

Handling land conflict in Yei, South Sudan

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By Marlien de Jong
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Handling land Conflict in Yei, South Sudan

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By: Marlien de Jong
Registration number: 870317 402 110

Supervisor: Dr. ir. G. van der Haar
Chair group: Disaster Studies
Course code: RDS-80733

Cover photo: Yei Town city centre, June 2012 (by author)

Abstract

Africa is urbanising rapidly. Civil war and conflict induced migration are one of the driving forces behind this process. During a war towns are seen as a safe haven, but in the aftermath the influx of people can give rise to a whole new set of problems. This thesis focuses on how a growing pressure on the city, in the aftermath of a conflict, leads to new conflicts, and how these conflict are handled. Specifically land conflicts are dealt with. By studying three cases in-depth, representing different types of land conflict, the fieldwork was shaped. The conclusion is that conflict induced migration leads to more pressure to the city, although not on the same scale as expected. With regards to the conflict handling aspect I found the importance of the customary systems, high involvement of the conflict parties and a focus on maintaining relationships.

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List of abbreviations

BATC	Bishop Allison Theological College
CES	Central Equatoria State
CMS	Church Mission Society
CPA	Comprehensive Peace Agreement
DRC	Democratic Republic of the Congo
ECS	Episcopal Church of Sudan (in this thesis specifically the Diocese of Yei)
GoSS	Government of Southern Sudan
IDP	internally displaced person
LRA	Lord's Resistance Army
NGO	non-governmental organization
NSCC	New Sudan Council of Churches
RECONCILE	Resource Centre for Civil Leadership
SANU	Sudan African Nationalist Movement
SPLA/M	Sudan People's Liberation Army/Movement
YRC	Yei River County

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Introduction

Urbanisation, population growth, scarcity, civil conflict; these are some of the processes and problems part of Africa are undergoing nowadays and which will come together in this research. Due to civil conflict, among other reasons and problems, many people migrate to the city and for many of them a small scale urban area is the destination. In the current debates concerning conflict these areas are largely overlooked, but will form the main stage of this thesis.

During the last phase of my study; Master International Development, I gained more interest for these topics, because I was working with certain conflict handling mechanisms in Rwanda, and wondered how these would play out in other settings, like urban areas. These are interesting places, because of the often complex build-up of people from different areas and backgrounds. Especially in the aftermath of a civil conflict the city is a fascinating stage for studying conflict and conflict handling.

Not much is known about small urban areas in Africa. Therefore I decided not only to focus on conflict handling alone, but to start out with a broader scope, to find out where conflicts do occur and how people are dealing with this in an urban context.

Within the scope of this topic the town of Yei seemed to be a good place of research, because of its medium sized scale, its cosmopolitan character and the level of possible access. Due to unrest and increased insecurity in South Sudan, following the referendum in 2011 and the independence later that year, my fieldwork was postponed, but May 2012 I was able to travel safely and do the needed research. I spent ten weeks in this town to study some of the processes in the post-conflict town. During my time in the field the focus of my research shifted from conflict in general, to a more specific set of issues, namely conflicts about land. I made this shift to gain deeper understanding of one type of problems, and land issues were said to be the most pressing in the research area.

In Yei I spoke to many different people and learned a lot from them. Together with my own reflections and the literature, I was able to find an answer on the following research question and sub questions:

How does the increased pressure on the city, due to the civil conflict and urban growth, lead to land conflicts in Yei, South Sudan and how is conflict handling shaped to deal with these problems?

1. What kinds of groups are currently living in Yei?
 - a. How are these groups living together?
2. What are grounds for conflicts and disputes?
3. What type of land conflicts occur and how are these issues shaped?
4. What type of conflict handling is used in these land issues?
 - a. Are there actors facilitation interaction?
5. What are common grounds to build upon?

Based upon these research questions the following report was shaped. In the next chapter you will find the theoretical framework, specifying on urbanisation in Africa, growing pressure on the city, legal pluralism, conflict potential in urban areas, and conflict handling mechanism. Chapter two also contains the used research design and an elaboration on the above mentioned research questions. Chapter three will provide a first insight in the study area, and will thus contain a brief history of the South Sudan and specifically Yei itself. Also a description of the town and its inhabitants, as can be found in the literature, will be given. Chapter four will be about the grounds for conflict in the town and the level of security. In chapter five the focus will shift to one particular problem, namely land issues. In short, I choose to elaborate on this specific issue, because of the scale and intensity of the problem. More on this decision can also be found in the before mentioned chapter. In chapter six I will further deepen and analyse the problems and will link this to the theories of chapter two. In the last chapter conclusions will be drawn from this, the outcomes and process will be discussed and it will be finalized with some recommendations.

Theoretical framework and research design

Before turning to the definite study area, this chapter will provide a wider perspective on conflict and urban areas, based upon views and theories of experts. This chapter deals with what potential grounds for conflict are in post-conflict urban areas in Africa, according to the available literature. Firstly, the growing pressure on the city will be addressed, followed by the conflict potential in these areas. The third part will deal with the role of legal pluralism and shifting legal institutions. The theoretical framework will conclude with a brief overview of possible conflict handling mechanisms. The final section of the chapter will contain an overview of the main research questions and the methods and techniques used during my fieldwork.

Theoretical Framework

The aim of this research is to identify whether and where the increased pressure on the city leads to conflicts between the different groups of population in the city. Furthermore, to find out how these conflicts and disputes are handled and which people, institutions, or instances, play an important role in settling disputes, or mediating between groups. The bottom line is to deepen the understanding of the consequences of conflict induced migration, and general population growth, for a small scale urban area in the aftermath of a conflict. In this area of research there are some considerable knowledge gaps. In the first place, there is not much known about Africa's small and medium sized urban areas. There is no well-defined scale of this type of town, because it varies in the context of each country. It is more or less defined by what it is not, thus these urban areas are not megacities, with millions of people; and these are not the capital cities. Often these small and medium sized urban areas are regional capitals, with some basis access to services like health care, governmental services and a market. How the research area, Yei, fits into this description will be discussed in the next chapter.

A second knowledge gap is how urban populations react in the aftermath of a civil conflict that forced many different groups towards the city. It is certainly worth looking into this, because of the growing number of small urban areas (White, Mberu, & Collison, 2008), the potential of renewed conflict, and increasing insecurity of daily life in these urban areas (Beall, Goodfellow, & Rodgers, 2010).

The reason to look into not just any African urban area, but especially those in the aftermath of a conflict is because post-conflict areas are interesting places. There are many on-going changes and challenges, like the reconstruction of the state and other institutions, damage infrastructure, mass displacement and a lack in basic needs. In the aftermath of a conflict a country faces many problems when (re-)building society. These problems are mostly very complex and intertwined. One of these far reaching problems is, for instance, the social one; which include the destruction of relationships, and the loss of trust, dignity, confidence and faith in others. These problems

have the potential to intensify other problems and undermine possible solutions (Barakat, 2005, p.10). It is therefore important not only to work with the obvious problems, like lack of infrastructure, health care and education, but also work on the social fabric of a society, to reduce the likeness of renewed conflict.

In the following paragraphs these various aspects of urban areas, growing pressure and the existing challenges will be further describes and discussed.

Growing pressure on the city

Cities in Africa are growing rapidly (UN-HABITAT, 2008). This means that an average of 40 per cent of the population of sub-Sahara Africa is currently living in an urban area (Wisner & Pelling, 2009). Much of the current research in urban Africa focuses on mega cities (with more than 10 million inhabitants) and other large scale cities, but only six per cent of the urban population lives in a city with more than 5 million inhabitants. The majority, 57 per cent, lives in smaller urban areas with less than half a million people (UN, 2006 cited in: White, Mberu, & Collison, 2008) and these small and medium sized cities are a common destination in the urbanisation process (Wisner & Pelling, 2009).

Nevertheless, what the dynamics are in these small urban areas, and what kind of processes occur, is not known much about, because of the before mentioned focus on the mega cities (Wisner & Pelling, 2009). It is therefore of importance to look at these smaller cities, to monitor the change and learn about the developments there, to increase the knowledge of the situation a growing number of Africans is living in.

Another reason these small scale towns form an interesting background for this particular study is the fact that in times of conflict the search for safety is a main driving force behind urbanisation (Beall et al., 2010), but it is largely unknown what happens after the conflict.

Urbanisation as such is not a problem, but against this backdrop many other processes take place, which can basically be described as 'a growing pressure on the city'. A first process of importance is the gathering of many different groups and tribes in one place. During the colonial era many people thought of the city as being a melting pot, thus a space of detribalization, but it has shown that the interaction between cultures and identities is more complex (Wisner & Pelling, 2009). Not much is known about the way different groups interact within the smaller cities of Africa, but cases studies from other areas show that conflict induced urbanisation can lead to an increase in disputes and friction in the aftermath of the civil conflict (Beall, Goodfellow, and Rodgers, 2010).

A second process debit to the growing pressure is the form of urbanisation. Almost all urban growth in African takes the form of slum growth. The problem in these slums, and African cities in general, is a lack of resources and basic needs, like water, sanitation, energy and land (Martin & Sluga, 2011; Pieterse, 2009). It can also lead to more exclusion, poverty and inequality (Pieterse, 2009).

This relates to the last factor, which is the role of the government. Many African governments do not favour an increase in urban migration, because, in their eyes, it solely leads to more poverty and more slum dwellers. Thus, these governments do not invest sufficiently in urban infrastructure, because they see it as an incentive for the rural population for further migration.

This resulted in a sharp decline in urban investment, which leads to a further shortage in urban services (Pieterse, 2009).

What should be prevented in research on the African cities is the traditional dichotomy between 'rural' and 'urban'. In Africa these areas are interlinked in various ways. Often urban migrants do not cut all ties, but keep close contact with their rural home. Circular migration, thus from rural to urban areas and back, is very common, especially because of the rising costs for living in the cities. Another reason for circular migration is the rapid growth of the urban population, which is much faster than the economic growth. Therefore the situation in the cities is not as promising as expected, thus people return to the rural areas (UN-HABITAT, 2008). Migration with an economic motive is also a reason for the remaining links between the urban areas and the rural home. In this case often one, or a few members, of the household move to the city, but keep financially supporting the rest of the household, who remain in the rural area. For all these reasons it is important to keep the rural context of the city-dwellers in mind.

In sum, urban areas in Africa are increasingly interesting places. There are a lot of different dynamics, which can, especially in a post-conflict situation, lead to difficult problems. In short, these problems can be described as a growing pressure on the city. The pressure becomes visible in a lack of resources, unequal access and the possibilities of conflict. It is therefore good to focus on these areas in research, to create a further understanding of the nature and implications of the post-conflict pressure on the urban area and its inhabitants.

Conflict potential

In the previous section we have seen the growing importance of urban areas and the increase in pressure on the city. It became obvious that this growing pressure can lead to various serious problems, but what is the likelihood and nature of conflict in these situations?

To answer this question it is good to first determine what conflict is and how it occurs. Conflict is an often debated and defined concept. Many definitions are based upon the following notion, and because of its concise nature I will also begin with this definition: *conflict is 'a struggle over values and claims to scarce status, power and resources'* (Boulder, 1962:5 cited in: Jeong, 2008).

In short, this means there are difficulties, which arise in trying to meet the aspired outcomes of different parties (Pruitt & Kim, 2004 cited in: Jeong, 2008). The term conflict is often used interchangeably with disputes, but I believe this is incorrect. Basically, conflict is purely the state of two or more divergent interests, while a dispute applies to the issues arising in managing the conflict (Jeong, 2008:5). Thus, conflict can be expressed in many different ways, varying from latent situations, where people are unaware of their opposing interest, to wars, in which people use violence to fight for their view (Jeong, 2008). Conflict happens at different levels. The lowest level is intrapersonal conflict, which is conflict within the self. The next is interpersonal level, thus between two, or more, persons. The following levels are intragroup, intergroup and international conflict (Reconcile Peace Institute, 2012; Reijerkerk, 2006). Conflict is not static, but can grow in intensity and in level. Thus, something that started as an interpersonal conflict can become, for instance, an intergroup conflict, because of kinship or other relations.

The origin of many conflicts is the perception of certain groups that they are not getting the treatment they are entitled to. So there is a need to address these problems, and strive for equity and reconciliation, to prevent a renewed conflict (Barakat, 2005). Furthermore, conflict arises in places with an imbalance in economic and political systems, which is, shortly stated, a lack in

resources and unequal access to power. Another important cause is when identity and security are under treat (Jeong, 2008).

When we connect these origins and root causes of conflict to the situations seen in the African urban areas, it is reasonable to say there is a certain level of conflict potential in these areas. Many different groups, from different places, come together in one space, which can lead to issues over identity, especially if there is a power difference between the groups. Also a lack of basic services and resources, whether this is because of a natural decline, unequal access or competing claims, point in the direction of possible conflict.

Conflict analysis is not limited to looking at conflict potential and the actual conflict that occurs in a certain area, but also the way people handle conflict is an important aspect to consider. Therefore, this theoretical framework will conclude with different methods of conflict handling, but, taken into account the further focus and findings of this research it is important to zoom in on one specific type of conflict potential, namely conflicts related to land and legal pluralism.

Post-conflict land and land tenure systems

Instability during post-war recovery is often caused by low intensity conflict within, rather than between countries (Unruh, 2003). Generally, the root cause of this low intensity conflict is unequal access to resources. Within this larger category of resources especially land, and related tenure systems, are a source of problems during the peace process. Mainly because land and tenure security are central needs in rebuilding post-war societies, for these are often agricultural societies, wherein land is an important resource, on which the people depend for their food security (Unruh, 2003).

Land can lead to problems for several reasons. Firstly, a change in population patterns influences the relation to land and tenure. Civil conflict often leads to dislocation of a large proportion of the population, which ruptures the social fabric of society. It is this social fabric that established and preserved tenure systems, and provided security and assistance in disputes. When people leave their area, the rights and obligations towards their land are put on hold, people seek land elsewhere and occupy plots of others, and upon return people can find changed systems and other occupying their land. Therefore, ownership, use, and access of land become problematic in the aftermath of the conflict (Unruh, 2003).

In line with these developments is the second reason, namely the shifting property rights and institutions during and after a civil conflict. This heavily impacts land tenure systems. The population changes impact the tenure systems and contribute to the before mentioned shifts. These changes can be an important factor of potential renewed conflict (Unruh, 2003). It affects many layers of society, because in many post conflict societies land rights are governed and regulated on several different levels by various institutions, like customary law and state institutions. Conflict can disrupts these customary systems, as well as leaving state institution inoperable (Unruh, 2003). To learn more about these issues and how they arise we have to turn to the different levels of governing, which is in short legal pluralism.

Legal pluralism

In the situation of land and land tenure systems both customary law and official state structures play a role. Also, both are likely to be damaged during the conflict and influence the way people

deal with land in the aftermath. To get a clearer view of these problems this section will zoom in on legal pluralism, with a special focus on its relation with post-conflict land issues.

Legal pluralism is a situation whereby more than one set of legal orders specifies property, rights and obligations. It is not that one rule is applicable to the 'same' situation, but a refers to a situation wherein law and legal institutions are not rooted in one system, but comes from various social fields (Griffiths, 1986:38,39). For example, there are situations whereby both the state and customary law have judiciary and governing power in certain fields. There are many varying forms of legal pluralism, forms where the different systems peaceful coexist to conflicting systems (Von Benda-Beckmann, Von Benda-Beckmann, & Wiber, 2006).

The most common situation of legal pluralism is where customary systems and official state structures coexist. In post-war situations both these systems are often severely damaged; official structures are subject to shifting governing parties and legal procedures, and customary law is changed by displacement of people and changing values. Communities, who are important structures in establishing and maintaining the customary law and land tenure arrangements, are no longer intact. It is damaged because some people have left and tried to establish systems elsewhere, some of which are not compatible with existing systems. Other people return after the war, but relationships with those who stayed are damaged, and 'foreign' influences lead to further problems (Unruh, 2003).

These are just some examples how legal systems shift and change during a civil conflict, but also how they can intensify conflicts in the aftermath. Therefore, land and legal pluralism are important factors to consider when talking about post-conflict development. Not only in the rural areas, but also within more urbanised areas, because of the importance of land within the city, due to growing population and ethnic diversity. Especially this ethnic diversity can put a pressure on the customary systems, due to differences in the systems used by the various groups.

After elaborating on several aspects of conflict potential, we now turn to the next phase of conflict analysis, which are the possible ways to deal with conflict. Thus, the next part will be about various forms of conflict handling.

Conflict handling

In previous sections it became clear that there are various types of conflicts, as well as various causes of conflict. But, conflict analysis does not stop at the cause and the way the difficulties are enounced. The last step in this research is to look at the way conflicting parties are dealing with the problems. There are many different ways to do this.

Someone who did this in a clear-cut way is Assefa (1995). He used two indicators; the level of mutual participation, and whether the approach is reactive or proactive; to distinguish between six mechanisms (figure 2.1). In the far left of the scheme it starts with 'force', which is a reactive mechanism with low participation. Thus, one party tries to impose their opinion, or desire, on the other, without consultation. This is not really a durable solution, but leads to the suppression of the conflict, and is only possible with a significant power difference. In the following stages; adjudication, arbitration, negotiation and mediation, you see more and more power balance and participation in the search for a solution. Sometimes a third party is needed, for instance which mediation, to have someone (unbiased) to help in seeking a solution. The last category, reconciliation, is the most proactive way of conflict ending. It is intended to turn around the

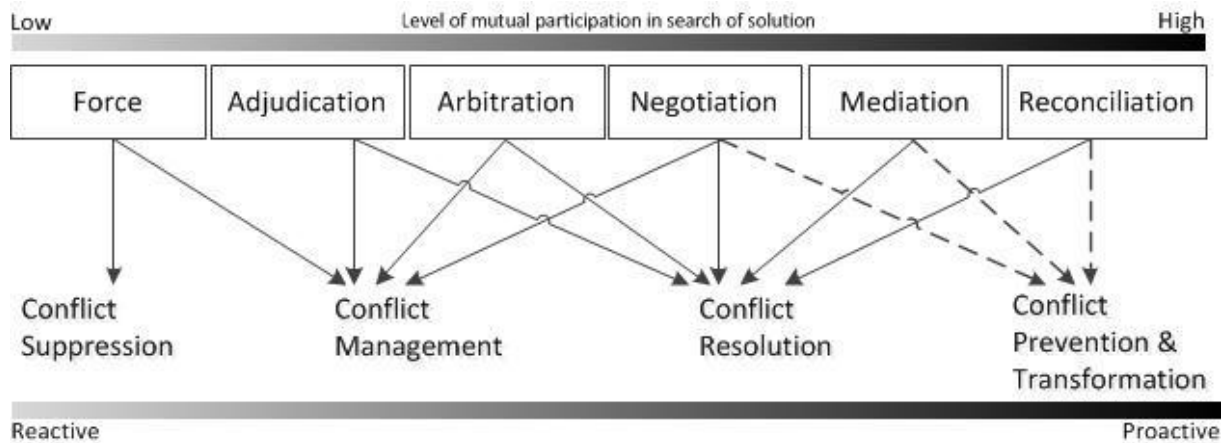


Figure 2.1 Spectrum of conflict handling mechanisms (Source: Assefa, 1995)

situation and preventing further problems, by deeply involving both parties, addressing the root causes and turning the situation around. The bottom half of the scheme shows the type of outcome which follows from using the specific mechanism. It varies from suppressing the conflict, to preventing and transforming the issues (Assefa, 1995).

This scheme can be a very useful entry point when inquiring how conflicts are handled. It is a basic outline, which is easy to build upon when learning more of specific cases and situations. The scheme must not be used as a straitjacket, through which we look at the situation, but more as an assessment tool, through which we can look at, and examine, the different approaches and situations that occur in the field.

Another way to look at conflict handling is to use two other indicators; in how much the relation is considered and how much the result (figure 2.2). This leads to five types of conflict or dealing with conflict; domination (or force), obliging, avoidance, compromising, and integration (Reijerkerk, 2006). This type of distinguishing conflict styles is mostly used in management literature, but can also be used to look at conflicts in the urban setting, because of its basic nature. It can be useful in the analysis of conflict handling, because it says something about how the separate parties are approaching the problem and this also what type of conflict handling will be most useful or appropriate.

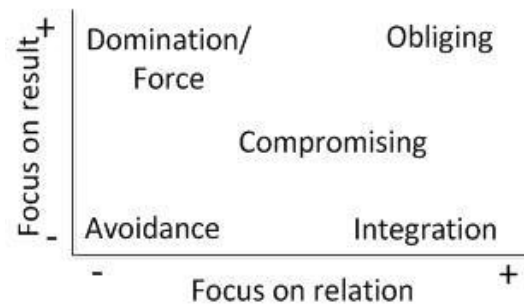


Figure 2.2 Styles of conflict (Prein, 2002 in: Reijerkerk, 2006; adapted by author)

In short, there are many types of conflict and conflict handling, which can be categorised in various ways. In this research, and in particular in the analysis in chapter six, these theories will be used to compare the positions of the different parties and the way conflict is handled in different cases. The analysis will begin with an in-depth look of the prime actors. For this figure 2.2, thus the styles of conflict will be used. With the help of the two indicators the prime actors separately will be placed in the scheme, to find out the way they approach the problem. The next step is to find out how the primary parties approach each other, thus how they interact. Therefore figure 2.1, the approach of Assefa, will be used. With this theory the strategies and participation of the various actors can be discussed. Also the role and involvement of third parties will be discussed herein.

Now the theories, that form the backbone of the research, are explained it is time to turn to the actual research. Therefore the remaining part of this chapter will deal with the research design and methods.

Research Design

This research is shaped by and based upon the previously posed theories and hypotheses on conflict potential and handling. In the following section the main questions are listed, and I will describe the way the research was set up and conducted during my time in the field. A special emphasis will lie on the interviews, because they played a central role in the data collection. Lastly, the role of Reconcile International, my host organisation, within this research will be explained.

Main questions

Before going into the field, I started with a broader research question, because it was unknown what type of problems, related to urbanisation and growing pressure, would be found in the town of Yei. Soon after arriving it became clear that land and land disputes are one of the core problems present in Yei nowadays. Thus, this provided the cases for the further research. It shaped my leading questions throughout the remainder of my field research, as well as this report. The questions that will be answered in this thesis are as follows:

How does the increased pressure on the city, due to the civil conflict and urban growth, lead to land conflicts in Yei, South Sudan and how is conflict handling shaped to deal with these problems?

1. What kinds of groups are currently living in Yei?
 - a. How are these groups living together?
2. What are grounds for disputes and conflicts?
3. What type of land disputes occur and how are these issues shaped?
4. What type of conflict handling is used in these land issues?
 - a. Are there actors facilitation interaction?
5. What are common grounds to build upon?

Methods

To find an answer on these questions I spent ten weeks in the town of Yei to collect my data. This took place between May and July 2012. In the following paragraphs I will explain the methods used during this field visit and the effects of these methods. This section does not entail an elaborate discussion of these methods and its results. This can be found in chapter seven, where I will conclude my findings, and reflect on both the findings as the used methods.

In the first few weeks in the field I mainly used exploratory methods, like observation and interviewing key informants. The observations were unstructured and took place in town, to look at the way the town was built up and how people interacted. It is a way to become acquainted with a new environment and to refine the research questions and approach to the current situation (Boeije, 2005). The key informants were around twenty people who were part of the government (national, county and local level) and NGO-officials, both international and local. I also spoke with some representatives of the local communities, thus some church leaders and a Kakwa-chief (leader of a native tribe). With these people I talked about what kind of town Yei is, how it has changed over the past years, and what type of problems do occur. I was

especially interested in the different groups that can be found in town, how they relate to each other, and whether this cohabitation leads to problems. The findings from these interviews can be found in chapter four, where the broader issues in Yei are discussed.

The interviews with the key informants were not totally unstructured, because I already knew the direction of my research. It is therefore more useful to make use of a topic-list, thus make it more of a semi-structured interview. Leaving the conversation totally open can lead to totally unexpected insights and topics, but with limited time it is better to prepare a topic list (Willis, 2006). Not only the time constraint on my side, but also the expected limited time for the interviewed people made me decide this. After a few weeks in the field the approach shifted more towards semi-structured and in-depth interviews on the issue of land. I selected this topic, because many informants indicated this as a field of conflicts and disputes. I therefore expected this topic would lead to good information on conflict handling, also in a broader sense, thus not only related to land issues. The interviews I conducted in relation to this topic were with government representatives and people involved in land conflicts. To get in contact with the people involved in land issues I mainly used the contacts at my host organisation Reconcile International (see following section), who could direct me to people. This was, for the short period of time I was in the field, the most suitable solution, but could have led to a certain bias in the type of people I talked to. This approach also prevented me from talking to people from both sides of the problem, but I am not sure this would be the case if I had no organisation to work with.

Many of my key informants spoke English well, or even fluently, so a translator was not necessary. During interviews with local people who were affected by land issues, as well as during a meeting over land with the Episcopal Church and a local community (see chapter five and six) the used language was either Arabic or a local language, like Bari or Mündü. Also in more daily situations, like going to town or in church, these were the languages spoken and translation was needed. This was mostly provided by my Reconcile colleagues who assisted me, and helped me during my research. This might have led to a somewhat biased translation, but mostly I had also other sources of information, like minutes or other stories, to add to the translation. Not only with the translation, but overall the people at Reconcile were a great help. The following section will be on the role of Reconcile in my research.

Reconcile International

Access can be a difficult issue in these situations, especially when talking about sensitive issues, like conflicts. For this, and practical and security reasons, I was linked to a small local NGO, RECONCILE International (Resource Centre for Civil Leadership). This is a faith-based organisation, founded by the New Sudan Council of Churches (NSCC) and focussed on educating communities and church leaders on peace building and trauma healing, as well as offering mediation in reconciliation processes.

RECONCILE is founded in 2003 and, although it is a South Sudanese organisation primarily focussed on South Sudan, they were based in Kampala, Uganda, for security reasons. In 2006 they moved their base to a plot just outside of Yei Town, where they are still located today. The organisation consists of around twenty staff members and almost as much support staff. Most of the staff lives on the compound and during my stay I also both lived and worked on the compound of Reconcile. Therefore, I had close contact with the people working there. This situation made them an important part of my key informants and a good source of information

on the news and changes in town. They provided me with my first contacts, but gave me enough opportunity to go out on my own and shape this research the way I would like. This made Reconcile a good organisation to work with.

Conclusion

Urban areas in Africa are increasingly of interest for researchers, although small and medium sized cities are still underexposed. This is peculiar, because the majority of people in sub-Saharan Africa is currently living in these areas. The growing urbanisation leads to a whole set of problems, which can be summarized in the term 'growing pressure to the city'. The pressure involves an increase in population, scarcity of resources, and insecurity, among others. Especially in the aftermath of a civil conflict the city can be a centre of renewed problems. It is therefore important to learn more about the dynamics in these places.

Because of the focus on conflict and conflict handling, also the conflict potential in these places is looked at. Threats to identity, insecurity, and lacking resources are at the core of many problems, but also shifting legal structures, and access to land can lead to problems. Especially when multiple, incompatible law systems are in place.

The last focus point of this chapter was the way conflicts can be handled. There are many different conflict handling mechanisms, which range from very reactive and with a low participatory rate, to proactive and highly participatory. These different categories can be used to analyse the way people deal with problems and conflicts between two or more parties.

These theories shaped my research question and also lead to a certain method of research. The main ingredients of the fieldwork were observation and interviews. These methods were the most suitable for getting in-depth information on conflict and conflict handling in this area in a short period of time.

In the following chapters these theories and hypotheses will be used to describe and analyse the situation in South Sudan, specifically in the town of Yei.

3

Study area

Besides good insight in the current theories and in the knowledge gaps, it is important to find a suitable study area. A place to conduct the needed field work to study the before mentioned theories and hypotheses. In this case it was expected that Yei, a small town in the south of South Sudan, would be a proper fit. For a better understanding of the findings a good overview of the history of South Sudan, and the dynamics behind the war is important, because this violent history can be an influential factor in the current attitude towards conflict and violence. The South Sudanese history will be discussed in the first part of this chapter. It will be followed by an elaborate description of Yei Town and its surroundings, to provide a clear insight into what kind of town it is and the type of people you can find there. This will be drawn from the literature and from information provided by some of the inhabitants of Yei. But, first of all, the reason behind choosing this particular study area will be explained.

Choice of study area

The choice of this study area, Yei Town, is a combination of methodological and practical considerations. Firstly, it is an interesting place, because it is the type of town talked about in the hypothesis of small urban areas being a safe haven during conflict, but can be a source of the renewed violence in the aftermath of conflict (Beall et al., 2010). Thereby, Yei is a small town in which many different ethnic groups and people with various backgrounds, like refugees, returnees, and a large group of SPLA soldiers live together (Martin & Sluga, 2011). A more detailed description of the town and its inhabitants will follow later on in this chapter. The diversity in population makes it an interesting site to look into intergroup interactions after conflict. This diversity, in combination with the relative safety and the existing contacts, made it a suitable location for the research.

Background of South Sudan

The Republic of South Sudan is the newest member of the international community, after it gained independence on 9 July 2011. Before that day it was part of Africa's largest country Sudan. To put the development in Yei in a wider perspective the following part consists of a brief history of the country, the current developments, and the legal structures of South Sudan.



*Figure 3.1 East African region
(Source: Hedemann, 2011; modified by author)*

History

The more recent history of the area which is now South Sudan is dominated with two long-lasting civil wars. These conflicts eventually led to the separation of Sudan, but also at least 2 million people lost their lives and even double that amount were displaced (Hedemann, 2011).

The problems are rooted long before independence, even long before the colonial era. It is rooted in a division that originates back to a thousand years BC; from the moment Arab traders came to the area for ivory, gold and other goods. Many of these traders started to settle among the Sudanese population and intermarry. Due to the wealth of the Arabs and the way the Sudanese wanted to identify with this, the country became more Arabic. During the 7th century it became fixed more firmly into the culture, due to the advent of the Islam, which only took place in the north of Sudan. It did not come to Southern Sudan, because, on the one hand, of natural barriers, like the tropical climate, which can be very harsh for those who are used to live in the desert. On the other hand, it was because of the resistance of the Nilotic tribes, living in the north of present-day South Sudan (Deng, 1995).

The modern history starts in 1899, when a colonial intervention led to the Condominium. The British ended slavery and unified the country, but developed a system of separate administration. The North developed along the lines of Arab culture and Islam, while the South developed more like other African nations, with Christian missionary education and Western civilisation as means of modernisation (Deng, 1995). In the 1950s it became evident that the time of colonization in Africa came to an end and also the Brits began to prepare their colonies for independence (Gilbert & Reynolds, 2008), but, despite of the British policy of separate development, there was no protection for the south in constitutional arrangements (Deng, 1995). A first revolt in Torit was the result. Soldiers were protesting against the rapid decolonisation, because they did not want to be left alone in the hand of the north after independence. The Torit rebellion led to much upheaval in the entire south. Many northern officials, working in the south, were killed, also in Yei. More troops came in from the north to Torit and occupied the south. They hunted down those who killed the northerners and killed them. Seventeen people were associated with the killings here in Yei, rounded up in Lasu and were killed there. Some of the troops from Torit fled to Congo, Uganda and Ethiopia¹. Nonetheless, independence was given to Sudan on the first of January 1956, as one of the first African countries.

Two years after this independence a military government took over and a policy of Arabisation and Islamisation started, by the introduction of Arabic as the main language of instruction in schools, and supporting conversion to Islam. Meanwhile the former Torit troops and others in exile formed a political movement, the Sudan African Nationalist Union (SANU), and a guerrilla army, Anya Nya (snake venom). These groups formed the basis for the Sudan People's Liberation Movement/ Army (SPLM/A), which is the biggest party in the country unto today. This was in the beginning of the 1960s, what can be seen as the beginning of the First Civil War, also called Anya Nya I, which ended in 1972, with the Addis Ababa negotiations. This led to more autonomy for the south, but still were they merely excluded from participation in Karthoum, and lacked access to economic activities and the natural wealth. A failure of the Addis Ababa agreement was the result and a new civil war started in 1983 (Johnson, 2006). This war ended in 2005 with the

¹ Canon Clement Janda in a lecture on the history of South Sudan, Reconcile Peace Institute, Yei, 17-05-2012

signing of the Comprehensive Peace Agreement (CPA). This peace agreement paved the way for the long-awaited independence (Hedemann, 2011).

The southern Sudanese population was highly affected by the civil war. The war led to the death of around two million people, four million IDPs (Internally Displaced People) and half a million refugees (Internal Displacement Monitoring Centre (IDMC), 2010). Due to a lack of good monitoring methods and accurate data, these are estimates.

Current developments

After the signing of the CPA the next big step was the 2011 referendum and the following independence. The parting of Sudan and South Sudan took place on July 9. Nowadays South Sudan is a landlocked country slightly bigger than France (figure 3.1), with an estimated population between 8 and 10 million (CIA, 2012; Hedemann, 2011). Due to the long wars for independence the country started with a heritage of poor infrastructure, weak state institutions, violent ethnic divisions and an uncertain political climate. It contains at least sixty different cultural and linguistic groups, who mostly feel more related to their tribe than to the young nation. The main thing that binds them together is their violent past (J. M. Jok, 2011). The high availability of weapons, high illiteracy rates, lack of access to water and child mortality are only few of the major pressing problems the country faces nowadays (Hedemann, 2011).

Thus, although the war ended insecurity remained part of the daily life in South Sudan. The main sources of this insecurity are inter-tribal violence, especially due to drought and food shortage. Also the LRA² (Lord Resistance Army) is responsible for many attacks, especially in the southern regions bordering the DRC and Uganda. Poor governance and incomplete integration of militias in the army add to this state of insecurity.

One of the ways to deal with these problems is to build a stronger government. How this is constructed and which social and legal structures are present nowadays in the country will be discussed next.

Social and legal structures

Due to the long lasting civil war, social order changed and official legal structures were severely damaged. The main remaining source of stability during this years has been customary law (J. A. A. Jok, Leitch, Vandewindt, & Hum, 2004). This type of law is very common in traditional African society and entails traditions, mores, social conventions and rules that are shaped by long usage and acceptance to govern society. It is not only a legal protocol, but even as much a social agreement. It has four primary sources. The first is practice, thus it is something repeated over many generations at the community level. A second source is court decision, statutory, as well as customary courts. It is furthermore shaped by religious beliefs and moral principles (J. A. A. Jok et al., 2004).

Each tribal group in the country has its own system of customary law, which means that more than fifty different bodies of law exist in the country (J. A. A. Jok et al., 2004). The tribal groups and, on the lower level, clans, are headed by chiefs and sub chiefs, and on the lower level by headmen and the elders. Within these many tribes two systems can be distinguished. These are tribes with a central authority system and tribes with a decentralized authority system. The

² The LRA is a militant group originally from northern Uganda, but also operating in South Sudan, the Democratic Republic of Congo, and the Central African Republic.

central authority system can for instance be found among the Zande, Shilluk and Anyuak kingdom, formed around hierarchical structures (J. A. A. Jok et al., 2004). These tribes can be found in Western Equatoria, the east of Jonglei and northern Upper Nile (OCHA, 2009a). Many South Sudanese tribes, like the Dinka, Nuer, Bari and Fertit, have decentralised systems, wherein tribes, sub-tribes, kinship networks, and chiefs play important roles (J. A. A. Jok et al., 2004). As said, these tribes can be found all over South Sudan and are also the tribes commonly found in our study area (OCHA, 2009a).

Nevertheless, the systems have much in common and the differences are mainly in style, rather than substance. This difference can for instance be seen in the fines imposed by the courts, which is cattle in pastoralist tribes, but can be tools, weapons or money in agriculturalist tribes. The most important similarity in the systems of customary law is the prime orientation towards reconciliation and inter-community harmony, rather than punishment. The issues dealt with in customary law in South Sudan are mainly marriage, adultery, divorce, child custody, property, social obligation and procedural issues (J. A. A. Jok et al., 2004).

Logically, over twenty years of war has taken its toll on the power and influence of the tribal chiefs, and all those involved in customary law. The presence military structures, and mass displacement of many, are some of the sources of this decline in power. Nevertheless, the new government tries to reverse this trend, by giving customary law a central role in rebuilding South Sudan in general and especially within the statutory reforms. But this central role is given on paper. In practice the reforms take place in a more top down approach, which leave the chiefs without training or resources. Thus, a good step will be an official, legal recognition of the powers and jurisdiction of the chiefs, as well as capacity building at this local level (J. A. A. Jok et al., 2004).

This last point, on the interplay with the statutory laws, brings us at another aspect of South Sudan's legal structures, namely the official government. Since the signing of the CPA and the independence there are still many difficulties to develop a functioning and democratic state system and basic services (McEvoy & LeBrun, 2010). Before these difficulties are elaborated on, we first turn to the basic build-up of the official governmental structures.

The government in South Sudan consists of three layers. The top layer is the Central Government, which is based in Juba. The second is the State Government, and governs each one of the ten states of South Sudan, based in the state capitals. Each of these states is split into counties which are headed by the County Governments³. These are the main governing bodies in South Sudan, but the countries are also split into further administrative sub units. Each country is made up of several payams. A payam is headed by the payam director, who is linked to the SPLM. His task is to oversee three separate bodies: the legislative, the executive and the judicial. Each payam is further divided into four to six bomas. The boma is similar to the village level. In some case it can be further split in sub-bomas. The boma has two leaders, a traditional chief, advised by elders, and the boma administrator, which is appointed by the SPLM (Branch & Cherian Mampilly, 2005).

This decentralisation into payams and bomas was institutionalised by the SPLA/M, and was especially necessary for the SPLA/M leadership to get support from the non-Dinka's and to gain

³ Interview with Canon Clement Janda (25-05-2012), senator in the Council of State.

national and international legitimacy (Branch & Cherian Mampilly, 2005). The SPLA/M played, and still plays, a huge role in the way state institutions are constructed after the signing of the CPA. They were prepared for this task after running many local administrations in areas under their control during the civil war. Those who opposed, or in other ways are not part of, the SPLA/M felt excluded (Baas, 2011). Also, many ethnic groups, like the smaller ones in the Equatorial region, see the SPLA as being Dinka dominated. To prevent further conflict in the South it was therefore important to grant access for many tribes to the political apparatus (Branch & Cherian Mampilly, 2005).

Problems with the Government of South Sudan (GoSS) are widespread and mainly centred around fraud and corruption. These are major problems which lead to poor service delivery, negative attitude and sepsis towards the state, and a setback in building functioning governing institutions (Baas, 2011).

A last important aspect in the governing of South Sudan is the NGO presence. Health, education, infrastructure are some of the core tasks of any government, but in South Sudan it is mostly taken care of by the enormous amount of NGOs at work (Branch & Cherian Mampilly, 2005). Although the SPLM and local administrators are taking care of the coordination of the work, the funding and executing of the tasks are still in foreign hands. There is a great need for this work, but in the long run it can undermine the construction of reliable and functioning governing structures. It can also lead in a decline in services when the NGOs are leaving the country, but the government does not have the resources or knowledge to take over (Mailer & Poole, 2010).

In sum, South Sudan has two main legal structures. One is the customary system, which is headed by chiefs and elders, who rule according to tradition and customs. They are challenged by displacement and 'foreign' influences. They are also more and more integrated into the other structure: the Government of South Sudan. This is made up of four layers; national, county, payam and boma level. They are challenged by a vast Dinka (large tribe in South Sudan) presence, corruption and lack of funds. Other institutions of importance are the NGOs, who execute many of the traditional government tasks and are heavily involved in the development of the country. This elaboration on the integration of this customary and official law and structures is something already seen in the previous chapter, when legal pluralism was discussed. For a better understanding of the situation in Yei and the findings of this research it is good to understand these processes in the rest of South Sudan. After this elaboration the nationwide structures, we now turn to the specific study areas, Yei, to look at the way these structures are shaped over there.

Background Yei

For the study area of this research you have to travel to the far south of South Sudan, to Central Equatoria State (CES). This state houses the country's capital, Juba, as well as the town of Yei.

The state was formerly made up of four counties and twelve payams, but nowadays, after some administrative reforms, there are six counties (figure 3.2) and 45 payams (OCHA, 2009b). The research took place in Yei River County, in and around Yei Town payam⁴.

⁴ In the following report I will refer to Yei Town Payam and its bordering payams, which together make up the urban area, as 'Yei'.

The following paragraphs contain a short history of the area and the town, as well as the current developments.

History

Yei is named after the river that flows through the county. It was known as *Yöi*, which means ‘going without well-known destination’ in the Bari language, because the inhabitants did not know where the river came from or went to⁵. Yei is originally home of the Kakwa tribe (OCHA, 2009a), but also of other tribes who live in the surrounding areas, like the Müdü, Avokaya, Bari and Pajulu. It developed as an administrative centre from early on, because it lays on various important trade routes. The Belgians used it during their colonial period as a stopping point on their way from Aba (DRC) up north in the direction of Juba. It is also on the route to the east, to Maridi, and to Uganda in the west. This led to the development of Yei as a multi-ethnic hub from early ages.

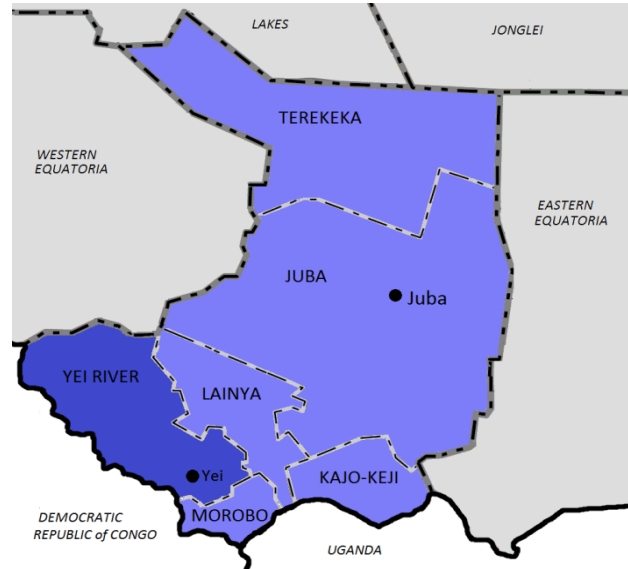


Figure 3.2 Counties of Central Equatoria State (Source: OCHA, 2009; modified by author)

In 1978, the administrative boundaries were established and at that time only 15% of the population originated from town itself, of which a majority were Kakwa. 70% came from the wider Equatorial area, 5% from other parts of the south. 10% were northerners and foreigners. The majority was working in agriculture, one fifth were soldiers and about as many were entrepreneurs. Due to this diversity and prosperity the town was also known as ‘Little London’.

People from Yei were engaged in the first civil war, but the war itself did not reach town until 1985. From that year on the Khartoum government took control of the town, which lasted more than a decade. The rural areas in the surrounding were still in hands of the SPLA. They took control of the town in 1997, and made it the military headquarters. This brought many soldiers and their families from all over southern Sudan to the area. Because of all the years of fighting much of the town was destroyed. After the soldiers many other people came to town. People returning from refugee camps in DRC and Uganda, Congolese refugees, IDPs from all over South Sudan and other are part of the on-going growth of the town (Martin & Sluga, 2011).

It is believed that the town’s population tripled since the signing of the CAP, now possibly as high as 185,000 people, but, like the rest of South Sudan, there is a serious lack of reliable data on demographics (Sluga, 2011). The data that is available is listed in table 3.1. In the African context Yei can be seen as a small or medium sized urban area, seen the population figures, the level of services and the governmental layer. Within South Sudan it is one of the largest urban areas. Some state capitals are about the same size, only the capital city, Juba, is significantly bigger. Juba has a fast growing population. It had an estimated population of 250,000 in 2005, which doubled to nearly half a million in the next five years (Martin, 2010).

⁵ Interview with Richard Lugala Godo (26-06-2012), office manager of the County Commissioner. the urban area, as ‘Yei’.

As said, the town has a very diverse population. In general it can be divided in four categories. The first group consist of original inhabitants of Yei who stayed during the civil war. They remained in the area, and have not fled to other part of the country or abroad. Therefore they are generally called *stayees*. It is unknown how many people belong to this particular group.

The second group are the IDPs, who were displaced during the civil war and settled in Yei (Sluga, 2011). This group comes mainly from the northern regions, like Warrap, Lakes, Northern Bahr el Ghazal and Upper Nile. During the last official research, in 2005, around 8500 IDPs were living in Yei payam. Since then there has been no assessment of IDPs, but it is believed that still approximately 7000 are staying in the payam (Martin & Sluga, 2011). Due to relative safety in the area and resettlement programs the number has not risen.

The third group consist of returning refugees who are originally not from Yei, but decided to resettle there. This is quite a large group, because of the prospects of better work and services in the city. Due to the early liberation of Yei by the SPLA in 1997 and the location near the border sparked economic recovery earlier than in other parts of the county, and thus attracted a large group if resettling refugees.

The last are returning refugees who are from Yei originally (Sluga, 2011). Also the military presence is still an important part of the Yei population (Martin & Sluga, 2011). Other smaller groups in town are Ugandan traders and Congolese refugees, who fled the LRA violence. Of the latter group most are living in the official refugee camps around Lasu, a town in the southern part of the county, bordering the DRC.

Year	Yei County	Yei Payam	Yei City Boma	Source
2004-2005	150.050	39.470		The New Sudan Centre for Statistics and Evaluation (NSCSE)
2008	201.443			5 th Sudan Population and Housing Census, 2008
2008		274.475		Chief's Survey in 2008 Census
2009	427.140	289.211	185.013	Southern Sudan Relief and Rehabilitation Commission (SSRRC), Yei
2010 (Feb.)			~172.000	GFA/ Gitec
2010	~400.000	250.000		Yei River County

Table 3.1 Available population figures for Yei County from 2004 to 2009 (Source: Sluga, 2009; YRC, 2012)

Current developments

Yei Town payam is divided into six bomas; Yei, Rwonyi, Gimunu, Minyori, Pakula and Jansuk. These are all headed by an executive chief who are, together with one head chief, assisting the Payam administration. The main activity in the payam is agriculture. People cultivate many different crops, like maize, beans, millet, cassava, bananas, mangoes and much more. People also keep animals, like goats, sheep and poultry. Due to influences from other tribes more people are also keeping cattle. According to the County report the security situation is under control since the independence. Only LRA (Lord's Resistance Army, a militant group) movement is reported along the Yei-Tore border, which causes more insecurity in the county (Yei River County, 2011). More on the overall security situation will be discussed in the following chapters.

The presence of many international and local NGOs is also contributing to the development of the county. They are responsible for most of the schools in the county, and also play an important role in the health services, agricultural development, and water and sanitation. Although the county government has a specific department who should act as a link between the Government and the NGOs, good coordination is often lacking and NGOs depend, according to the local government, too much on foreign employees, instead of recruiting local personnel (Yei River County, 2011). This leads to the question what the consequences will be when many NGOs pull out of the area and hand over their activities to the responsible government department.

Conclusion

It is clear South Sudan had undergone major changes in the past decades. Intense civil war and the following independence shaped the country and its people. This can also be seen in the study area, Yei, where displacement and military settlement changed the face of the town, which already had a multi-ethnic character.

This multi-ethnic character, together with its rapid growth, due to conflict induced migration and the good economic prospects, makes it an appropriate study area.

Against this background the research took place and is of influence on the way people deal with conflict and difficulties. In the following chapter a broad overview of the current security situation and the possible grounds for conflict will be given.

4

Conflicts in Yei

In the theoretical framework, in chapter two, one of the described hypotheses was that during war time, and civil conflict, towns and cities are often places of relative security, and a safe haven to flee to. Possible consequences are processes of rapid urban growth, many socio-economic changes and major population fluctuations. Although the city has a function of safe haven during war, these consequences of growth and change can eventually, after the war ends, build up to a decline in urban security. This is the hypothesis posed by Beall et al. (2010), based upon research in Colombia and India. Then the question remains: how does this hypothesis relate to the situation in Yei? During the civil wars that struck South Sudan, Yei was, as seen in the previous chapter, a relatively safe place, but how is the situation after the peace agreement is signed and the independence is gained? What kind of problems do the inhabitants of Yei face nowadays?

Conflicts are always interlinked with other events and nested in a certain context (Jeong, 2008). Thus, to understand conflicts and conflict potential in Yei, I will start the research by looking at broader developments related to the current security situation, and possible conflicts. This is because the overall feeling, and experiences, of (in)security are a good indicator of the context of conflict. The main focus will be on how this situation leads towards a form of competition, because this is at the base of each conflict (Jeong, 2008).

This chapter is built upon different sources of information. The first part consists of a brief overview of available literature, considering conflicts in Yei. The next section, which is the main part, will contain the narratives of government officials, NGO workers and others who shared their experiences and expertise with the town and its problems during my field research. This chapter concludes with my personal experiences and reflection on the circumstances in Yei Town and the surrounding payams.

Tensions in Yei according to the literature

Although Yei is, according to the County Commissioner of Yei River County, a place where several studies and researches took place⁶, there is not much to be found in academic writing on the current situation in and around town. Some of the few papers is by the researchers Martin and Sluga (2011), and Sluga separately (2011). In their studies on displacement and urbanisation they give a brief overview of the various security threats in and around town. It is not an absolute picture, because they are mainly focussing on problems that relate to displacement and internally displaced people (IDPs), but they give a clear overview, which is very useful in the scope of this chapter. Also their elaborate research and the way it connects with my own findings makes is a reliable source of information.

⁶ Interview Hon. David Juma (June 19th 2012)

The research conducted by Martin and Sluga took place in the autumn of 2010, with a follow up in March 2011, to take into account the dynamics following the referendum on independence. The main problems Martin and Sluga find in Yei Town are comparable with the situation in other South Sudanese urban areas, like Juba. The most important problem is a rise in violence and insecurity, of which especially criminal, ethnic and domestic violence are growing problems. Criminal violence was a problem throughout town, due to armed robbery and burglaries, mostly along the roads and around the markets. Traders are forced to sleep in their shops to protect their merchandise. Also the *boda boda* (motor taxi) drivers are common victims. Youth without a job or education, as well as youth gangs, are pointed at as the perpetrators of this growing violence. Also soldiers and policemen, who believe they do not get enough salary, are a source of disturbance (Martin & Sluga, 2011).

Other problems arise due to ethnic tensions. Yei is a multicultural town, and has been for a long time, because of its location near the borders and along trade routes. Also the settlement of the SPLA headquarters in the area induced a flow of newcomers (Sluga, 2011). In spite of this long history of multi ethnic cohabitation an increase in ethnic divisions occurs. The reasons behind this are, according to Martin and Sluga (2011), a scarcity in water resources and basic services. In the report it is not mentioned what the reason behind this scarcity is, thus whether it is because of a growing amount of people or due to a decline in the water resources, or another reason. But the consequences are clear: this lack of elementary needs jeopardizes integration and already leads to an open discrimination of some groups, especially Dinka and Congolese (Martin & Sluga, 2011).

A third field of problem is domestic violence. This is not only an urban problem, but it is prevalent throughout the entire country. The mentioned reasons behind this are the low status of women, early marriages, and drugs and alcohol problems (UNHCR, 2011 cited in: Martin and Sluga, 2011).

A factor of importance in all these fields of conflict is the high concentration of small arms among the population. As a result of the war many people have access to weapons and easily turn to it in case of a problem. This, in combination with a government that like to act if there are no problems, can lead to dangerous situations (Martin & Sluga, 2011).

Talking about conflict in Yei

In the previous part it became clear that Yei undergoes growing problems of violence and insecurity. In the following section the focus will turn to the narratives of the inhabitants of Yei themselves, the way they perceive the problems, and the field of problems they indicate. The interviewees were primarily directors of local NGOs, church leaders and government officials, thus not the average town dweller, but certain more knowledgeable inhabitants.

As mentioned in the methodological part of chapter two, I have interviewed around twenty people. A quarter of them represented local NGOs, a similar amount was linked to the local or county government, one was part of the national senate, and another represented the Kakwa-community. Furthermore I spoke to someone of an INGO and also my colleagues at Reconcile, the local, as well as the international employees, provided me with much information.

Ethnicity

On the question what kind of town Yei is, the majority of the interviewees starts by pointing out that it is a place with a diverse population. Some use the word cosmopolitan or melting pot, but everyone points out the enormous diversity in tribes and nationalities. Often it was ensured that all the tribes of South Sudan can be found within the town of Yei, as well as people from the neighbouring countries, like Ugandans and Congolese.

Many of the respondents indicated that this diversity of people does not generally lead to problems. The original inhabitants of the area are named 'welcoming people' and 'peaceful'. In one of the interviews this was linked to the environment, thus the fertile soil and the good agricultural possibilities, which have a positive influence on the people. Also the culture, that binds people together, and a strong fear in God were named as reasons for this peaceful attitude.

A likewise story can be found in the official County reports: "*The local inhabitants of Yei Town Payam consist of Kakwa and all the tribes of the South Sudan are residing in Yei town Payam due to its commercial position. [...] This tribe intermarries with various tribes in the town and they live in peacefully co existent with each other without waging wars for years up to this day (Yei River County, 2011)*".⁷

Although this portraying of Yei as a quiet and peaceful town is heard in every conversation, and the reoccurring theme the good coexistence of these many tribes and nationalities in town, it was soon becoming clear for me that the situation is not always that good. When asked, people can also tell a lot about the other, less peaceful, side of Yei. Some issues are discussed openly and it seems that every question can be asked, but other cases were more sensitive and less out in the open. An example of the latter is the case of ethnic division. Some mentioned 'one tribe causing problems'; 'different cultures with negative influences'; or 'the dominant tribe in the army, who feels they can do anything'. Although this appears to be an interesting contradiction, it became clear it was not something people liked to talk about openly. As one NGO official stated: "*Some are afraid to talk about this, because these [...] are influential people...*" This feeling was also sensed in several other interviews. I tried to talk about these issues with people more close to me, but even then they were not willing to talk about it. I therefor stopped pursuing this line of asking questions.

People hinted at problems, but where reluctant to dwell further upon this issue. Where this reluctance came from was somewhat unclear, but other interviews pointed in the direction of fear of reprisal. I also noticed another contradiction in the interviews, especially about the 'dominant tribe in the army'. It remained unclear which tribe was meant by this. Especially because I was explained the army uses a certain system that rotates the different units in such a way that people are not longer than two years stationed in one place. According to an immigration officer, who was also part of this system, this was to prevent them from getting too settled in one place, lose their objectivity, and are more likely to favour some. It is still possible that a certain group is overrepresented in each unit of the army, but this is something I do not know.

⁷ Yei River County's Departments & Payams activities, Achievements & Challenges Documentation (2011) (a report from all the five separate payams of YRC about the general situation, government activities and challenges faced. It was provided to me by the YRC information officer)

The coming of new people to town: other tribes, but also returnees who have experienced the world outside of Yei Town, gave also rise to a new set of problems, besides ethnic tension. One interviewee mentioned the coming of (youth) gangs and increase in prostitution. This was also briefly addressed by Martin and Sluga (2011) who said that, according to the inhabitants of Yei Town, prostitution was becoming more of a problem, because of a growing amount of foreign commercial sex workers, mainly from Congo and Uganda. They also mention the gangs, who are accused of being behind the growing problem of criminal activities in other urban areas in the country, and are now also violently active in Yei. One of the respondents said that gangs are coming up, because young ones are exposed to different attitudes and a lack of opportunities.

Pressure on the city

New comers from all over South Sudan, Congo and Uganda, returnees, IDPs, and stayees; together they form a growing group of people, trying to make a living in the same place. As seen in the previous chapter it is believed that the population of Yei has almost tripled since 2005 (Sluga, 2011). This enormous population growth often leads to a growing pressure on the city, a process seen in many other urban areas. Although this pressure is part of a normal process, it can lead to various inconveniences and problems, something that is mentioned and experienced by many. In Yei the growing pressure is mainly experienced in the cases of water and land. Therefore those will be explained and described further in the following.

Water scarcity

First we will turn to the issue of water, because one of the most pressing problems in and around Yei is water scarcity. Before the war Yei and its surrounding areas were seen as the breadbasket of Yei, because of their fertile soil and good rainfall (GTZ, 2010 cited in: Martin and Sluga, 2011). Although the area is still seen as one of the most fertile places in South Sudan all five payams in the County report an 'inadequate access to safe drinking water'. The reasons behind this shortage are, according to the same report, an increase in population, a lack of maintaining the existing boreholes, and not drilling enough new ones. Especially during the dry season this water scarcity can be a pressing problem (Yei River County, 2011).

This problem was also mentioned by most of the interviewees. They also spoke of the consequences of the water scarcity. According to them it often leads to discussions and quarrels among woman at the boreholes. Mostly it starts with a small argument between the women, who are fetching the water. When they cannot settle the issue, or the tension rises, their husbands, or other family, gets involved, and it became a more public issue, which sometimes leads to quarrels between families or even clans.

Land disputes

Other consequences of the increased pressure on the city, which were mentioned in the interviews, were population growth or even 'overpopulation'⁸. This can be seen in the absence of enough plots to house everyone, crowded hospitals and a lack, or shortage, of other basic needs, like food and education, to serve all the inhabitants. The problems concerning land were mentioned the most in the interviews. This was considered the most pressing problem in town these days. It involves many issues, like demarcation, border conflicts, differences between returnees and new comers, land grabbing⁹, and many more.

⁸ Term commonly used by interviewees to describe the issue.

⁹ Idem.

This makes land one of the most complex sources of conflict in Yei. Many people and institutions in and around town face problems because of the land they are using or want to use. Due to legal pluralism, power differences and use of violence these issues can grow into serious conflicts. This multifaceted character made it a good case in the scope of this research. Therefore I choose to zoom in on this issue in my research. For this reason I will not further elaborate on this topic in this chapter, but continue on in the following chapters. Firstly I will turn to some other ground for conflict mentioned by the interviewees.

Marriage and domestic problems

A fourth category of the mentioned problems in Yei are in the domestic range. Marriages, and especially the dowries, are a growing problem throughout South Sudan. Mainly among the cattle keeping tribes, for instance in the eastern province Jonglei, this is a huge problem. This was reported repeatedly to me by people from Jonglei, who were visiting Yei for a short period of time. They explained that because the prices of the dowry are rising young boys are not able to get enough cows to marry, which leads to cattle raiding and sometimes even the use of violence. Also people from the Equatorial states and Upper Nile mentioned a rise in problems due to dowry. The situation in Yei is not that extreme, because there is not a native cattle keeping culture, but the influx of people who keep cattle also influences the marriage market. As said earlier, the YRC report (Yei River County, 2011) mentions the possibility of intertribal marriages, but, as one NGO official explained, it is difficult for an agricultural boy to marry into a cattle keeping family, because it is not possible to meet the demands of the in-laws. In general, the worsened economic situation makes the marriage process more difficult.

Also cultural change influences the position of marriage. Due to the war and external influences customs and traditions around marriage changed. Girls get pregnant without being married, or boys trying to marry a girl without permission of her parent, are just some situations that can lead to conflicts between families. Although these issues are not only topical for Yei, the specific multi-cultural aspect of town is of big influence of the changing traditions and attitudes that bring difficulties in marrying and married life.

Corruption and the government

A last set of problems that were mentioned is on the side of the government. Many of the interviewees, both from NGOs and the government, talked about the growing problem of corruption and, related to that, a poor service delivery. It was also a reoccurring theme in the daily conversations with people in Yei. Indicators mentioned were the lack of good service in the government hospitals. Although they have to help everyone, it was said they will not help you if you do not have the sufficient means to pay.

Another pressing problem, especially when the raining season was starting, was the quality of the roads. With the first heavy rains much of the roads washed away and resulted in many potholes and deep ditches. The poor condition of the roads leads to dangerous situations for all users. The county commissioner told me there was a plan to collect special taxes to fix the roads, but at the same time some others shared with me their reluctance to pay these taxes, because they questioned whether it would be used for the roads, or the money would just disappear. In the YRC report the existence of some corrupt administration is mentioned, but at the same time the lack of means to sufficiently address this problem (Yei River County, 2011).

Another issue on the side of government officials is a form of human rights violation. One NGO official mentioned that sometimes people are arrested without proper warning or explanation and are imprisoned without fair trial. According to this informant this makes people afraid and more suspicious of the government and the instances that are there to protect them.

Although this is a complicated and far reaching problem, it is beyond the scope of this research to discuss this more in depth. Therefore I will turn to the last type of problems mentioned by the interviewees.

Use of violence

This last type of problems is the use of violence. Many of the informants mentioned that killings are also an emergent problem in town. One person indicated that it is not something that happens frequently, there can go months without killings, but in the month previous to my fieldwork (May 2012) they had even two murders. Although I did not have access to accurate data, thus proof whether it is a normal figure or a growing trend, the way people talked about it indicated that it was a new phenomenon and something they were worried about. One explanation can be found in the way they portrayed Yei: as a peaceful town, and the tendencies they see outside of town: increasing violence and use of small arms. It can be the inhabitants of Yei thought of this type of violence to be something that happens in other areas and they are worried it also becomes a big problem in their own town.

In the interviews it also remained unclear whether the killed people were random victims or targeted. In combination with the information from other interviews it became clear that both types of killing occur in Yei. In some cases it is part of a robbery, which is not targeted at specific persons, but there are also known cases that the killing is part of a prior problem, like a dispute between two families. Thus, killing can be seen as one of the ways to settle problems. This often leads to more difficulties, due to revenge by attacked families. It also feeds a general feeling of insecurity. More on the use of violence will follow in the chapter on conflict handling, which is chapter six.

Experiencing conflict

Not only did the literature and the interviews provide a lot of information on the security situation and the ground for conflicts in Yei, also the experiences and observations obtained during the field visit add to the picture. Thus, to further complete this chapter, a personal reflection on the above mentioned issues will be given.

First of all, during the stay in Yei no personal insecurity was experienced. I could walk the streets freely and people were friendly and open towards me. This does not mean that nothing happened during my stay. The official news broadcast did not provide much information, stories were told and news spread rapidly about fights, a killing and attack. In this section I will elaborate on that.

Since the field visit was executed during the rainy season, water scarcity was not an issue. People were feeling more insecure about other scarcity issues, like food security, because the prices on the market were rising rapidly. I was told this was mainly due to a lack of foreign currency. Although Yei is a fertile area, where a wide variety of crops can be planted, they are still depending a lot on foreign trade, from Uganda and DRC, because of destroyed infrastructure,

land mines and lack of means to cultivate. Thus, a lack in foreign currency and rising prices directly resulted in problems for many people to buy sufficient supplies for their families.

Something else that happened during the stay was a disagreement that led to some troubles in the meat sector. Two groups of traders started fighting on a Saturday afternoon. The clash started due to a disagreement between two communities, the Dinka Yirol and Mundari, about their cattle trade with Uganda. The Dinka Yirol is a tribe not native to the area, but is a big part of the IDP community. They are from the north of the country and cattle keepers. The Mundari are originally from Central Equatoria State, thus more native to the area.

During the fight one person was killed and three hospitalized. The entire meat market was closed off and selling and buying meat was illegal for a short period of time, until the issue was solved by the authorities (Loro & Agoth, 2012). This is an example of the growing tensions in town, due to newcomers and foreigners, although it remained unclear whether it was only tension due to business differences or an expression of broader issues between the two communities.

Thus, although not directly experienced by me, problems and violence is present in Yei. News about fights spreads rapidly, but official news channels do not provide much information about what is happening. I had the feeling my observations and perception of security is in line with the provided information in literature and interviews.

Conclusion

Yei is often described as a quiet and peaceful place by the governments and its inhabitants, but is it as calm as said or is there more to it? The arrival of newcomers from all over South Sudan and its neighbouring countries, together with returnees, has an impact on the town and the people. This is one of the reasons of the growing pressure on the city, which can lead to scarcity. The new tribes and returnees also bring other traditions, values and beliefs, in to town, which alter the place and leads to conflicts, both in the domestic sphere and beyond. It is not only these changing cultures that bring problems. Also the corruption in the government and the related poor service delivery, population growth, and the major changes in the country over the last couple of years, puts a pressure on this town. It is difficult to say how the various issues discussed here intertwine. It is likely to believe that the use of violence and ethnic tensions can influence how people deal with for instance scarcity issues. But in the literature, as well as in the interviews, it did not become clear how influential this was and what the relations are. Of course, some of these issues, like the use of violence and the role of changing traditions and beliefs, will come back in the analysis of conflict handling, in chapter six.

The issue in Yei most of the interviewees have put forward are the various problems concerning land. This is one of the reasons I decided to focus my further research on this topic. I believe it will provide a good case to find out more about conflicts and conflict handling in the town of Yei. The following chapters will therefore be an elaboration on land issues and related conflicts.

Land issues in Yei

In the previous chapter, a broad overview on the different sources of conflict was given. Ethnic tensions, scarcity, population growth and domestic issues are all possible sources of conflict in and around Yei town. Another often mentioned issue is that of land. Land leads in many different ways to conflict in this area and will therefore be used as the main case in this thesis to analyse the ways people deal with conflict.

Analysing conflict is an important activity for various reasons. It is useful to determine root causes, to prevent further problems and, in the end, to determine a suitable response to the situation. To do this the analysis focusses on the involved actors, their motivations and values, the 'fault lines' and the way the conflict unfolds (Reconcile Peace Institute, 2012). There are many different way to analyse a conflict, for instance with a 'tree model', which is mainly useful for unravelling the root causes, and mapping methods, which are used to illustrate the scope of a conflict. Thereby it is also important to look at the several phases a conflict has gone through (Jeong, 2008).

In the analysis of the following cases several aspects and indicators will be used to give an as elaborate and complete picture as possible. The conflict history, the involved actors, their issues and the conflict dynamics will be discussed. These aspects are based upon different conflict mapping methods, of which this is the somewhat common basis (Jeong, 2008; Reconcile Peace Institute, 2012). These different aspects consist of different questions which will guide into the direction of a better understanding of the conflict.

Different problems, different causes

During the interviews with key-informants; NGO representatives, church leaders and government officials, I always asked about the situation in town and the problems that arise in the area. During the thirteen official interviews about Yei in general, land issues were mentioned by everyone and at least half of them named this problem first and indicated that it was the most pressing problem nowadays. In Yei land issues are a broad and varied set of problem. The people of Yei encounter many different difficulties in relation to land. This happens on different levels and scales.

One of the most common problems in Yei Town are interpersonal land-disputes. For instance, one person was in exile during the war, and when he came back he found another person occupying his plot. This 'land grabbing', as it is called by my informants, is a difficult problem, due to power differences and fear. Yei was the army head quarter during the second civil war, which meant that many soldiers were stationed in the area, as well as many training facilities. This led to the settlement of many officers and their family. They took a plot of land, because they needed a place to stay and the owner had fled the country. Now these refugees return and reclaim their land. Despite of the law and legal procedures reclaiming land is difficult, because of the people who are mainly occupying it. The country is still ruled by a more or less military

government and, according to some of my informants, those military occupiers see them self as the rightful owners, because they liberated the country and those refugees are cowards who fled when things were difficult.

Another type of land issues are problems concerning borders and demarcation. Yei Town is expanding rapidly, which causes that much forestland that was surrounding town is now disappearing and turning into urban land. This change in land use result in troubles of proper conservation, but also in the way the area is ruled, because it becomes unclear who has the power to rule in these areas. This clash of governance also happens when town expands into the administration of other payams. Therefore there is a sense that better demarcation is needed and the town is working on a new map, that allocates more space for roads, plots, schools, green spaces, etcetera, for a better planned growth of the city. This will probably lead to new sets of problems, because people have built houses on non-demarcated plots, which are now allocated for new developments.

The third type of land issue was mentioned by the commissioner of forestry. He said lately more problems occur due to large scale investment. This can also be seen in other parts of South Sudan. Mainly international investors look for place to set up large scale plantations, for instance for teak and tobacco. Because of a lack of knowledge on the local level, or a lack of information, many communities find their land taken. Therefore some organisations are now working on education these communities more on their rights and are advocating for more transparency in these investments.

In the following sections I will elaborate more upon three different cases of land disputes in and around Yei Town, which are examples of interpersonal and intergroup conflicts, concerning land grabbing and demarcation problems, among others. Hereby a deeper insight of the problems and the involved actors will be given, which illustrates the complexity of the issues and the ways people deal with it. These parts will be descriptive, while the next chapter will give a further analysis, especially on the coping mechanisms. But firstly the way land rules and government in Yei will be explained.

Land rights and regulation

For a deeper understanding of the cases, and land issues in Yei in general, the regulatory foundation must be clear. As already described in chapter three South Sudan knows generally two types of law; customary and official law. In the new set of laws, developed in the transitional phase (after the signing of the CPA, 2005) and the independence (2011), more space is created to integrate

Table 5.1 - Types of land according to the 2009 Land Act	
Public	Land owned collectively by the people of South Sudan, governed by the GoSS. This includes land used by government offices, roads, river, lakes and land for which no customary ownership is established.
Community	Land held, managed or used by communities, based on ethnicity, residence, or interest. Includes land registered in name of a community, transferred to a specific community, and land held, managed or used by a community.
Private	Included registered freehold land, leasehold land, and any other land declared by law as private land.

Source: Ter Heegde, Hilhorst and Porchet, 2012

customary practices in the official laws. One of the legal frames this can clearly be seen in the '2009 Land Act'. This act was intended to provide a clear set of rules. This was needed because

Table 5.2 – Land tenure types according to the 2009 Land Act	
Customary	<ul style="list-style-type: none"> - Used for residences, agricultural, forestry, and grazing. - May be granted for the life of the landholder and are inheritable. - Can be subject to usufruct rights and sharecropper agreements but cannot be alienated. - Allocated by traditional authorities subject to pre- notification of local government authorities and pre- - approval of local government authorities for non-residential land over 250 <i>feddans</i>. (A <i>feddan</i> is an unit of area. 250 <i>feddans</i> is about 105 hectares)
Freehold	Held in perpetuity and include the right to transfer and dispose of the land.
Leasehold	Leaseholds can be obtained for customary and freehold land. Leases can be granted for periods of 99 years or less. Leases of more than 105 hectares of customary land must be approved by two local government bodies.
State land	Unregistered land

Source: Ter Heegde, Hilhorst and Porchet, 2011

the customary tenure systems were highly damaged by violence, insecurity, refugees and IDP resettlement. Unfortunately new problems arise, because the implementation of the Land Act is slow, and processes, especially with regards to large scale land acquisition, lack transparency (Ter Heegde, Hilhorst, & Porchet, 2011).

According to the Land Act, all the land of the country is owned by the South Sudanese, and the Government of South Sudan (GoSS) has the responsibility to regulate its use. They also deal with registration and granting titles, if necessary. In the act three types of land are classified; public, community and private. More on these types can be found in table 5.1.

Besides different types of land, there are also different forms of tenure. These are listed in table 5.2. Although there are many different customary systems within South Sudan, there are some main rules related to land that are the same everywhere. Land which is hold by a community cannot be sold, thus stays within the community. The use-rights are reserved to a household and can be inherited. There are different tenure systems for using the land for residence and farming; and using the natural resources; for instance for grazing and hunting. The formal local authorities are the ones who grant permission to which community the land belongs and has the right to use it. Within the community the local chief is in charge of land allocation (Ter Heegde et al., 2011).

Land registration is done on state level, at the Ministry of Housing, Physical Planning and Development, but further administration is decentralized and happens on county and local level. Therefore there is the County Land Authority, who is the primary party responsible for management and registration of public land, resettlement of people in their county, supporting the local level and connecting with the state level. On the local level the Payam Land Council is responsible. They deal with allocating public land, land demarcation, protecting customary rights, assisting the traditional leaders, and mediating in land disputes (Ter Heegde et al., 2011).

Although there is a clear division of tasks and responsibilities on paper, and many groups and levels are involved, still many problems occur and keep existing. Some of these problems were discussed previously in this chapter, like land grabbing, border issues and large scale land acquisitions. The remainder of this chapter will deal with some specific cases more in depth. With these cases I would like to illustrate the diversity of land issue in Yei, as well as provide a good base for analysis. I am using life histories of those involved in conflict over land to find out how the people themselves think about the conflict, how they give meaning to it, and how they are dealing with the issues.

In the following section three separate cases will be introduced. Firstly, the case of the Minyori and the Episcopal Church, which is the most elaborate case. I choose to discuss this very thoroughly, because of the many layers in this issue, the involvement of different institutions, and the aspect of legal pluralism. The second case introduces Saverio. The conflict he has with his neighbour will show us more about the interpersonal problems that are very common in Yei. Herein, also the role of the chief is a central learning point. The last case is about an intergroup conflict, between two tribes. This introduces the way groups under conflict are seeking for ways to resolve problems among themselves. Also the more customary ways to deal with conflict are highlighted in this issue.

The case of the Minyori and the ECS

The first case which illustrates the land issues in Yei is the conflict between the Minyori, one of the native communities in Yei, and the Episcopal Church of Sudan, Diocese of Yei (hereafter referred to as ECS). In general the problems falls in two of the broad fields of problems mentioned earlier in this chapter, namely land grabbing and border issues. In short: it is a complicated problem over an old title deed, land grabbing and boundaries, between the church officials and members of the Minyori tribe. The problem came to light a few years ago and ever since people discussed about it. Most of the information in the following section is gathered during a recent meeting, which was set up to settle the issue once and for all. It was held on the 29th and the 30th of June, 2012 in the ECS Guesthouse, to provide a forum for each party to explain their case, to discuss in smaller groups and to find a solution that would fit both parties. The matter was raised earlier this year to the payam director who called both in a meeting and suggested that both parties should sit down and discuss the issue within their group. After that they should come together to find a resolution.

Therefor the Bishop of Yei called for a meeting and invited the Bishop of Juba to facilitate. This choice of facilitator caused some argument, which will be discussed later on. It was expected that around thirty people, fifteen of each side, would attend the meeting, but eventually around sixty were present. The group consisted of leaders, chiefs and members of both parties, as well as the County Commissioner, Kakwa representatives, journalists and NGO representatives. The language spoken during the meeting was Juba Arabic. It was translated only to me into English, partly by one of my Reconcile colleagues and also partly by one of the journalists.

Another way to learn more about this case was by informal conversations, during and around the days of the meeting, with members of the ECS land committee, the bishops and NGO representatives. Unfortunately I was not able to talk more to people of the Minyori, because of a language barrier. Thus, their side of the conflict is entirely based upon their statements and questions during the official meeting. After the meeting I was provided with the facilitator's report, which was written in English.

History of the conflict

The start of the conflict dates back many decennia, to the days of reverend Paul Gibson, or Bona Gibson as he was known locally. He was a missionary from the United Kingdom, who was sent to Yei, in 1917, by the Church Missionary Society (CMS). He did not only focus on setting up a new church community and spiritual growth, but he also founded some schools. Together with the ECS he wanted to make Yei the church centre of the area. Therefore they needed a lot of ground to build on.

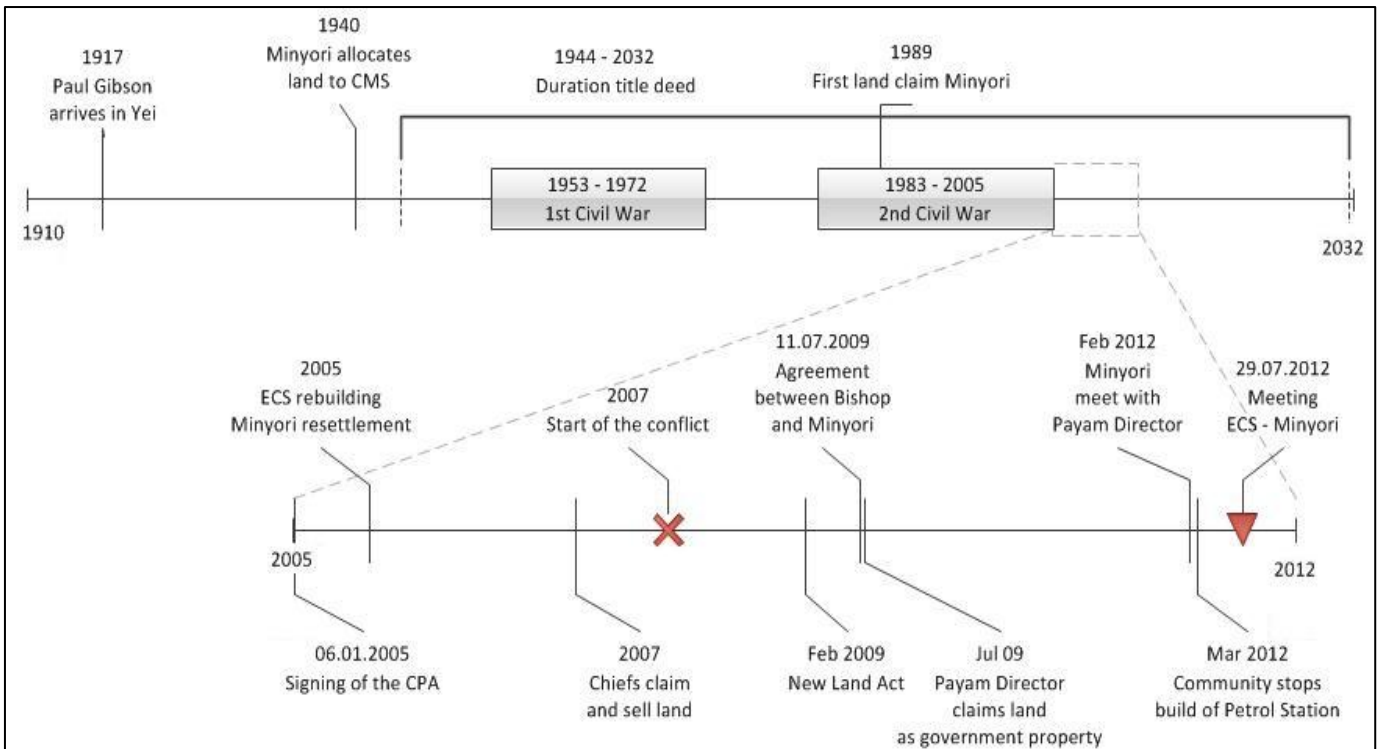


Figure 5.1 - Timeline ECS - Minyori conflict

In the 1940s they reached an agreement with the Minyori community about leasing a piece of land. This plot is located east of Yei Town, enclosed by Maridi Road and Aba Road. In 1944 the British colonial authorities surveyed the land and the CMS was provided an official title deed for the next 88 years. Thus, this title deed will expire in 2028.

Due to the two civil wars that struck South Sudan, from 1955- 1972 and 1983-2005, this title deed and other important documents were destroyed, together with many permanent structures on the land, such as the church, schools, offices, roads and fences.

One of the first signals of discontent about the situation was in 1989. Children of former church employees claimed the land of their passed away parents. Their parents had worked many years for the church and these claiming children were born on the land. Their families had settled on the church land, which was allowed by the church, because they also worked there. And now, although they are not church employees themselves, the children want to keep living in the area and want plots of their own. Thus, they want to inherit the land allocated to their parents. It is not clear to me whether it was an informal agreement with the initial church employees, or these people had official papers to prove they were allowed to live there.

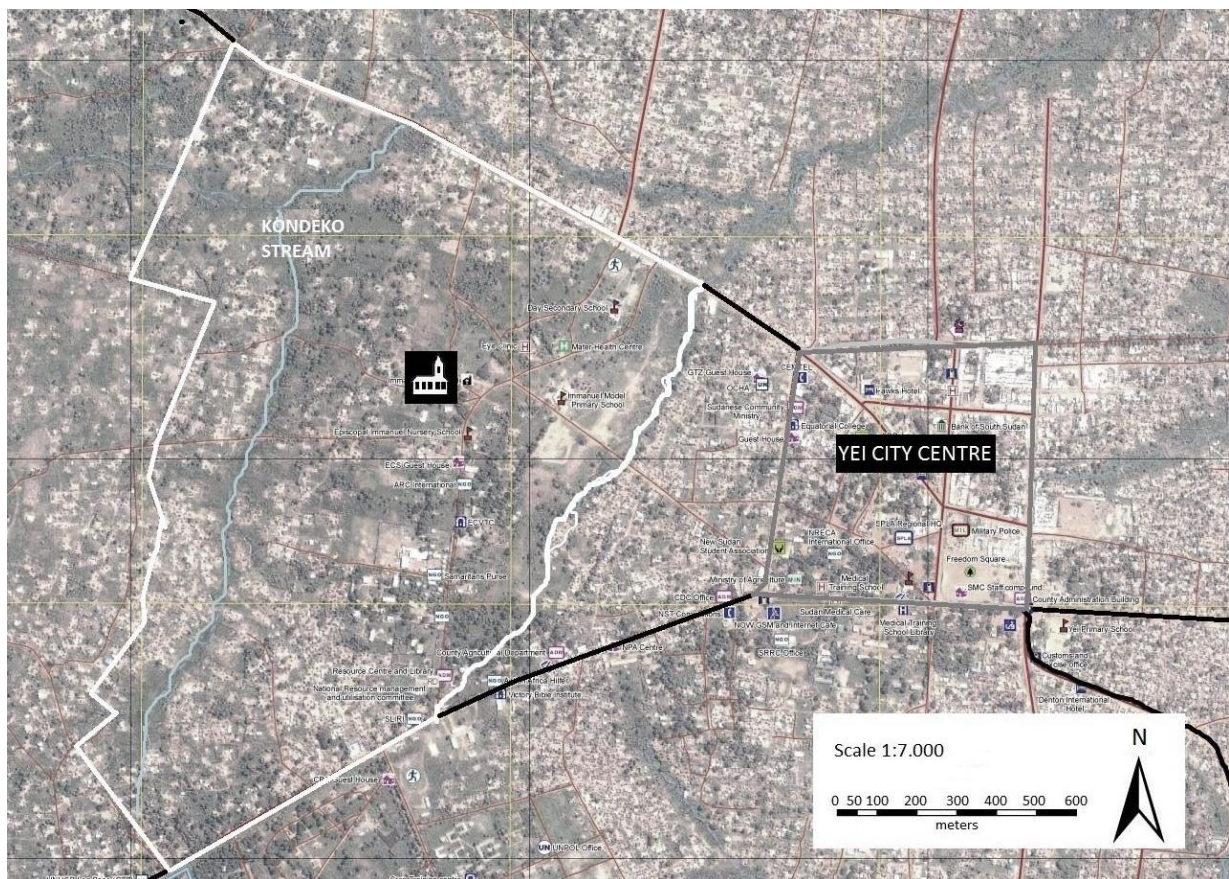
In consultation with the government and the former commissioner these claimants had to be registered and it was supposed to allocate them an own plot. I am not sure this registration had to take place by the church, or the community itself, but this is not very important, because in 1990 the civil war intensified, also in this area, which forced many of these people to flee the country and the process stagnated. The registration and allocation of land thus never took place.

It was not until the signing of the CPA that problems and conflict arose again, although not over the same issue. How the first issue, of allocating land to the descendants of church workers, worked out after the war is not known by me, but we will turn to another problem over the land. Firstly, the conflict parties will be introduced. After that I will continue with the more recent history of the conflict and discuss about the issues at stake.

Conflict parties

Every conflict has different types of conflict parties, also called stakeholders or actors. All the parties can be grouped into three categories; primary, secondary and tertiary parties (Reconcile Peace Institute, 2012).

Primary parties are those directly involved, whose goals are incompatible with the other primary parties. In this case the parties are the different claimants of the piece of land. The most obvious ones are the Minyori and the ECS. They both want something very specific from the same piece of land, but another primary party is the government. The government is involved in a few different ways. First of all, they are the judiciary, but a part of the government is also a claimant, because, if you look at the 2009 Land Act, government rules the land that is not communal or commercial. How this works out will be further discussed in the section on the base of claims. The role of the government can also be seen when some chiefs, enter the stage as part of the problem. In 2007 some of them, on payam level were claiming and selling the land. This was settled in a meeting with the Bishop later on, but it still shows how the government, on a local level, also has a lot of involvement in the land use.



*Figure 5.2 Contested area in the ECS – Minyori conflict
(Source map: UNMIS, 2009; modified by author)*

Besides primary parties, also secondary parties can be distinguished. These are parties that are not directly involved, but have an indirect stake in the outcome of the situation. In this case this is a large group of people who are not part of the ECS, but do use the land. These are mainly NGOs, like Across, ZOA, RECONCILE International and Samaritans Purse. Also schools; like the TTC (teacher training college), BATC (Bishop Allison Training College) and a vocational school;

the radio station SPIRIT FM and ECS related organisations, like the clinic and the guesthouse. These, and others, are all using the land under discussing. Most of them are tenants of the ECS and pay them rent.

The last category is formed by the tertiary parties. These are interested others, who are not involved, but have an interest themselves in a successful resolution of the conflict. In this case these are other tribes and communities, like the Kakwa, the Pojulu and the Logo. They are not directly involved in this particular case, but the outcome can influence similar cases they are in. From the meeting I also learned that they support the Minyori, because they feel close to them and that is also why some of them were attending the meeting.

Issues at stake

After the first claim for land by the Minyori community, in 1989, it took until after the signing of the CPA to reopen the case. The security situation in the area stabilised, the ECS started restoring their buildings and people came back to resettle. In 2006 the allocation of plots, which started in 1989, continued and people started to build houses. A year later some chiefs started to sell church land and claiming it was theirs. How this could happen remained unclear to me, but it could have to do with their traditional influential role, possible absence of the ECS or an institutional vacuum in this recent post-war situation. In 2008 the Minyori chief came to the church to officially claim it as their land. For all the plans and programs the ECS is running in the area the church wanted a quick settlement of the issue. So, on July 11th 2009 the bishop of the Diocese of Yei arranged a meeting with chiefs and sub-chiefs of the Minyori community, county representatives and ECS representatives. In this meeting the issue was settled and the Minyori admitted they should not have claimed the land, for it was given by their ancestors, as argued by the ECS. The next day the Director of Yei Payam made an announcement on the radio that the church should still stop their activities on the land, because, according to him it neither belongs to the ECS, nor to the Minyori, but to the government. It remained unclear for me where this claim was based upon, but it was later on resolved in favour of the church. The chiefs still continued to sell parts of the lands, because they felt entitled to do that. In the meantime the Bishop of Yei called for surveyors to demarcate the church land, to put an end on this practice and to make a clear statement what belongs to their land. Unfortunately, a final map is not yet produced.

Even though there is a clear agreement made in 2009, now, three years later, everybody is gathered again, because the Minyori renewed their claim. According to the chairman of the community, Samuel Asu Samuel, the problem arose again, because the church is extending their land. The Minyori were prepared to respect the agreement, but only as long as the church is respecting the boundaries. That is something that is not happening at this time. The Minyori have a map that exactly indicates the amount of land allocated to the ECS and there is clear evidence the boundaries are violated and the ECS is taking up more space than agreed.

These are the issues that led up to the meeting June 2012. Facilitated by Bishop Enock, of the Diocese of Juba, representatives of the Diocese of Yei and the Minyori community came together to discuss and settle the issue.

Here the ECS raise the point that the land was allocated to them in the 1940s and the title deed is still theirs. They are doing a good thing for the community, by building schools and a clinic and facilitating many more organisations, which everyone benefits from. They need this space to

continue their work and realise their plans. For instance, they would like to build a hospital behind Martha's Clinic, but the plot needed for this is occupied.

Although the Minyori do agree with the fact that the ECS does good things for the community they are still continuing with their claim, because they have the feeling they are not benefiting enough from the land. According to them ECS does not just benefit from their activities, like renting out plots to several NGOs, but is also making illegal profits, by attracting investors to build a petrol station on the land. The profits are illegal, or seen as illegal, because the land was allocated for church related activities, to help the community, not to make a lot of money. This latter case was stopped by the community, because this was not the purpose of the land and the church had to return the invested money to the investor. Another accusation made is that some pastors, like the chiefs, illegally sold some plots of land.

The main issue that brought the Minyori back to the conference table is their accusation that the ECS is violating the boundaries set in the both the title deed and the 2011 agreement. According to a map, made by Minyori leaders, the land, allocated to the ECS, stretches to the Kondeko stream crossing Maridi road. The compounds used by Reconcile International and BATC are clearly located across the stream.

The main point of the Minyori is that they are not against the church as such, but they want to benefit from the land and not lose more land. They initiated the idea to have a same rule as which the oil revenue in areas like Upper Nile. In the CPA it was set that communities that live on land which contains mineral resources, like oil, should be granted a 2% share of the benefit invested back into the community. This is also what the Minyori want, to benefit more directly from the land they own.

A third shareholder that entered the meeting was the county commissioner, representing the government. The government is involved in many different ways. First, they are also placing a claim on the place. This can be seen in the way some of the chiefs that were selling the land, but the government is also claiming in another way which became clear during the meeting. The county commissioner said here that when the verdict is that the ECS is not entitled to use the land, this not automatically means the Minyori get full ownership and authority. This will be in governments hand and it is the task of the Minyori to sufficient proof they are the original community in this place, which will be investigated and assigned by the local authorities, as stated in the land act.

Secondly, the government benefits from the current land use, because of the services provided by the ECS. Schools and health care are actually the primary task of the government, but they lack funds and possibilities to execute this the right way, so they are profiting now the ECS picks up these tasks.

A third stake they have in this that they want safety and security in town, so they profit by a quick and peaceful settlement of the problems.

So, three major parties are involved in the case and are benefiting by a certain outcome. We have seen the reason behind their involvement and interest. The following section will elaborate on the grounds they build their claims upon and which type of legislature they use to back their claims up.

Base of claims

As seen in the previous parts, each conflict party makes a certain claim, which they base upon a certain rule or law, as well as on moral grounds. Due to major changes in the government of the area and a situation of legal pluralism there are many rules and laws to use. In the following paragraphs it will become clearer which different sets of rules are used by the different primary parties.

Firstly, the ECS, who refers mostly to an old title deed from the 1940. This was issued by the British rulers of that time, in cooperation with the Minyori. Due to the civil wars official documentation is lost, but through narratives and witnesses they still see it as a reliable base of claim. Besides this official regulation their claim is based upon, the ECS also implicitly uses moral claims. This can be seen in their referral to the work they do for God and the community.

The second party, the Minyori said in the meeting in 2009 to respect that old title deed, but, according to the Minyori, the ECS does not stick to the borders agreed in this title deed. Therefore the Minyori turn to the Land Act of 2009. This Land Act distinguishes three types of land, public, community and private land. Although most part is, if the title deed is respected, considered private land, some parts, across the Kondeko stream, are, according to the Minyori, community land, and thus should be treated that way.

In the way the Minyori would like to benefit from the land, they are basing their claim upon the CPA. Herein, in the chapter on wealth sharing, it is said that persons or communities who enjoy right in a certain plot of land are entitled to compensation and participation in the extraction of subterranean natural resources (“Comprehensive Peace Agreement [Sudan],” 2005. pp.51-52). In practice, this means that those communities are entitled to two per cent of the oil revenue, which has to be invested in the community. Voices throughout South Sudan call to apply this not only on subterranean resources, but make it broader, so also for instance for large scale farming or forestry, and, in this case, to profits from an old lease. This suggestion made clear that the main thing the Minyori wants is to benefit more from the land. In this statement also the moral claim of the Minyori becomes more obvious. Although they are referring to a certain law, this law is not applicable in their case. The moral claim they thus make is based upon the assumption they are entitled to some benefit.

The third primary party, the government, also bases its claims upon the Land Act. During the meeting on June, 29th, the County Commissioner made clear that a verdict against the ECS does not automatically mean a judgement pro Minyori. In table 1 can be seen that land is publically owner, thus ruled by the government, when there is neither a private claim nor a community claim. Both claims need to be officially established. This was also said by the County Commissioner: *“The community needs to survey its land so that it will not be taken by the government. Having mango trees on the land is not enough evidence to show land ownership.”*

Dynamics

Although the conflict exists now for over twenty years and a previously reached agreement was quickly harmed, the different parties are still able to discuss the matter rather peacefully. After a series of letters and contact with the payam authorities, who advised the church to sit down with the Minyori. As said earlier, this was done in June 2012 led by Bishop Enock Tombe Stephen.

It was the ECS that, upon suggestion of the payam director, called for this meeting, thus choosing a facilitator for their own circle is very easy. But the role of Bishop Enock, who is the bishop of

the Diocese of Juba, raised a lot of questions and discussion. Especially his neutrality in the situation was contested. Also the set up in the room of the meeting suggested an imbalance in power relations. The room was filled with a U-shaped table, with both parties on each side. In front of the room was a table with the facilitator, Bishop Enock, but also Bishop Hillary, of the ECS and another ECS official from Lainya were on this table. This suggested that only church representatives were in charge of the meeting. The issue was raised in the beginning, but no changes were made.

The meeting took two days. On the first day both parties had the time to present their case and ask questions. The second day was intended for group discussions about the main issues raised the day before. The number one issue on the list was the boundary. Also the church institutions build on Minyori land; the way the ECS, Minyori and government will benefit from the land; and the roles of these parties in the light of the 2009 Land Act were discussed.

Although the intention was to solve the issue these days, this did not happen. There was still too much disagreement, especially on the boundary and also benefits to the Minyori community by the ECS needed further consideration. The ECS also needed to consult with the Synod of the Diocese in order to accept the map. So the meeting ended with the formation of a joint land committee to arrange further action and negotiation. The meeting ended in peace with good prospects for the future. Although the meeting did not result in a clear solution, I believe the prospects are good, because of the agreements made and the steps that will be taken afterwards by the different parties, towards their own group, and by the joint land committee.

These prospects for the future are mainly based upon good intentions from both sides. During the meeting some suggested to make it more into a court, which could give a binding verdict. This is at this moment missing. After the ECS has consulted the Synod and the Minyori their community it is likely they will find a suitable solution, but they also reached an agreement in 2009. To prevent this to become a reoccurring issue, I believe a binding outcome, with a clear map and legal binding contracts, will be needed.

Other churches, same problems?

The ECS is not the only church in Yei Town. There are at least six other of which I know, of which I have spoken to people of four other churches. All of these had or have problems over their land. One church found their plot taken when returning from the war. Although I do not know much about the process, they told me they now, as a community, allocated a new plot on their own ground and built a new church. Another church, the catholic parish church Christ the King, has problems similar to the ECS. They also have a fairly large plot with a lot of activities, like a school, a clinic, a leprosy ward and a convent. This land is owned by the government, but is leased to the church for many years. Because of the growth of the town the government wants the land back, to increase the land they have allocated for agricultural activities.

One of the other catholic churches in Yei, St. Comboni Chapel is also facing conflict over the use of their land. This congregation started about eight years ago under a mango tree. Two years later they built a small tukl, a traditional hut, for their weekly prayers. Due to the growth of the community this tukl soon became too small and with their offering and a foreign investor they built a chapel in 2008, which is the chapel they are using today. The problem is that the land they are using belongs to the Ministry of Agriculture, which houses the Crop Training Centre (CTC). The commissioner of Forestry already told about the problems the CTC faces with land grabbing

and chiefs who sell their land to businesses. Now they are fencing up the plot not yet taken. St. Comboni's chapel is also located here. They started here, because it was the only place there was enough room in the area and they expected the CTC to be relocated to more rural areas. According to the catechist of St. Comboni tolerated the CTC them, because all the land belongs to God. He was invited in the office of the CTC director and it was said they could stay for now. They still have to apply for a piece of land at the land committee, to get an official plot. Since this visit there has been no contact between CTC and St. Comboni, but the catechist does not think this will lead to problems. According to him there is not really a conflict, although the Forestry commissioner said that the land grabbing is a major issue for the CTC. This means that the CTC only bothers about business and tolerates the church, or it can be seen as a case of latent conflict.

In sum

Many churches face problems around their land. One of these is the ECS. They are working together with the other claimant, the Minyori community, to work on these issues. Difficult issues are how to work with old, colonial claims, how to interpret the Land Act and how different layers of government work together. Thus, this case is an example of how legal orders shift after independence. New laws are adopted and the position of older orders because vague, especially when proof is lost. Not only the rules are shifting, also the interest and attitudes are changing. People are getting more aware of the value and possibilities of the land, and would like to share in the benefits. This case attracted quite some attention, also from members of other communities, also because of the implications of its verdict. It helps to create more awareness on the new land act, but can also be leading on how people look at the colonial rules. If the verdict is in favour of the community, and thus the old lease is overruled, this will have consequences for other trying to tempt these leases. After following the case for a while, I do not think the old lease will go overboard, because this would be in nobody's interest. Especially after the statement of the County Commissioner, who said the land is not automatically in the hands of the Minyori if the verdict is against the ECS. This showed the interest of the government in the land, and made it even more desirable for both the Minyori and the ECS to find a solution together. They will have to find a settlement for the land east of the Kondoko stream and a financial agreement in the line of the 2%-rule will probably be made. This can lead to new claims to others leasing community land. What is also seen in these cases around churches is that, although serious claims are made, the churches are respected, because of the work they are doing and the level of Christianity in town. The majority of Yei's inhabitants sees themselves as Christians and that has its reflections on how these claims are handled.

Two smaller cases

To further illustrate the diversity of problems around land in Yei two less elaborate cases will be presented in the following sections. The first is about a border issue along Maridi Road, between two neighbours. The second is an issue of competing claims between two families along Kaya Road.

The case of Saverio

Approximately two miles down Maridi Road I met with four elders of the Mündü community. One of them recently suffered some problems over his piece of land. His name is Saverio. I met him for an interview, arranged for me by one of my Reconcile colleagues. Saverio is a community member of this colleague. Saverio met with me under one of the mango trees on his plot. Two of

his community elders, a man and a woman, as well as a younger lady joined us. The four people all were most comfortable to talk in their local language, Mündü, thus my colleague joined me to introduce me to the four and translate for me. Saverio told me the recent history of his family and his plot, while the others sometimes added to this. Although the neighbour of Saverio plays a large role in the situation I was not able to talk to him.

Saverio told me he and his family lived on this plot since 1956. Around that year more people came to this area and started to claim land for themselves. Official demarcation was lacking, but by cultivating the land and digging borders land was claimed and the borders were respected. During the different wars, that struck the county, Saverio and his family fled the area to neighbouring countries several time. After each war they returned and found their plot unoccupied. Sometime they needed to rebuild their houses and repair further damages, but they could always stay in this place. Also after their last exile, which lasted from 1990 until 2002, they could return to their own plot. Still official demarcation is lacking, but the families lives in peace with their neighbours and borders are respected. This peaceful situation changed for Saverio in May 2012.

One evening he walks around his plot, checking his crops and the borders of his land, when he finds out that his neighbour started digging his ground and was also trying to sell some of his land. Saverio confronted the neighbour and asked for an explanation. The neighbour reacted aggressively and started to threaten Saverio. This sudden aggression and land grabbing came out of nowhere for Saverio. The relation with his neighbour was always quite good. They never quarrelled, not about land or anything, and they often went up to each other to talk and to make plans. Thus, it came as a surprise to find that his neighbour digging his ground, and it was an even bigger surprise that his neighbour reacted that violently.

Saverio immediately turned to the chief to ask for a solution. Mediating in this kind of disputes is one of the conventional duties of the chief, although it is not the first party to turn to. It is in the first place the responsibility of the two conflicting parties to settle the issue. When they cannot manage to do that, the neighbours play an important part in helping them to find a satisfying solution. When this fails they can turn to the chiefs. Because of the aggressive behaviour of his neighbour, Saverio turned to the chief directly. The chief decided to come immediately the next morning, because this border issue was escalating in a fast manner.

Therefore, the chief came by the very next morning. After the chief arrived at the plot he started by talking to Saverio. After that he turned to the neighbour to hear his story. When he heard both sides of the dispute he started analysing the problem with the help of neighbours, who served as witnesses, whereupon he stated his judgement. The verdict was that the original borders should be maintained and respected. To invigorate this, the chief brought some wooden poles to indicate the contested border clearly. Both Saverio and the neighbour consented with this decision and so the conflict ended rapidly. Although the verdict of the chief is binding, both the parties have the opportunity to go to an authority superior to the chief when there are not satisfied with the resolution.

Despite the successful mediation, the relationship between Saverio and his neighbour is still damaged. Before the problem of the land they could talk with each other and work together, but now Saverio notices the greeting at not as warm and sincere as they used to be, and he also has the feeling his neighbour does not feel free to express himself and still has a more negative

attitude towards him. This is difficult for Saverio, especially because he did not expect anything like this to happen to him, although it happens more often in the area. During and after the interview the motives of the neighbour stayed very vague to me. From Saverio's account I could not grasp the reasoning behind the actions of his neighbour. From the conversation I got the feeling Saverio himself, as well as the elders, also could not understand why this had happened.

This case illustrates the important role of the chief in this kind of issues. They are easily accessible for those involved and have the authority to make a verdict. Although the people have the opportunity to go to a superior authority, like the court, this does not happen in this case, because the judgement of the chief is respected. Also the importance of the community in this is shown. They are the first contacts in mediation and the prime witnesses for the chief. This case also shows the velocity of escalation. The neighbour started threatening directly and if Saverio had not turned to the chief directly, the use of violence would have been likely.

In short, Saverio took the official legal road to solve this issue. According to his story, acclaimed by the elders who were present at the interview, this was the proper way to solve something like this. Officially you first have to call your neighbours, so they can mediate, but because the neighbour was prone to violent behaviour, Saverio went to the higher level immediately. Also to this case there are some striking points. The first thing that struck me was the aggressiveness of the neighbour. Unfortunately, I only had the chance to talk to Saverio, so I only have his perception of the situation. It is unknown what the motives of the neighbour were, when taking the land. Saverio himself was very astonished, especially by the attitude of his neighbour, because they did not have any problems together in the past. The aggressiveness is thus unexpected and surprising. A second learning point for me was the major role of the chief. Herein the integration of customary and official state institution are integrated. The chief is the first judiciary, and in order to appeal you have to go to court. A last point is the importance of the neighbours. As Saverio said, they had to be the first mediators. Now the chief was the main solving party in this situation and he took up a sort of mediating role and ruled in this case.

In this case we have seen an example of interpersonal conflict and was especially the role of the chief, and thus the customary part of the law, highlighted. Now we will turn to an intergroup conflict, in which the groups themselves are looking for a suitable solution within the frame of the customary rules.

The case of Zakaria

The last case handled in this chapter is the case of Zakaria and his family. They live on a plot of land north of town, around 10 miles Kaya Road. Since some years claims of different families result in conflicts in the area. Together with his family members, Zakaria, a Reconcile employee, tries to resolve the issue and took the time to explain me their difficulties to illustrate the way competing claims impact their lives. Since Zakaria worked at Reconcile, I spoke with him quite often, although not that much about this case. We sat together for an afternoon, while he elaborately explained the situation

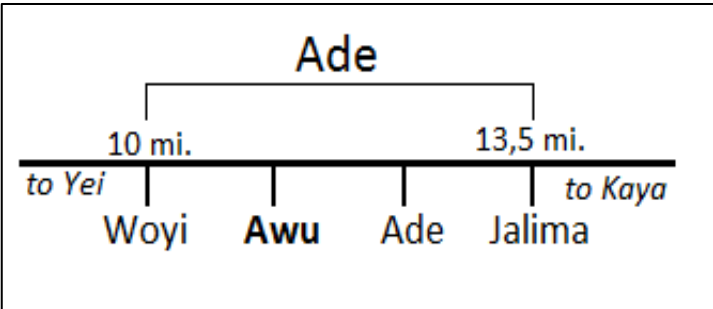


Figure 5.3 Land allocated to Zakaria's ancestors

he and his family were in. Other information was gathered through the accounts of other colleagues who knew more about the situation.

The conflict started in December 2011, when three clans from a few miles down the road came to claim the land of the Longamere, Zakaria's clan. This clan is living on the land since 1922. The colonial administrator wanted to open all the main roads in the area. To clear the road from vegetation and maintaining them the administrator located each chief alongside a stretch of road. This piece of land was for them to live on and cultivate, and they had to clear and maintain the road. Ten to fourteen mile Kaya Road¹⁰ was allocated to sub chief Ade, who divided it between his headmen, Woyi, Awu, Ade and Jalima. These headmen were in control of these meters and allocated it between the communities and families. Zakaria's family was placed on the land of Awa and living there ever since.

Halfway the 1930s, the ruling sub chief mistreated some people and was put into prison. A new sub chief was elected, but soon afterwards killed during hunting. The people had to elect a new sub chief, but, because of what happened to the previous sub-chiefs, they feared the position. They decided to elect a nephew from another area. He had a bad relationship with his people, so he was willing to come. He asked for a plot for him and his relatives and it was granted to him as long as he was sub chief. Through intermarriage more and more people came to the plot of land of this nephew. The elders try to stop this influx of people and asked them to relocate when this nephew was not sub-chief anymore. This is what happened around 1954 or 1955.

Now the land is claimed by the clan of the descendants of the nephew, the Randukwe and two, through intermarriage, related clans, the Pamodo and the Limoro. This claim, which came last December, came as a surprise. According to Zakaria the clan is probably after the land, because they live on a plot with difficult access to the road and has limited space, due to its location near a mountain. Zakaria and his family live alongside the Kaya road. This is one of the main roads in the area, which provides easy access to important places, including the market and Yei Town. The other clans, the Randukwe, Pamodo and Limoro, live further landward, farther from the road, and their land is surrounded by mountains. This makes expansion, in case of population growth, more difficult. Taking this into account, makes the moment of the claim, and its timing, more understandable. They do not just want to live on the land of Zacharia's clan, but they seem to need more land and better access, which they cannot find in their own areas, thus they are looking for better options.

Another reason is how people appreciate the value of land. People used to settle and resettle easily, without much attention being paid at borders, but during their time in exile people learnt the value of land and proper borders, with sparked land and border issues in South Sudan.

During a first sitting in December 2011 it was suggested that both parties would seek evidence to prove their statement and come back on a big gathering in April 2012 to discuss this. Although Zakaria had a drive to solve the issue in a diplomatic way, the use of violence is also not out of the question. Some of his clan feel provoked to use violence; they feel threatened and feel the need to show their strength. How the other clan acts can spark violence, especially if the diplomatic way does not work out. Nevertheless, Zakaria felt the need to end this in a good way, because they have seen the impact of violence in such a situation. Their neighbours, who live

¹⁰ This means the land that stretches ten to fourteen miles measured from the centre of Yei along the main road to Kaya.

around 8 Mile Kaya Road faced a claim similar to theirs and were not able to end it peacefully. They had to fight with bow and arrow, houses were burned down and it almost led to killing. This is something he and his clan really hope to prevent. They are not only after a proper solution, but also seek reconciliation. He still feels bitterness and he also detects bitterness at the other end. When the clans meet, for instance in the market, they do not greet each other. They hope to end this in the upcoming meeting, so not only the problem is solved, but also the relationships are mended. For this meeting the clan of Zakaria would like to have a good mediator, someone to lead the meeting and to bring the different parties closer together. Until now one of their own sub-chiefs led the meetings, but Zakaria is aware this man is biased, because he is one of their own clan. Therefore they have to find someone who is more neutral.

In this case it becomes clear, just like in the previous, that settlement is sought outside of the courtroom. Chiefs and sub chiefs are important mediators, but also the clans themselves play an important role in the outcome of the case. If it were not for influential members in the Longamere clan, who desire peace in the area, bloodshed would have been likely. Especially the younger clan members felt provoked and were willing to pick up their bow and arrow to fight the others. Even though there is this fighters mentality, there is also a strive for full reconciliation. Thus, not only settlement of the case, but also a restoration of the relationship. Maybe to prevent other claims, or reopening of the case, in the future.

Conclusion

Land is leading to conflict in and around the town of Yei for various reasons; contested borders, different claims, illegal rents, land grabbing and old leases are just a few. In this chapter several cases are discussed to show some of the processes, the way people deal with it and the important actors. The importance of local governance officials, like chiefs and sub chiefs, can be seen in the cases of Saverio and Zakaria. In the case around the churches the special position of this institution is shown. Even though they are respected for doing the work of God, they are criticised for making lot of money of the land and are communities after a share in the revenues. Also the complexities of the new Land Act are illustrated. Different layers of governance can make claims and also the communities play an important role. This form of legal pluralism and a more elaborate view on conflict handling in all these cases will be analysed and discussed in the following chapter.

6

Handling Land Issues

In the previous chapters an overview of the problems and conflict in Yei was given, as well as an in depth description of one type of problems, namely land issues. This chapter is a continuation on these land issues. After the description of several cases, which can be found in the previous chapter, it is now time for further elaboration on these issues. Thus, in this chapter the cases will be analysed in depth and, where possible, general observations and lessons will be deducted from them. This will be linked to the theories, especially those concerning conflict handling, listed in chapter two.

Although the cases are elaborately described in the previous chapter, this chapter will start with a deeper analysis of some aspects of the case. First, the issues at stake are discussed, because there is often more than meets the eye. Each party pursues different goals, but not each of them as openly as the other. Often parties also pursue more implicit goals, which can be rather different from the initial land claim. This discrepancy between the openly discussed objectives and the more covert ones will be talked over. Secondly, the different desired outcomes and the possible consequences of these outcomes will be described. The various parties pursue different goals, but not every outcome is as likely, or as desirable as the other. In this section the possible outcomes will be compared and put in a broader context, because the outcome will not only be important in these single cases, but can also influence other, similar, cases.

After the further description of these cases, the chapter will proceed with a more analytical part. The problems will be placed in a broader context, thus whether these issues are incidents or part of a larger problem in Yei, or South Sudan. In this part different aspects and possible explanations of the issues will be given. This will start with the possible influence of the growing pressure on the city of Yei. Secondly, the shift in the rules and the state, as well as the attitudes of the involved stakeholders, in the aftermath of the civil conflict, will be looked at.

The last part of this chapter will consist of a description and discussion of the observed methods of conflict handling in these cases. On the basis of the theories and models listed in the last part of chapter two this analysis will be shaped, but now we will first turn to the issues at stake.

Issues at stake

What are the deeper problems, what do people actually want to accomplish? Although all the issues described in the previous chapter are centred around land, many involved parties do also have more implicit goals, which are sometime very different from the initial land claim. These goals are very diverse, not only between the cases, but also within. The goals primary under discussion seem to me not always the goals people would like to accomplish.

For me this was becoming clear in the case of the ECS and the Minyori. Although borders are contested, measured and researched, it appears unlikely that the used borders will shift. This statement is based upon what I have seen during the meeting and also because of some

statements made by some of the stakeholders, mainly on the side of the ECS. It is thought that the border is not likely to change, because many activities take place in these areas. These are not just random activities, but the undertakings which are beneficial for both the church, as well as the community. Hereby I especially think about the clinic and the schools. Thereby, removal or replacement of these is a costly operation. Thus, this outcome would be undesirable for all the involved parties.

To me it seemed, the real issue under discussion is more likely to be money. I am assuming this because the Minyori, half way through the meeting, introduced an idea related to the 2%-rule in the CPA. This rule normally applies to mineral resources, mainly oil, found underneath claimed community land. According to this rule two per cent of the income accumulated by this resource should flow back to the community, for instance by investing it in schools or health centres. The Minyori suggested a similar arrangement for the money made by the ECS on the contested land.

Also the sudden involvement of the government, when discussing the income the church generated from the land, by mentioning taxes and such, point in the direction of money as one of the prime motors behind this conflict. After the meeting some ECS officials shared this opinion with me, and to them the solution was thus most likely found in a financial agreement.

This does not efface the other reasons, brought to the table by the different parties. For instance the demands by the Minyori, for more involvement in decision making process and more respect for the exiting borders, are not likely to be erased by solely a financial agreement. The same goes for the demand of the ECS, like enough space to develop more activities and security that they can stay in this place. To sum this up the different parties together identified the various issues which need a solution. This was done to conclude the first day of the meeting I attended June 2012 and which laid the foundation for further discussion the next day. The five main issues were:

1. An unclear boundary between gazetted church land (according to the title deed) and Minyori community land.
2. The various church institutions, like Reconcile International and Bishop Allison Theological College (BATC) built on Minyori community land.
3. A lack of benefits specifically for the Minyori community for the land given to the church.
4. Church income generating projects and community share/government taxes.
5. Roles of the community, church and government in land management based on Land Act 2009¹¹

In the following section the used solution, and other possibilities, will be discussed. Firstly the issues at stake in the case of Zakaria. In the previous chapter we already have seen that the claim is not purely about acquiring a larger plot of land, but also gaining better access to the road, whereby these clans can create new businesses and travel to the market easier. This is still closely related to the land, but in finding a suitable solution this reasoning behind the claim is also important to acknowledge. Unfortunately, this background information is lacking for me in the case of Saverio, because I could not meet with the neighbour. It is difficult to figure out the deeper motives behind his action from the information provided by Saverio and the elders.

¹¹ Drawn from the Facilitator's Report, which are the minutes of the meeting, recorded by Bishop Enock Tombe Stephen, the workshop facilitator.

Nevertheless, for the other cases we have clearly seen that to each claim there is more than meets the eye, and it is therefore important to look deep into the issues in finding a solution and handling the conflict. This is what will be done in the remaining of the chapter.

Desired outcome

As seen, people claim certain things and fight for certain outcomes. In this part we will look at the possible implications of outcomes and what this could mean for the wider problems in Yei and South Sudan.

Firstly we look at the different outcomes of the ECS- Minyori case. During the second day of the meeting I attended the end of June 2012 the foundations were laid for a possible solution. Based upon the identified problems, listed under the issues at stake, the participants of the meeting were divided in groups to discuss possible solutions. Those attendants who were neither representing the Minyori, nor the ECS, thus members of the wider Kakwa community, were formed into the Boundary Task Committee, to investigate the different proposed borders. They found that both the ECS and the Minyori were intruding each other's land, and they proposed a kind of middle ground, a border between the two proposed borders. This would mean the compound of Reconcile would fall within the church land, but the BATC just outside. Thus, the church would have to further negotiate with the community on the terms of reference to use that plot. The church stated they wanted to accept this boundary, but the Minyori rejected these recommendations. They stood by their map of the boundaries and were not prepared to give in. They kept on insisting on using the Kondeko stream (see figure 5.2, p.48) as the border.

Based upon these statements a joint land committee was set up, with four members from the Minory, four members from the ECS, and member from the Kakwa committee as an impartial chairman to lead the meeting. They would have to negotiate the land and land use further. The church was encouraged to consider the benefits of for the Minyori and how the community could share in the income generating projects. The session was closed with what was called a 'reconciliation between the Minyori and the ECS'. Representatives of both parties shook hands and stated good intentions for the future.

To this first step towards a final solution are some striking points. The first is the general acceptance of the title deed. Although there was some discussion about the legitimacy of the title deed, mainly because official documentation was lacking, towards the end of the meeting there seems to be a general acceptance of the ECS being in that area. The only things under discussion remain the terms of use, thus the boundaries and the possible benefits for the Minyori. I think this change in attitude towards the title deed is because of an overall lack of official paper work, due to the civil war. Even though there is no official paperwork, people have a good knowledge of the history of the plot and the narratives of the Minyori and the ECS about the establishment of the agreement were quite similar. It remains a guess what will happen when the title deed expires around 2030. Until now the church has a strong position and people respect them, because of their own Christian background and the amount of work the ECS does for the town, but it is unknown what will happen when Christianity loses ground or the area will be further developed.

A second point that struck me is the absence of the government in the solution. During the first day of the meeting the government was present, in the person of the County Commissioner

himself. The point of illegal profits and taxes can up, but reference to this cannot be found in the setup of a solution. This can be due the absence of governmental representation during the second day of the meeting, when the first ideas for a solution were drawn. Another reason can be that the County Commissioner has taken notice of the issues around the made profits and the lack of tax paying and will solve this individually with the ECS. I think this is the most likely reasoning, because I was told that the government is lacking financial resources, so it would be surprising if they left this situation as it was.

A last point that is striking to me is the absence of a binding procedure. The parties have decided to settle the issue in this cooperative manner, in an open forum, to discuss the difficulties and to find a durable solution. Given the overcrowded courts this is a logical decision, but in this way the issue can come up again at any time. This already happened a few years ago when the Minyori also claimed parts of the plot. This was settled in a similar way, but this did not prevent the issue now under discussion.

A question that remains is what this outcome means for other, similar, cases in Yei and the wider South Sudan. Due to a court system that cannot keep up with the current case load, settlements in the way the Minyori and the ECS handle it can be a true solution. From these cases we can learn a few factors that can contribute to a successful settlement. Firstly, it needs the involvement, will, and dedication of both parties. Secondly, an impartial moderator can be beneficial. In this case it was seen that having a chairman derived from one of the parties can cause some problems and leads to start-up problems. This could have easily been avoided by asking another chairman, or elect someone from the attendees at the beginning of the meeting. A last learning point is the importance of making the settlement legally binding. The before mentioned meeting was not the first type the Minyori sat together with the ECS to discuss this particular plot of land, and if they will not make a clear map and clear arrangements, it will also not be the last time. Both parties need a clear document, with terms of reference, to fall back on in case of disagreement.

The second case is the one of Saverio. In the previous chapter it was described that the situation started when Saverio found out his neighbour was using and trying to sell parts of his land. Due to the immediate aggressive reaction of this neighbour Saverio turned to the chief, instead of asking his neighbours for mediation first. The case seemed to be quite straightforward, thus the outcome is likely to be the most desired one. Even more desirable, according to Saverio, would be a further reconciliation with his neighbour, but, looking at the attitude of the neighbour, this would be very difficult. This case showed that the solution to a problem like this starts very nearby, by turning to your neighbours. If it intensifies you can go to a higher level, thus to the chief. Just like the previous case, this is a good way to release some pressure of the official courts.

The last case handled in the last chapter, and which we will look into now, is the situation around the land of Zakaria and his family. During my stay in the field the negotiations and arrangement of possible settlement meetings were still in progress. Zakaria, together with the other elders of the community, as well as those of the other parties, were busy collecting evidence to build a stronger case. It is therefore difficult to say something about the outcome. For the information provided to me by Zakaria, it became evident that they are determined to settle this in a good and durable way. This is indicated by the way they are looking for good evidence to back up their stories, and because they are looking for an unbiased, impartial

mediator. Now one of their chiefs is the mediator, but Zakaria is aware of the chief's position and role in the community. Thus, to lead the settlement they have to find someone from outside, who has equal relation with both parties. Striking to see here is again the bottom up approach, thus the high involvement of the affected parties and absence of the official state structures. Again there is a big role for customary structures and chiefs, as well as the commitment of both parties. Another thing, which could also be seen in the other cases, is the absence of legal document and the importance of narratives and witnesses.

Although the parties are not yet close to a solution, three possible outcomes can be observed. The first is a judgement in favour of Zakaria's family, thus the situation stays as it is. The second possible outcome is a judgement in favour of the other parties, thus a situation in which part of the land will be occupied by the other clans. A third option is a kind of middle ground, thus settlement in which both parties come closer together and find a solution for the problems underlying the claim. For instance, a tenure system whereby Zakaria's family still owns the land, but the other clans can use it for their population growth and desired access to the markets. For now, derived from the account of Zakaria, the most likely outcome is the first, because their evidence is the most convincing. Nevertheless, this does not exclude the ideas from the third option. Zakaria ensured me that there are possibilities, but therefore are trust and peace very important. If the other keep insinuating the use of violence, or proceeding to actually using it, relationships will get severely damaged and the needed trust required for a partnership are far away.

In sum, we have seen that the outcomes in these cases are often heavily dependent on the deployment of the parties and their willingness to find a good solution in consultation and cooperation. Customary law, or at least customary structures, like chiefs and elders are of importance, as well as the maintenance of relationships. This already gives some insight in the conflict handling mechanisms, but before we fully turn to that topic, in the last part of this chapter, we will look at the involvement and influence on these cases by deeper underlying process in the town of Yei.

Conflict handling

After looking at the possible, and some actual, outcomes of the cases, and the processes behind that, it is now time to analyse the last point under discussion in this research, which is conflict handling. Many dynamics and processes concerning conflict have passed by. In this section this will be connected to the theories presented in chapter two. This is used as an analytical tool, thus not as a straitjacket.

In the theoretical chapter two separate theories were introduced. The conflict handling mechanisms scheme of Assefa (1995) showed a wide spectrum of different ways people deal and can deal with conflict, based upon reactivity and participation. The other scheme was built up from two other variables: the focus on the result and the focus on the relation (Reijerkerk, 2006).

The latter theory will be used to look at the position and methods of the different parties, while the first will be used to analyse the interaction between the parties. In the three used cases I unfortunately had only the chance to talk in-depth to one of the parties, although in the ECS case I got a good insight in both parties in the way they presented themselves during the meeting.

Firstly we will look at the ECS- Minyori case. For this analysis we will look at the primary parties who were involved from the start, thus the ECS and the Minyori tribe. Although the government was also identified as a primary party, they will be kept out of this analysis, because they got involved later and they play many separate roles.

The conflict started with the claim of the Minyori. If we look at their focus there is a quite some focus on result, because the claim is not new. They already settled an issue over the land, but they were not satisfied with the outcome and the proceedings, so they renewed their claim. This indicates their focus on the result and their involvement. This focus is not the only important thing; they also have a strong focus on the relationship. They have said they respect the church and because the ECS is doing good work for the community they are acting upon this respect. These both foci combined point towards an attitude of compromising and obliging (figure 6.1). If we look at the case and the behaviour of the Minyori both attitudes can be observed. They are very obliging towards the church, because it took some time to fight the crossing of the border towards their land, beyond the agreed borders. They are obliging because of the work and position of the church. But now the church has gone too far over the border they started protesting. Now the more compromising nature comes above. They disapprove of the illegal land use beyond the agreed borders, but it seems that negotiation is possible, thus the church can keep using the land, but on better terms.

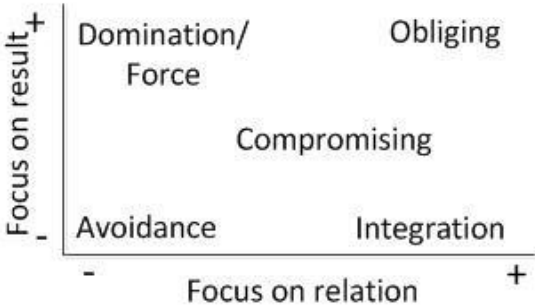


Figure 6.1 Styles of conflict (Prein, 2002 in Reijerkerk, 2006. Adapted by author)

At the side of the ECS there seems to be a bigger focus on the result, rather than on the relation. Especially when it comes to expanding beyond the borders. According to them the border is along the Kondoko stream, but even then Reconcile and the BATC are on contested ground. This indicates a style of conflict of domination. This can be a result from their moral reasoning, that they see themselves as a moral authority. This authority was made more visible during the meeting, when some of the church dignitaries were sitting in front of the room as the chairpersons of the meeting, while the Minyori were only in the position of attendees. Even when this was brought to the table, the ECS did not act upon it and stayed in charge. Speaking of domination is maybe a bit strong stated, because they are not using force and are open for discussion. This makes them also leaning towards the style of compromising.

Although both parties seem to start out on top of the scheme, one in domination and one in obliging, there is a mutual inclining towards compromising, which is also something seen in the conflict handling mechanisms. In the scheme of Assefa (figure 6.2) two variables are used: the level of mutual participation, and the level of reactivity. The level of mutual participation seems to be quite high, seen amount of attendees from both parties during the meeting, and the way these people interacted. But the situation is very reactive, because it is not the first time this issue comes up. A similar claim was on the table earlier, and even though the situation was settled, it is possible to claim again. Nevertheless, a shift toward more participation and a more proactive attitude is visible.

The meeting I attended was a step towards more participation; many different people and parties were involved in the process of problem discussion and resolving. Therefore this case

can be placed in one of the conflict resolution categories. It has the characteristics of something similar to negotiation and mediation, inclining towards mediation. Both parties are highly involved, but a third party, in person of the payam director, a chief, or the bishop, are mostly present to lead the debates and discussions. Although the Minyori are the claimants, the ECS seems to take the lead in the process towards a solution. It seemed during the meeting that this gave to Minyori the feeling that they were forced towards an outcome, but still I would not place this case at that end of the scheme, because there is still consultation and involvement of the Minyori and related tribes.

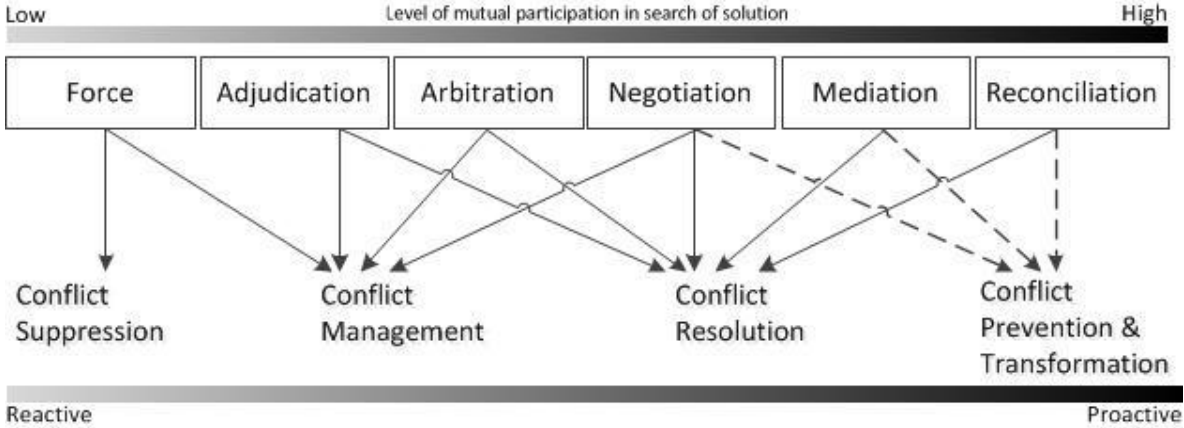


Figure 6. 2 Spectrum of conflict handling mechanisms (Source: Assefa, 1995)

During the closing of the meeting the term ‘reconciliation’ was used to describe the way the different parties parted, but I think has not the same meaning as the term used in Assefa’s scheme. In the scheme it is the highest level of participation and pro-activeness, which results in a transformation of the issue and prevention of further conflict. During the meeting it rather indicated a situation in which both parties left the meeting on good terms and in a peaceful way, with good intentions for the future. Actual conflict prevention or transformation was not (yet) achieved. Although one of the processes during the meeting indicated a possible turn towards conflict prevention and maybe even transformation. This can be seen in the set-up of the joint land committee. If this committee is given enough authority to rule about the land, this will go beyond the current legal pluralism, because a new institution is created, which is not part of customary or official law. It is something created by both parties, which can lead to a new approach to the conflict. For now it is hard to say whether this will happen, especially because both parties still have to consult their parties and do not have the authority to agree to plans during the meeting. I expect it will therefore be difficult to give the people of the joint land committee this authority. Thus, although the Minyori and the ECS are moving towards more participation and more pro-activity, it remains a question whether they will reach conflict transformation.

A second case to analyse is the one of Saverio. In this case there are two primary parties to analyse, Saverio himself, and his neighbour. If we look at the conflict style of Saverio we see a huge focus on the result, because he took immediate action and did not want to lose any of his land. At the same time a certain focus on the relation with his neighbour was observed, because he seemed to be disappointed about the way his neighbour treats him now, after the conflict. Although their relationship was fine before the problem, it is now damaged, and Saverio did not feel good about that. Although I did not have the chance to talk to this neighbour information

about his actions and conflict style can be derived from the statements of Saverio and the elders. Of course this is biased, but from the story of Saverio it seemed his neighbour was primarily focussing on the result and did not have the consequences for the relation in mind. In the beginning his style thus was domination, or force, because he just took the land, without considering how this would affect Saverio, or their relationship. Now, in the aftermath, it seems to shift more towards avoidance, because after the judgement of the chief the neighbour did not appeal to a higher court. He thus accepts the verdict and does not focus anymore on his intended result of more land. The focus on the relationship seems to remain unchanged, thus not much focus. It looks this way, because Saverio stated that the neighbour does not greet him anymore and the relation is worse than before the conflict. Although Saverio would like to do something about it, according to him the neighbour does nothing to change the situation, which indicated avoidance.

If we look at the interaction between the two parties and the way the conflict between the two was handled there was a change going-on. It started in the far-left corner of the scheme. This was when Saverio found out his neighbour was taking his land and he confronted the neighbour. While Saverio wanted to talk about it, the neighbour reacted aggressive and in a violent matter. The situation lacked mutual participation and was very reactive. This indicates conflict suppression in the form of force. The neighbour took the land without consulting anybody and he wanted to end the conflict by force, by harassing Saverio. This reaction of the neighbour was to expect, seen his focus on result and a lack of focus on the relationship. If Saverio had the same conflict style the situation was likely to end violently, but because his style was slightly different, with some focus on the relationship, he turned to the chief. This created a shift in the conflict handling, because of the involvement of a third party. Still, mutual participation was still low, because the chief talked to the parties and witnesses separately and placed a verdict. This is conflict handling in the category adjudication, thus a shift towards conflict management and resolution. Both parties accepted the verdict, thus it is possible to speak of resolution. The motives behind the actions of the neighbour were seemingly not addressed, because Saverio still was unaware why he did it. It is therefore also possible to speak of conflict management. This particular conflict was ended, but if we look at the focus of the neighbour, which was mainly on the result, and the lack of addressing his motives, can lead to reoccurrence of the problem. To prevent this a deeper resolution is needed, or even transformation. This is difficult with the attitude of the parties and the handling method used.

The last case we look at is the one of Zakaria's family. The primary parties in this case are Zakaria and his family, thus the Longamere clan, and the three competing clans, the Randukwe, Pamodo and Limoro. Because the conflict started with a claim of the Randukwe, Pamodo and Limoro, firstly their conflict style will be discussed. I only had the opportunity to talk to Zakaria, thus the position and styles of these clans can only be derived from his narrative. From the way they started the claim, and their behaviour now, during the negotiations, it can be said their main focus is on the result, with a lesser focus on relationship. I am making this statement, because during discussions between the two parties they spoke of using violence against the Longomere if their claim was not honoured. Still, they are willing to discuss the case and therefore I think their position shifts back and forth between compromising and domination in the scheme of figure 6.2. What the used style is depend on the position of the other party and the possible outcomes of the meetings. If they do not agree and they feel disadvantaged the use of violence is possible. The other party, the Longamere, are using a similar style as a reaction to the

positioning of the competing clans. They have a huge focus on the result, because they do not want to lose their land. At the same time they are opposed to the use of violence and are willing to compromise, for instance to grant some access to the other clans to start business, but if they are threatening to use violence they will not hesitate to react. Thus, also this clan shifts between dominance and compromising.

Taken these similar conflict styles into account brings us to the scheme of figure 6.1. Although there is some threatening of violence back and forth, the used conflict style is not force. There is mutual participation in this situation, because both parties are seeking evidence and a meeting is planned to discuss this. This indicated arbitration, or even negotiation. Seen their mutual involvement in seeking a solution I believe it is negotiation, especially now the one who chairs the meeting is one of the Longamere chiefs. To encourage further participation and equality of both parties they are seeking a more unbiased and impartial chairperson, which indicates a form of mediation. Thus, within this conflict a shift back and forth between different styles is observed.

Now all three cases are discussed, we see many conflict styles and the use of a wide variety of conflict handling mechanisms. Some common denominators are the focus on relationship which is more or less present in each case. Only the neighbour of Saverio, and the competing clans in Zakaria's case do not show much of this focus. Each party has a large focus on the outcome, but combined with the focus on relationship many parties end up on, or near, the style of compromise. This also shows in the conflict handling mechanisms. Important herein is the own initiative of the parties and the role of customary systems. This leads often to quite some participation which often intensifies during the course of the conflict, when people are mutually seeking a solution. Saverio and his neighbour are at the low end, because the involvement of the chief and the aggressiveness of the neighbour led to a mechanism of adjudication. The case of Zakaria was more in the middle. Both parties were collecting evidence and it was planned to present this is a mutual meeting, followed by seeking a solution together. This is a type of negotiation, but their search for an impartial chairperson to help them indicated a shift towards mediation, thus a search for deeper conflict resolution. The parties are even shifting towards conflict transformation, although they have a long way to go, are the ECS and the Minyori. They are mutually highly participation in the handling of the conflict and the establishment of a joint land committee can not only provide a good resolution, but can change the way the parties approach the land, thus conflict transformation.

Conclusion

In this chapter the cases discussed in the previous were analyse in different way. By placing them next to the theories from chapter two we have learned more about the driving forces behind the conflicts and the way the different parties were dealing with their issues.

Firstly, we have seen that the parties were often seeking for more land, but under the surface of these claims also other pursuits were seen, like more influence, money and access. This also shaped the desired outcomes and wider implications. Here especially the involvement of chiefs and the commitment of the conflict parties were important.

Secondly, the growing pressure on the city is reflected in the discussed cases. Especially because every party was looking for room for expansion and put a large significance on the used borders.

Thirdly, shifting rules and attitudes are important in the case, but in these mainly in the handling of the conflicts. It cannot convincingly be stated that these different layers of law and reasoning are sources of the conflicts.

Fourthly, in the last part of this chapter we have turned to the conflict handling. To begin the analysis, the conflict styles were analysed. This indicated that most parties tended toward compromising. After that, the handling mechanisms were looked at. The different cases represented the wide spectrum of conflict handling, with special roles for customary structures and mutual involvement of the parties. Now each case is analysed in-depth, it is good to put these in a broader perspective and find an answer on the research questions posted in the second chapter. This can be found in the next, and final, chapter.

Conclusion and discussion

In the previous chapter theories were introduced and cases were describes, discussed and analysed. To finish this research this chapter will return to the beginning, by using the gained knowledge from earlier chapters to answer the questions this research started with. These questions are:

How does the increased pressure on the city, due to the civil conflict and urban growth, lead to land conflicts in Yei, South Sudan and how is conflict handling shaped to deal with these problems?

1. What kinds of groups are currently living in Yei?
 - a. How are these groups living together?
2. What are grounds for conflicts and disputes?
3. What type of land conflicts occur and how are these issues shaped?
4. What type of conflict handling is used in these land issues?
 - a. Are there actors facilitation interaction?
5. What are common grounds to build upon?

In this chapter these questions will be answered, in relation to the theories from chapter two. It will not only focus on the situation in Yei itself, also a broader meaning or relevance will be discussed. Besides discussing the findings and the theories, this chapter will also contain a reflection on the used methods and the overall research. The chapter will conclude with some possible implications or focus point for the organisation I worked with, or others involved in conflict handling in this area.

Findings

In this section the main question and the first four sub questions will be answered. The following sections will provide an elaboration on them.

What kinds of groups are currently living in Yei?

The first sub question is about the different groups living in Yei. From the literature, as well as from interviewing the key informant it became obvious many different tribes are living in and around Yei. Some informants even stated every tribe living in South Sudan is represented in Yei. The native inhabitants are Kakwa, Müнду, Avokaya, Bari, and Pajulu (OCHA, 2009a; Yei River County, 2011). Due to its strategic location Yei developed as a trade hub on the border with Uganda and the DRC from early on. This made Yei a cosmopolitan town. During the war displacement and the deployment of the army caused a large influx of people. With the army especially people from the Dinka tribe came to Yei. After the war displacement and returning people again changed the population of Yei. Today the population is made up from stayees, returnees, IDPs, (former) army men, and refugees. This makes Yei an ethnically diverse town.

The next question is whether this diversity leads to problems. In the literature discrimination and ethnic tensions were mentioned. Especially problems as a result of scarcity and a lack of basic needs (Martin & Sluga, 2011). Also reports of the local authorities speak of Yei as a quiet town where many different tribes peacefully coexist (Yei River County, 2011). The different key informant also mentioned the peacefulness and good cohabitations of different tribes. When digging a bit deeper in the conversation people do share about a less peaceful side of Yei. They talked about 'one tribe causing problems'; 'different cultures with negative influences'; or 'the dominant tribe in the army, who feels they can do anything'. Reluctance to talk about this was sensed. On the one hand this might be to keep the narrative of Yei as a peaceful town in place, on the other hand fear of reprisal could be a reason to keep this down.

What are grounds for conflicts and disputes?

Besides these ethnical tensions Yei also knows other grounds for conflict. This brings us at the second sub question. In the literature mainly criminal and domestic violence were mentioned (Martin & Sluga, 2011), but these are more threats to security, than grounds for conflicts. In the interviews some differences that can lead to conflict were mentioned. The first were linked to the increase pressure on the city. More people are occupying a limited part of land, which lead to scarcity in water and land. Scarcity in water does not only mean some people have not enough fresh water to use, but it can also lead to conflict. First between women at the borehole, but this can grow to quarrels between families or clans, when this is not properly settled. Land is a whole other issue, because of the complexity and diversity of this issue this became the focus of this research and will I discuss this elaborately in the following paragraphs.

What type of land conflicts occur and how are these issues shaped?

As said, land in Yei leads to a scope of different problems and conflicts. Population growth and limited plots of land are at the basis of this. Issues related to this are border conflict, lack of demarcation, differences between newcomers and returnees, land grabbing and many more. Because of the diversity of these problems and the lack of time, and available data, to investigate the land issues at this broad scale, I have decided to look at a few issues concerning land in Yei more in depth. The cases represent three different types of land conflict, which helps to get more insight in the scope of the issues, how they arise, who are involved and, to get already ahead to the next paragraph, how these issues are handled.

The first case involved the Episcopal Church of Sudan (ECS) and the Minyori tribe. According to an old title deed, originating from the colonial time, the Minyori granted the land to the ECS to develop activities for the community. Now the land houses the church, several schools, a theological college, a health clinic, and a number of (I)NGO's. Around the year 2008 tensions began, because the Minyori started a claim upon the land. According to them they were entitled to benefit more from the land and accused the ECS to go beyond the agreed borders. They also accused the church of making illegal profits from the land. During my field research I attended a meeting between ECS and Minyori representatives, to discuss how to proceed with the land. Also a third party joined this meeting, the government. They were also involved in claiming parts of this land, but are also a judiciary. In short, this case showed a type of intergroup conflict, although intergroup implies these are more or less equal groups. Within this case I observed a power difference, in which especially the ECS showed some moral dominance. The case is about benefiting from a type of land, and a border issue. It also indicated how the different parties organise themselves to handle a conflict without much interference from third parties.

The second case involved Saverio, a man from the Mündü community, who was engaged in a conflict with his neighbour. This conflict started when this neighbour took some of the land of Saverio. When Saverio confronted his neighbour with this, the evening he found this out, the neighbour reacted aggressively. Thus, Saverio immediately turned to the chief for solving this conflict. This case showed a type of interpersonal conflict about land grabbing and border issues. It also highlighted the customary way to deal with these and the important role of the chief.

The third case was about the Longamere clan of Zakaria, and the conflict they had with three other clans, the Randukwe, Pamodo and Limoro. These three clans placed a claim on the land of the Longamere. Due to some events that happened around the year 1955 ancestors of the land lived on a plot of the Longamere for a limited part of time. Now they were looking for more, or better land, and tried to reclaim this plot. To solve this issue both parties are seeking evidence to support their case and they are planning a meeting to solve it. This case is an example of intergroup conflict considering land claims. The case is also showing the involvement of the parties, and because of threats of the three competing clans, it is also a case that highlight the possible use of violence.

Within these cases some aspects stood out. Firstly, the central role for chiefs and the customary systems. Many cases were treated with involvement of these local governance structures. Also the community and parties themselves, and their own initiative were very important. Another aspect that stood out in these cases is the absence of the official governance, especially the courts. More on these particularities can be found in the following section on conflict handling.

What type of conflict handling is used in these land issues?

After I analysed the different types of conflict related to land my focus shifted towards the conflict handling mechanisms. To do this, two types of schemes were used, both compiled of two variables. The first one uses the parameters 'focus on relationship' and 'focus on result'. These resulted in five different conflict styles: domination, obliging, compromising, avoidance, and integration. This theory was used to look at the attitude of the separate parties. To look at the way they interact to handle the conflict the second scheme looks at the level of mutual participation handling the issue, and the level of reactivity/pro-activeness.

From this it became clear that each party has a huge focus on the result, but that the relationship is also taken into account. This often leads to a conflict style of compromising. Herein some parties have the upper hand, because their initial conflict style is closer to domination, and others tend more towards obliging. Domination was especially seen in the case of the ECS and this position could be linked to their presumed moral authority. Due to their religious position, and the respect they get from the Minyori from this position, they used moral reasoning and were the Minyori tending towards obliging.

The second scheme showed the use of many different conflict handling mechanisms. Saverio and his neighbour were on the far end, with the smallest amount of mutual participation. Their conflict handling was adjudication, because they needed the help of the chief to settle the issue. The parties did not really interact; the chief heard both parties separately and placed a verdict. The case of Zakaria was more in the middle. Both parties were collecting evidence and it was planned to present this in a mutual meeting, followed by seeking a solution together. This is a type of negotiation, but their search for an impartial chairperson to help them indicated a shift towards mediation, thus a search for deeper conflict resolution. Shifting between negotiation

and even reconciliation were the ECS and the Minyori. The conflict started with some negotiation through a local chief, but now they were engaged in a meeting together, without governance participation. They were looking for a solution together. They ended the meeting with the formation of a joint land committee. If this because operational independent from the separate parties this could lead to conflict transformation, because this would mean a whole new approach to the issue, and a new way to govern land.

Actors facilitation interaction

From the above it can be derived that one of the main facilitators of interaction are chiefs, or others linked to local governance structures. This can be explained in several ways. Firstly these are the ones in a position of authority that are closely linked to the community. Secondly, this is part of the integration of customary law in the official laws governing land. In the Land Act of 2009 land on the local level is primarily governed by chiefs and related customary structures. In one of the case I learned that the proper way to proceed in a interpersonal land conflict if to turn to your neighbour firstly for mediation. If this does not work out the chief is the second in line. For appeal, or bigger cases, you can go to the official courts. This also indicated neighbour, or other closely related, can be interaction facilitating actors.

In the cases of the intergroup conflict we have seen that the parties themselves are also important in facilitation interaction. Both groups organised meeting and sought a person from outside their communities to chair these sittings. In the case of the ECS and the Minyori, this chairperson was a bishop from a related episcopal diocese. His impartiality thus was questioned, but there was no action upon these questions. This is a fact that again highlights the slightly domination conflict style of the ECS mentioned on the previous page.

Reflection theory

Now the finding are summed up it is time to turn back to the theories of chapter two. The following sections will provide a reflection on the theory based upon the findings in Yei. This is done in three sections. First we will look at the growing pressure, secondly at the shifting rules and changing state, and in the last part we will look at the shifting attitudes.

Growing pressure

The first issue under consideration is whether we can link the issues over land to the assumed growing pressure to the city. In chapter two it is explained that due to rapid population growth the pressure on the city can increase, especially if this growth is the result of civil conflict. People come to urban areas to seek security during conflict, but the diversity within this population and the amount of people can cause many problem when the civil conflict is over (Beall, Goodfellow, & Rodgers, 2011). It is difficult to say something about this, because this research just looked at one moment in time. Thus, it is hard to notice a change from the time of the civil conflict. What can be said is that the war, and its aftermath, led to an enormous influx of people from all over South Sudan. In the research we learned about the existence of ethnic tensions in town. Without the war induced migration the influx of people would probably not be as sudden and as much as now is the case. Thus, although sufficient data is lacking, the available knowledge does hint the same direction.

This pressure takes form as a lack of, or unequal access, to resources, like water and other basic needs. The people in Yei are experiencing scarcity. In the dry season not every inhabitant has

access to sufficient drinking water and this does lead to conflict. If this scarcity is inherent to the growing city, or can be sufficient with equal distribution is unknown, and goes beyond the scope of this research. Thus, based upon the water situation, the link between scarcity and conflict cannot just be made.

What can be learned about growing pressure in the city from the before mentioned cases is primarily the urge to expand and to use more land, even if it is in illegal ways. This is seen in all three discussed cases. In the case of the Minyori and the ECS we observed the ECS moving beyond the agreed borders to set up more activities. Also the Minyori are looking for more land, which can be seen in their earlier claim to settle on church land. The borders are thus under pressure and clearer demarcation is needed to keep everyone in the confined places. In the case of Saverio the urge for more land was the most obvious. Secretly his neighbour tried to move beyond the borders and to add some of Saverio's land to his own plot. As said, the motives behind this are unknown, but it shows the means people use to get more land. Also the clans in Zakaria's situation were looking for better ways to expand their land and find better places for further settlement.

The growing pressure was also experienced in other places and situations in town. In many of these instances this has to do with the large influx of people the town of Yei experienced during and after the conflict. Especially the arrival of the army, with the Dinka as the most mentioned dominant tribe, lead to quite some land issues, because they arrived in a time many natives fled the area. Soldiers took their plot and when the natives returned and reclaimed their land this gave rise to many problems. Although this was not present in the cases, it was mentioned by some of my key informants when discussing the land issues. The pressure becomes very clear, because in many situations two groups (IDPs and returnees) come together and claim the same plot of land. Because of the nature of this problem and the core role for IDPs and returnees, this type of conflict seems a typical symptom of increasing pressure as a result of civil conflict. But pressure on the city is not the only reason behind these conflicts. Another mentioned factor is the dominance of the military. Some soldiers use their function and position to appropriate plots of land. The military dominance, as well as the pressure on the city due to conflict induced migration is distinctive for this moment in time, and probably becomes less of an issue if the overall political climate remains this stable. In that case, the movement of people will stagnate and they will stay more in one place. Thereby, a more stable political climate will also result in a handling of the existing cases and when they are settled the problem will fade away.

Although this conflict induced stream of people will come to an end within a situation of relative political stability, it is likely the town will continue to grow. This is likely, because of the recent urbanisation trends all over African. It is unlikely that South Sudan will be an exception in this trend, because of the amount of people who already are migrating to town with an economic motive. Still, the situation of land grabbing will probably not be this extensive, because most plots are occupied nowadays. Thus, a problem that could occur instead would be slum growth. What is needed is thus good demarcation and more plots allocated for habitation. This demarcation, and the issuing of official lease or ownership documents, can be helpful in the current issues around who owns the land, and can lead to a better development of town to prevent mass slum growth. This needs a lot from the local government and the courts, so whether this will happen thoroughly in the coming years remains the question.

In sum, the growing pressure to the city can be seen as one of the underlying process in the issues around land. An enormous influx of people, which likely triple the number of inhabitants during and after the civil war, increases the pressure on land, because all these people need a plot to live on. Due to the different streams of people, like IDPs and returnees, land became ground for conflict, because people are occupying plots of those who fled the area and when to refugees return they want to reclaim their land. The amount of new people creates a scarcity in land, which is relatively new. But is this growing pressure and scarcity the only underlying factor, or is there more to it? In the following the role of the state and shifting rules are investigated.

Shifting rules and changing state

In the second chapter we have seen the important role of shifting rights and institutions within potential conflict. It was also shown how the civil conflict highly affects the existing systems and can leave them inoperable (Unruh, 2003). The literature showed the effects of this on land and tenure systems. In the following section we will see how these hypotheses from the literature relate to the current situation in the discussed cases and, in a broader sense, in Yei.

In previous chapter it became clear that South Sudan before, as well as after the civil war, was ruled by at least two different governing systems: customary law and the official government. There is thus a situation of legal pluralism, although the current government tries to integrate these systems. This is evident in the way land is governed. In the 2009 Land Act the customary systems have gotten a place alongside official laws. A last point was the assumed declining role of the chiefs. It was said that due to the movement of many people and foreign influence the role of the chiefs was eroding (Baas, 2011; J. A. A. Jok et al., 2004).

In the discussed cases the different layers of law were very obvious, especially the customary part. In all the cases the chiefs had an important place. The people also mentioned the possibility of appeal at the official courts, but, remarkably, in all the three cases the official courts did not play a role at all. To analyse the role of legal pluralism further the cases will be discussed separately. Firstly, the case of the ECS and the Minyori. Herein many layers of rule can be observed. Off course, the primary forms of customary and legal rule can be seen in the role of the community officials and the government officials. Also the base of claims of the different parties sheds more light on the legal pluralistic aspect of this case. Where the ECS based their claim upon official documentation, bases the Minyori their claim upon the customary rights of their community. The Minyori do not solely base the case upon their customary rights, they also refer to national legislation in regard to the 2%-rule about benefiting from the land. In the case also a third factor of legal pluralism can be observed. This is the moral layer. Both the church and the Minyori use a type of moral reasoning. The church based this upon their 'God-given' role and the good work they do for the community, in the form of health care and education. The Minyori argues that it is their right to benefit from the land, not really based upon legal fact, but more on moral grounds. A last layer is created by the two parties themselves. In the end of the meeting a Joint Land Committee was formed with members of both the Minyori and the ECS, including an impartial member from the Kakwa-community. With this committee a new institutional layer is created. This is a process seen more often in the aftermath of a civil conflict, where people, within a problematic state and inadequate legislature are seeking new ways to solve land issues. This is called 'forum shopping' and means a situation in which the people use the room for manoeuvre within the legal pluralistic arena (Unruh, 2003, p. 364). Also in this case we can see that search for new, inventive solutions for new problems. Only the future can tell whether this

is has power of its own, or still heavily depending on the influence of the separate parties. In the latter situation seeing it as a distinct institutional layer in the legal pluralistic situation is giving it to much credit. Thus, which these many layers of rules and law we can confidently speak of a situation of legal pluralism.

This is not only present in the case of the Minyori and the ECS, also in the case of Zakaria legal pluralism is a given. The groups are trying to solve the case among themselves, with a chief as mediator, but also with neighbours as witnesses. This is done in a customary way, but also the formal legal rules are present, because Zakaria and his family refer to official agreements from the colonial period and he also told about their possibilities to go to the official courts. But most of the activities at this moment take place on the layer of customary law.

Although the case of Saverio only spoke of one form of legal involvement, namely the chief, thus customary, it gave us also a glimpse of legal pluralism. This could be seen in the possibilities both Saverio and his neighbour had to appeal at a higher court. Herein the integration of customary and formal legal systems became clearer.

Now we have seen the legal pluralism in the different cases I will put them next to the theories and hypotheses mentioned to see how these relate. This brings us firstly at the role of the chiefs. It was said that the importance and influence was declining. Although this trend is likely with the influx of many different tribes and foreign influences, this decline is not reflected in the cases. In the cases the chiefs played an important role, in judging and in consultation. Also in other interviews, besides those about the different cases, people indicated the importance of the chief, now in the new Land Act and because of the crowded courts. It is difficult to say whether there is a decline, because in this research information about earlier situations and the role of the chiefs therein is lacking. Still, for what I have observed in Yei, the chiefs still play a role of importance in the way land is governed, but it remains a question for further research how this will proceed, especially if state institutions are getting stronger.

Secondly, what we see from the literature is the possibility of legal pluralism to lead to conflict. This is not something that can be deducted from the used cases. Although legal pluralism is present in all the cases, it is not an apparent reason behind the conflicts. What can be said is that legal pluralism in some cases does complicate the conflict and thus can intensify it. For instance, when people turn to, or bases themselves, upon different types of law. In the dichotomy between customary and official law this is difficult, because they mostly do not overlap, but deal with separate areas. Problems can arise in the dichotomy between official legal reasoning and moral arguments. This can overlap and can lead to more problems. For instance, in the case of the ECS and the Minyori. As said, both use moral reasoning to enforce their arguments. As we look at it now, the moral reasoning of the ECS, based upon faith and their present work, it makes you wonder the sustainability of this argument. What happens within this conflict if the area secularises and this reasoning is not as powerful as before? This can lead to a shift in the conflict, and thus, this moral reasoning cannot be a sustainable foundation for a durable solution.

In conclusion, legal pluralism is a factor to be reckoned with. It is present in all the cases. It is not convincingly demonstrated that legal pluralism leads to conflict in these cases, but it is important in the arguments used in the conflict, as well as in the search for a solution. There is not only a shift in the rules and between rules, also attitudes are shifting in the post-conflict town. Therefore we will now turn to that.

Shifting attitudes

Not only law and governance is shifting, but also the attitude of the people in Yei. According to some key informant this can be seen in the rise in border issues. According to these border issues are a new, post-war, phenomenon, which could be explained by the foreign experiences of the people. Many people learned in exile, thus in the DRC, Uganda, or even the West, the importance and value of land and ownership. Therefore, these are more involved in demarcating their property and claiming enough land. This reasoning or explanation behind the increase of border and land issues was mentioned several times, but was not seen or heard in the interviews concerning the different cases.

A real shift in attitude was not observed in the before mentioned cases, but, when discussing the moral reasoning of the church a possible shift in attitude was revealed. In the cases of the Minyori and the ECS the church bases some of their argument on their position as a church. The Minyori are willing to follow this reasoning, because they are Christians and they therefore accept the importance of the church. This was something that was also observed in other cases concerning churches. In the description of the case of the ECS, also other land conflicts involving churches were mentioned. In this cases also the moral reasoning, based upon 'doing God's work' was present. This is possible in a religious society, but it leads to the question what will happen if this society gets more secularised and the role of the church diminishes. This is hard to say, because it is unknown if this will happen, and, if it happens, at which rate. But most definitely, it will have its influence on these cases, because of the central role of moral reasoning.

Broader context

As seen in the previous section the situation in Yei was not as intense as expected from the literature. How can this be placed in a broader context? What do these findings say about the rest of the country, or about (conflict induced) urbanisation in Africa? Of course it is impossible to generalise from this amount of data, but the situation in Yei does highlight some striking points. First of all, the way the inhabitants portrait their town. Most persons I talked to emphasised the peaceful nature of its inhabitants. This might help to preserve a more quite nature than expected in a town like this. It might lead to a different handling of conflicts. This was also seen in the way people dealt with difference, because, although violence and aggressive reactions were part of some of the cases, all cases were settled without fighting. This can be an example how powerful the narrative of peacefulness in Yei is. I was told this attitude is unique for this area in South Sudan, because of the location and history of the town. It is thus unlikely to find a similar situation in other towns. It is more likely that the existing situation will change due to a continuous influx of people from other areas, who are, according to the Yei natives, not sharing the peaceful attitude.

Another striking point is the central role of customary law, chiefs, and the particularly the parties themselves in organising what to settle issues. This is important, also in a broader sense, because it often takes time to (re)build official state structures, but this shows the resilience of the people themselves to settle in peaceful ways. In the way the people organise themselves it shows that even in a situation with a lot of ethnic diversity, and other differences in the town, people can create structures to solve issues without involvement of the government. This particularity is not specifically tied to Yei, but can be a key solution to overcoming conflict also in other areas. Thus, especially this own initiative can be seen in a broader context and can lead to

new research in other urban areas. Further research, both in Yei and other post-conflict towns, is necessary to get a deeper understanding of these processes in Yei and possibilities to compare. Especially more knowledge on the initiatives of the conflict parties, to overcome conflict outside the official legal structures, can be very useful in working on conflict management in post-conflict societies.

Reflection methods and research

Upon finishing this report it is time to reflect on the methods used in the field. The methods I used were mainly observation and interviewing. The most important shortcoming of this research was the amount of time spent in the field. I was in Yei for one period of ten weeks. This gave me the opportunity to gain some access, but some extra time would have been useful. This also resulted in a small amount of interviews, especially concerning the different cases. Getting access to these stories took quite some time. Therefore in most cases I only had the chance to speak to one party. Thus, in the used narratives we have to be aware of a certain bias. By different ways of asking questions and asking others, indirectly related, for more information, I tried to limit this bias as much as possible, but eliminating it entirely is impossible in this kind of research so heavily depending on people's narratives.

Another factor that contributed to a certain bias was the role of those who helped me during my research. Many of my contacts were gained thru my colleagues at Reconcile. Working and living on their compound and spending lot of time with them shaped my research and my thoughts and outlook on the town, its government and the people living there. On the one hand this was of major importance for me. It helped me to get to know the town rapidly and getting a lot of interviews done, but, on the other hand, I had to be aware of their viewpoint and how that had shaped. It was therefore good I also had contacts outside and independent from Reconcile to put into perspective what I learned there. During one interview and the ECS-Minyori meeting colleagues of Reconcile acted as my translator. Because of their involvement in the cases under discussion this would also have been a biased translation. Therefore I also interviewed these translators before and after the interview to determine their viewpoint and their position in the situation. In the ECS – Minyori case I was also provided with the report of the meeting to see another translation of it. These methods helped me in placing the bias. In short, the major factors influencing my research were the time constrained, my position within Reconcile and the use of translators. To conclude this chapter I will now turn to some of the implications of this research for others.

Implications and recommendations

Within this chapter an answer is provided on the first four sub questions. Only the fifth remains: *'what are common grounds to build upon?'* We have already seen the importance of relations in the different cases. In addition, the strong narrative of Yei as a peaceful place plays a central role. This can be strong grounds to build upon.

Although speaking of recommendations after an exploratory research like this might be a bit rash and premature, but I would like to point out some important topics. These can be of importance for organisations, like Reconcile, who are working with this kind of problems. In working on conflict focussing on the relationships seem to be an important starting point. Also empowering local community leaders can be very useful, seen the central role they play in these

issues, as well as the predicted decline in their power. Good education of these people can therefore be important, to strengthen their position and their positive influence in the communities.

Further research is also required. This was an exploratory study, thus deeper knowledge of the area and other urban areas can certainly add to this. Especially seen the amount of land issues here and the complex nature of them, make further research necessary for a better understanding of the dynamics in a post conflict situation.

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