compensation to nothing more than material benefit for the milk they give. Therefore, the dead are just for their family to drink from, and compensation does not appease the need for revenge.

In 2013, after the death of his daughter, a chief described his ongoing demand for revenge:

Compensation is not important now as it does not teach people a lesson. My own daughter was shot during a pupil demonstration. A soldier shot her. He was told to pay compensation, but I would prefer him to be killed. My daughter was educated and beautiful, and would get many cows for marriage. Now I am stranded as my daughter is

not there. I have been given cows as compensation from the soldier, but they are so few. People will be finished soon. People will keep killing. Compensation means nothing now.

Politicians since the CPA have also used the excuse of ‘tradition’ to demand contributions to compensation from poor kinsmen irrespective of their involvement in the violence. This is even if killing was caused during ambitious and aggressive attempts by the more wealthy to expand their herds. This egalitarian obligation ignores the disparity in wealth and responsibility for violence. Poorer kinsmen are often reluctant to pay for the spiritual consequences of the militarised actions of their elite relatives. The hesitancy to pay can further agitate the family to whom the compensation is owed.

Elites have snubbed the spiritual and moral basis of compensation, and taken advantage of its minimal, static rates under the law. As a result, bitter Dinka-Dinka feuds have arisen.

3. COMPENSATION AND REVENGE SINCE 2005: THE LACK OF POLITICAL SPACE FOR NUER-DINKA COMPENSATION

In relation to Nuer–Dinka revenge, further obstacles have arisen to the restoring of peace through compensation. As discussed above, since the early 20th Century, governments have undercut the spiritual elements of homicide and blood-wealth, making compensation increasingly dependent on government will and sanction. During some periods, governments showed political will in favour of compensation. However, over the last two decade, western Dinka have found it politically difficult to exchange compensation with certain groups, especially with the western Nuer.

In 1991, Riek Machar (from the western Nuer) defected from John Garang’s SPLA. These warring commanders militarised ethnic relationships to mobilise support for their government wars (Jok and Hutchinson 1999; Hutchinson 2000). Commanders encouraged revenge against the ethnically identified ‘other’. These politicians built on previous splits between the Bul Nuer and SPLA controlled areas dating back to the early 1980s. The violence between the Nuer-Dinka made their

borderlands into a no-man's land and prevented peaceful meetings and inter-ethnic courts (Pendle 2017).

From 1997, the western Nuer erupted into an intra-Nuer civil war, following the military rivalry of Riek Machar and Paulino Matip (Johnson 2012). Western Nuer sought refuge amongst the western Dinka creating a new appetite for Nuer–Dinka peace. The famous 1999 Wunlit Peace Meeting has become renowned as a local leaders' initiative (Bradbury et al 2006; Santschi 2014). However, the meeting was not a court (Awut Deng 1999). Neither was it a time to revisit specific grievances nor exchange compensation. When, for example, Chief Rec Ater Biar suggested at the meeting that cattle compensation be exchanged to uphold a 1978 peace agreement, his suggestion was dismissed. The large number of the deaths made payment unrealistic^{xix}. A white bull was sacrificed at the opening of Wunlit to symbolically cool hearts (Kuong 1999). However, no *puk*, not even of a symbolic nature, was exchanged.

As Wunlit excluded compensation, chiefs missed the opportunity to refashion compensation to tackle the new patterns of lethal violence. For example, new patterns of violence had included polarized ethnicities and created new, larger political groupings. This gave rise to the question of whether a whole ethnic group was liable for compensation? If not, which size of group was responsible? As Chief Gardial Abot Majak explained at Wunlit:

There was something that our brothers said yesterday that reminds me of the story about the bat and the birds. These creatures held a court case concerning a murder that had been committed by the birds. Together the birds decided to pay blood money. They called on the bat to contribute toward the compensation because, they said, he was one of them and therefore bears responsibility.

As we were coming here several days ago a section of the Nuer attacked our area and raided cattle. This action, when we claim now that we are reconciling, are we actually including those sections that have attacked us so recently? We are all here today, all the way across, from West to East. Have you called on those Nuer raiders, as we have brought representatives of our people? Why is it that us Dinka have brought ourselves, but yet not all of your Nuer are represented here?

Chief Gardial used the story of the birds and the bat to illustrate the ambiguity over who was responsible for the lethal violence of the 1990s, and who should now have the responsibility of blood-wealth. For this chief, the question related to the Nuer and whether they were collectively responsible and politically aligned.

There was also the question of the responsibility of military leaders to pay compensation. The chiefs that raised this at Wunlit touched a much more politically fragile question, implying the SPLA's responsibility for the killings. At the public Wunlit meeting, the dominant discourse was of Nuer-Dinka violence, with only occasional voices about the negative role of the SPLA and formal forces.^{xx}

Crucially, with no compensation exchanged, western Dinka found it increasingly impossible to imagine the exchange of compensation with the Nuer. This impossibility of compensation made it harder to imagine the end of revenge and violence.

Nevertheless, the discussion at Wunlit recognized the need for a future legal space for exchange of compensation (Chief Mabior Chuot 1999). Chiefs highlighted how, historically, compensation had been exchanged between Dinka and Nuer. As Chief Gaijal Dor explained:

Long ago when we were young men of Mayenethuc, and Awal Wol and Majak Ruai, and Mathil Anyuon, our land was united as one. If we quarrelled in the *toc*, there was a severe punishment. If a Nuer were killed, 50 head of cattle were to be paid in compensation. This is known to Malwal Wun [a senior Nuer chief].

Yet, since Wunlit, the border courts between the western Dinka and Nuer have not been recreated as a regular judicial mechanism. Chiefs blame this on a lack of political will at the Juba-level. Some chiefs have attempted to create *ad hoc* Nuer – Dinka courts. For example, in 2010, the western Nuer gave thirty-one cattle compensation to the family of a Dinka fisherman. The fisherman was from Duk (to the east of the Nile) and the cattle travelled by boat. The family of the deceased and the chief of Duk had travelled to Ganyliel to threaten revenge if there was no compensation.^{xxi} Yet, the national political allegiances between Duk Dinka and Nuer have been closer in recent years than with Dinka to the west and, therefore, there was more political space for compensation.

Other peace meetings since Wunlit have also failed to reinstate a relationship

of compensation. The Condominium government used local meetings, including inter-tribal peace meetings, as the enactment of local government and government justice, making these meetings the ‘negotiation tables’ of state-society relations (Leonardi 2015). Recent peace meetings have often happened on an *ad hoc* basis, at the whim of NGOs and government, and not on a regular, institutionalised basis. The absence of compensation in these meetings has prevented hope of justice and has made it harder to imagine peace.

Political leaders from the western Dinka and Nuer have been divided at the highest levels in the post CPA government. As one Dinka chief described, ‘There is no good government to make peace between us’.^{xxii} Local leaders, including chiefs and spiritual leaders, felt they had little space to act without higher-level government consent. ‘People are afraid to call for an important elders meeting because of fear of repression from the authorities’.^{xxiii}

The unwillingness to restore non-violent justice and compensation is indicative of a lack of common government as experienced in the daily lives of South Sudanese since the CPA. While the government in Juba appeared to be unified until December 2013, local South Sudanese experienced their ongoing reluctance to reconstruct enduring inter-ethnic relations. ‘The problem is from Juba’.^{xxiv}

On the 15th December 2013, fighting erupted in an SPLA barracks in Juba. The soldiers’ lethal violence was at the spatial and political heart of the South Sudan Government. Yet, South Sudanese knew that there was little hope of compensation or peaceful redress for the grievances that would confront them. Self-help justice through lethal, violent revenge was a remaining option. The demand for revenge shaped the violence of those in and out of uniforms. This echoed western Nuer and Dinka violence in since the 2005 CPA.

Shifting patterns of revenge in the rural homes of the western Nuer and Dinka are directly linked to the national conflicts. For example, during western Nuer–Dinka fighting in 1997, an old Dinka man was killed. His son was already in the army and progressing rapidly through the ranks. Two decades later, this old man’s son took a senior role in coordinating the pro-government SPLA violence in Juba in December 2013. Nuer civilians were targeted (Crisis Group International 2014; Human Rights Watch 2014). In private, this senior government commander cited the raids that killed his father in 1997 and the need for revenge as justification for the violence against Nuer in Juba in 2013.^{xxv} Many of those who were involved in the violence in

December 2013 that targeted Nuer used this national, political conflict to further private demands for revenge. The political leadership also used narratives of revenge (African Union 2015:239). There has been a ‘politicization of private lives’ but there is also a ‘privatization of political violence’ (Kalyvas 2006) as South Sudanese take advantage of the national conflict for their own private wars. Therefore, the wars since December 2013 are not a disjuncture but a continuation of shifting patterns of violence.

However, some local leaders have taken risks to try to reclaim the power of compensation to forge peace. For example, in 2014, a group of men from the western Dinka were hunting near the western Nuer. A group of Nuer young men happened upon them, attacked them and killed one of the group. Both groups then fled. At the time, this blurred border between the lands of the Nuer and Dinka was also the boundary between the SPLA-IO and Juba-government in the ongoing South Sudanese civil war. There was no *de facto* common government between the group of the killed and the killer. The warring parties not only did not insist on compensation but instead prohibited peacemaking.

As it happened, the man who was killed had maternal family amongst the Nuer. His parents’ marriage had come at a time of Nuer–Dinka peace and cooperation. Upon the son’s death in 2014, his family did not want to end this relationship despite the macro politics and demands for division along Nuer–Dinka lines. Therefore, they opted to make the potential hazardous journey to the Nuerlands to seek compensation and avoid revenge. The killer’s family initially refused compensation, suggesting that the context of war ended any obligation. Yet, the killer’s family bought the case to a Chiefs’ Court.

On reaching the Chiefs’ Courts, the SPLA-IO local government was informed. At the time the SPLA-IO leadership was not willing to host a court case with people from government-held areas. The local government leader made it clear that he did not want to be part of the case, nor would he let the SPLA-IO authorities rule on the case. The chiefs interpreted this as permission to hold the case out of sight of the local government, and moved the hearing to a secret location away from the usual court tree adjacent to the local government office.

The Chiefs’ Court found in favour of the family of the deceased and insisted that *puk* should be paid to the petitioning Dinka family. A relationship of

compensation and reconciliation could be reconstructed irrespective of the wars of the government.

Despite no common government and the ongoing war, the family and chiefs reconstructed a relationship of peace. In doing this they took the risk of crossing frontlines. The grieving family and chiefs used compensation to dilute people's everyday experience of government and its blunt, relentless pounding of violence. Therefore, compensation has the power to appease the moral and spiritual consequences of death even in contradiction to the power of governments.

CONCLUSION

South Sudanese politico-military elites have spent decades cycling in and out of declarations of war and agreements of peace. Yet, much more serious for the people of South Sudan are the changing patterns of lethal violence that continue through times of national wars and peace, and that reshape the consequences of lethal violence. Amongst the western Dinka the presence of revenge has not been indicative of the absence of government, but has instead been symptomatic of increasingly intrusive interference in regimes of lethal violence by centralised and militarised national governments.

This echoes findings by Strathern and Stewart that link revenge to the presence of government (Strathern and Stewart 2002). Governments amongst the western Dinka over the last century have progressively captured regimes of compensation and revenge, reshaping the legal and normative boundaries that limit lethal killings. At times, governments have used compensation to bring peace. However, secularisation of compensation and government power behind the peace have left compensation subordinate to the will and capacity of government. Compensation no longer necessarily carries the security that it will appease the spiritual demands for revenge. This has meant that in recent years the politics around the oil wealth of government elites has seeped into Dinka-Dinka compensation, making its payment less valued. In addition, political divisions between government elites have eroded the government will to permit Nuer-Dinka compensation and closed the political space for its exchange. Western Dinka have retained a belief in the spiritual consequences of death and that the consequences of death can be challenged through posthumous marriage and legal children. Yet, government-

backed compensation in the current political climate has failed to provide compensation that guarantees to meet these spiritual demands.

When compensation is delinked from reconciliation and the appeasement of revenge, at best, compensation is delayed until the next generation. This can make matters even worse if this extension of the feud into the next generation implies that children are also actors in the feud and, therefore, legitimate targets for killing. Since 2013, children have been intentionally killed and their bodies mutilated including removing their genitals (African Union 2015). The dead are left without anyone to restore their life.

In light of these conclusions, as scholars continue to study the relationship between conflict, government and public authorities, it is essential that research does not only focus on immediate acts of mobilisation by government actors. Instead, there is a need for a much broader, historical understanding of how governments and other public authorities reshaped regimes of lethal violence in times of war and peace. Plus, there is still much demand to better understand the consequence of the secularization of compensation in contexts where lethal violence has maintained spiritual consequences.

ACKNOWLEDGEMENTS

I am thankful for the detailed and useful feedback of the reviewers who have contributed to the shape and content of this article. I am grateful for the thoughtful, timely feedback of Cherry Leonardi (Durham) and her consistent, insightful encouragement. I am also thankful for Sharon Hutchinson's informal mentoring during previous work together. Anne Thompson's editorial support has been invaluable and Jonathan continues to be an inspiration. Yet, this article is really the product of the work, ideas and saddening struggles of my friends in the western Dinka. I am grateful that they gave me the time and had the patience to explain everything to me even though I often appeared to know less than a child.

NOTES

ⁱ An alternative name has been used for this chief to preserve his anonymity.

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- ⁱⁱ Nordstrom locates the beginning of peace at the epicentre of violence and notes the ‘profound creativity average people employ in surviving war and forging peace’ (Nordstrom 2004:51).
- ⁱⁱⁱ Not all families will immediately eat together after peace is made because of the fears of the deadly contamination (Howell 1951:276).
- ^{iv} Interview with Dinka man in his 20s, Greater Rumbek Cattle Camp, May 2012 (in Dinka).
- ^v Interview with educated Dinka elder, Lakes State, November 2014 (in English).
- ^{vi} Thomas notes that in the 19th Century, foreign governments even used these ideas to justify slavery (Thomas 2015:74).
- ^{vii} Within the first month of the violence, an estimated 10,000 people had been killed. The International Crisis Group later in 2014 suggested that at least 50,000 had now been killed but criticized the UN for not counting (Martell 2014). Casie argued, in this article, that the lack of record of the dead was dehumanising the South Sudanese.
- ^{viii} See, for example, a Dinka Ngok elder’s discussion of whether *puk* should be paid even if the person injured fully recovers before later dying (Mijak 2002:30).
- ^{ix} District Commissioner of Western Nuer, 24th March 1937, Upper Nile Province 41.A.61 in South Sudan National Archive (Juba); 29th March 1938, Upper Nile Province/41.A.6 in South Sudan National Archive (Juba); ‘Pro Forma of Culpable Homicide Cases’ for period 1/1/1946 – 31/12/1946, WND, Upper Nile Province 41.A.6 in South Sudan National Archive (Juba); F. D. McJanet, ‘Pro Forma of Culpable Homicide Cases’ for period 1/1/1948 – 31/12/1948, WND, Upper Nile Province 41.A.6 in South Sudan National Archive (Juba);.
- ^x Interview with senior Dinka Chief and elders, Maper, June 2013 (in Dinka).
- ^{xi} Interview with Executive Chief, Greater Gogrial, July 2010 (in Dinka).
- ^{xii} Maine’s 19th century jurisprudence influenced policies in the empire in favour of the slow evolution of laws. In Maitland’s history of English law, individual criminal culpability for homicide emerged is presented as a replacement for revenge in more developed legal systems.
- ^{xiii} An example amongst the Nuer is given by Johnson of the Nuer prophet Ngundeng who forced compensation payments between groups in the Lou, and the Lou and Gaajok. (Johnson 1997: 105).
- ^{xiv} Interview with Chiefs of the Panyijar Court, Ganyliel, October 2014 (in Nuer).
- ^{xv} Interview with man in his twenties, Greater Rumbek, May 2012 (in Dinka); Interview with Town Chief, Panyijar, May 2012 (in Nuer).
- ^{xvi} For example, amongst the Ngok Dinka, compensation has changed from twenty to thirty one head of cattle (Mijak, Deng Biong (2002).
- ^{xvii} Occasionally elites invested in construction projects in their homelands. For example, on the edge of Kuajok, stands a large, elaborate hotel that has never been quite finished. These glimpses of wealth prompted some local resentment, yet most local people lack knowledge of the cost of such construction, mitigating their frustration.
- ^{xviii} The bride’s family now sometimes also expects other gifts such as mattresses and umbrellas. Yet, the Chiefs’ Courts near Gogrial have opted to uphold the necessity and sufficiency of cattle exchange.
- ^{xix} Interview with male elder, Greater Rumbek, May 2012 (in Dinka); Interview with man in his twenties, Greater Rumbek, July 2012 (in Dinka).
- ^{xx} The Wunlit Peace meeting is often lauded for the chiefs’ ability to express the elite’s role in fuelling the violence. Much of this honest discussion took place before

the formal, public meeting itself. While some displeasure with the formal, military forces was explicitly stated at Wunlit, some of these comments were also cut short.

^{xxi} Interview with Nuer Chiefs, Ganyliel, October 2014 (in Nuer).

^{xxii} Interview with Executive Chief, Greater Gogrial, July 2012 (in Dinka).

^{xxiii} Interview with Chief, Western Nuer, December 2014 (in Nuer).

^{xxiv} Interview with former Border Chief, Ganyliel, October 2014 (in Nuer).

^{xxv} In public, no commander has admitted culpability or an ethnically driven motivation.

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