

MANAGING ETHNIC DIVERSITY

Julius Agbor and Olumide Taiwo

Framing the Issue

Since gaining independence in July 2011, South Sudan has experienced many interethnic conflicts over resources, underscoring the need for well-defined property rights as well as a strategy for conflict anticipation and resolution. In an environment where land rights are not well-specified and a huge amount of small arms are in circulation, violent conflict over grazing rights becomes pervasive. For example, violence broke out between the Murle and Nuer ethnic groups only a month after independence. This particular episode resulted in the killing of 600 Nuer people, the kidnapping of children and the slaughter of tens of thousands of cattle (Gettleman 2012). It appears that, for now, interethnic conflict is concentrated in Jonglei State, where the Murle and Lou Nuer have a long history of revenge attacks against each other primarily over cattle. However, the long civil war introduced weapons to these groups, and arms have made these attacks increasingly deadly. Unfortunately, the central government in Juba has not done enough to prevent these types of violent confrontations.

The Transitional Constitution of South Sudan, while focused on state-building, has been silent on important considerations such as the establishment and protection of farmers' grazing rights, indigenous mechanisms for people to amicably settle their disputes and more importantly, an institutional framework for conflict anticipation, prevention and resolution. The only provision of the constitution that connects with conflict in some form is Article 149, Chapter VII, which provides for the creation of an independent demobilization, disarmament and re-integration commission. However, this commission is intended to be backward-looking as it is aimed at dealing with the consequences of the past war. Nowhere in the constitution is there any anticipation of future ethnic conflicts. The inadequacies of the transitional constitution seem to have been catered for in the 2011–2013 South Sudan Development Plan, which notably provides for the creation of county-level consultative peace platforms. However, these efforts have not yet materialized

What's at Stake?

The right to graze cattle and other animals on communal fields is central to the interethnic conflict in South Sudan. During the rainy season, groups occupying flooded lowlands are forced to flee to upland areas, putting the migrating groups and their livestock in conflict with upland residents. Since property rights over grazing lands are neither well defined nor complete, ownership is realized only through capture. Also, rivalry over possession and use has created significant tension between groups (GoSS 2011). For example, a group may claim the right to own and use a piece of grazing land because it is their ancestral territory; yet, another group may claim the right to graze their livestock on that same piece of land because they have accessed and occupied it and hence have actual possession of it.

The formation and strengthening of sub-national governments (especially local governments)—the level of government at which effective institutions to address conflicts could be developed—has been hampered by austerity measures. For example, operational and capital budgets of government agencies have been cut by more than half in the recent budget cycle, leaving virtually no resources available for the central government in Juba to undertake a comprehensive system of consultation with the various local communities. According to Finance Minister Kosti Ngai's austerity budget speech, massive budget cuts of 85 percent were "being made on South Sudan Reconstruction and Development Fund, Local Government Board, Employees[,] Justice and Public Grievance Chambers" (GoSS 2012). This does not bode well for the establishment and maintenance of a unified and peaceful South Sudan.

Policy Recommendations

As a young country, South Sudan should be careful not to make the same mistakes that cost thousands of innocent lives in Africa. The provision of mechanisms for the anticipation and peaceful resolution of conflict needs to be done in tandem with the demobilization, disarmament and rein-

tegration activities. In line with efforts to achieve internal peace, the following policy recommendations are offered:

- **Revisit the issue of property rights.** The GoSS, in consultation with the various local communities, must undertake a comprehensive process to define property rights over land resources and create the appropriate legal mechanisms to enable people to participate in land markets. However, because much of the land in the country is owned communally, what must be emphasized at first is not necessarily private ownership of land resources but the development of effective property rights regimes that are well-specified, context-specific and enforceable.
- **Integrate traditional institutions into conflict resolution mechanisms.** Ethnic groups in South Sudan, like in other parts of Africa, have long employed traditional institutions (e.g., village or tribal councils) to resolve conflicts. As part of the nation-building project, South Sudan should carefully examine these traditional institutions and incorporate them into its constitutionally mandated legal and judicial institutions in ways that are consistent with the Universal Declaration of Human Rights (UDHR) and other international treaties and conventions.
- **Insist on participatory and inclusive approaches to institutional reforms.** Ultimately, all citizens, regardless of their social status, should be allowed to participate in the construction of their country's laws and institutions. Currently, former President of South Africa Thabo Mbeki is leading African Union-sponsored negotiations to end recent conflict between South Sudan and the Republic of Sudan. South Africa's constitution was compacted through a famously participatory and inclusive process. If South African expertise was extended beyond peace negotiations to include constitutional support, the GoSS could develop a process that effectively engages all relevant stakeholders regardless of their educational background, employment status, religious or ethnic affiliation, social or political status, and income or wealth status. Through such a process, South Sudan can secure for itself a constitution that reflects its values, traditions and cultures, and provides its population with an appropriate foundation to build institutions for organizing their private lives, resolving conflict, and regulating their socio-political interaction.

References

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