

Decentralized Land Governance and Ethnic Conflict Resolution in Juba County, South Sudan

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Abstract

Decentralization gained prominence after the Cold War because some people assumed it was a good tool for managing diversity, helping local authorities in particular to manage the competing interests of various social groups without violent conflicts, as they allegedly know their people better than central government officials who are remote from the grassroots. This study investigated whether the local governments and their authorities who are seeking more autonomy from central governments are fair in land allocations to all citizens under their jurisdiction, and whether their fairness in land allocations (i.e. distributive justice), has helped to resolve inter-communal land disputes. The study conducted from July to October 2020 in Juba County, the seat of the Government of South Sudan and the Government of Central Equatoria State where intercommunal land disputes are rampant, employed the case study design and the mixed methods approach (qualitative and quantitative methods of data collection and analysis). Quantitative data was collected from 349 respondents in Rejaf and Luri payams (sub-counties) using a survey questionnaire. Respondents were selected from 349 households using the systematic sampling technique, while the qualitative data was collected from 41 purposively selected key informants from the said payams and the Juba City Council area, using a semi-structured interview guide. The study revealed that decentralized land governance structures have neither enforced distributive justice in allocations of land in Juba County, nor has decentralized distributive justice in allocations of land helped to resolve ethnic conflicts over access to land in the county. Citizens of South Sudan currently regard decentralized land allocations as unfair. The allocations of land, reportedly, favor the natives of the county, the rich, senior government officials, and people from the Equatorial region at the expense of migrants. As such, people have lost confidence in decentralization's ability to help communities resolve conflicts. Although the persistence of inter-communal conflicts has nothing to do with decentralization itself, it is a result of human weakness arising from a lack of political will to make the decentralized governance structures work efficiently to the benefit of all citizens, and two main human weaknesses are to blame: limited implementation of South Sudan's legal framework for decentralization and land governance (mainly the Local Government Act of 2009 and provisions of the amended Transitional Constitution of the Republic of South Sudan 2011 on decentralization and land governance), and a lack of appending distributive justice criteria to the Land Act of 2009. Addressing the land issue in Juba and other parts of South Sudan requires the leaders of South Sudan to resolve conflicts associated with injustices in allocations of public opportunities at the national

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1. Introduction

The aftermath of the Cold War saw a surge in decentralization, a governance arrangement where central governments cede political power, administrative responsibilities and resources to the grassroots with a view to improving efficiency in service delivery (Keil & Anderson, 2018; Saito, 2011). Decentralization

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To date, most countries emerging from violent armed conflicts, including South Sudan, continue to embrace decentralization as a tool for conflict resolution or prevention, mainly motivated by the neopopulists assumption that decentralization enables local authorities to better accommodate the divergent needs of various people at the local level, including minorities, which further enables them to address conflicts that often arise from access to power, resources, and public opportunities through distributive justice, because it is assumed that local authorities understand their people better than central government authorities who are remote from the grassroots (Saito, 2010; Schou and Haug, 2005:4). However, little has been known about whether or not decentralization enables local authorities to promote fairness in allocations of resources, particularly the people's main source of livelihood, land, and contain inter-communal conflicts over its access and control (Schou and Haug, 2005:4). This study attempts to bridge this knowledge gap by assessing the state of fairness of land allocations (i.e., distributive justice) in Juba County, and their impact on resolving inter-communal conflicts over access and control. The assessment sought insights into the extent to which South Sudan's subnational governments in Juba exercised justice in their land allocations to determine if fairness in resource allocations results in the resolution of resource-based inter-communal conflicts. The assessment attempts to answer two key questions that the existing literature on decentralization and ethnic conflict resolution has not yet addressed.

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1. Are decentralized local government structures fair in allocating essential public economic resources and opportunities such as land to citizens under their territorial jurisdiction without discrimination based on ethnicity or social status, as local elites and politicians often accuse central governments of discriminatory practices due to centralization of powers and resources?
 2. How has this fairness in allocations of these resources and opportunities impacted ethnic conflict resolution at the local level?

The ultimate aim of this study was to critically examine if the neopopulists assumption that decentralization enables local authorities to accommodate the divergent interests of diverse social groups works in South Sudan. This is a country where a significant portion of elites and politicians highly contest unitary decentralization in favor of federalism, so the lessons learned from this study can be used to guide policy-making decisions.

2. Rationale of the Study

Documented evidence shows that, as the main hub of South Sudan's business and politics and home to the national capital, Juba County has been attracting migrants since its inauguration as the capital of former Southern Sudan's regional government in 1956. Sadly, this continuous influx of migrants to Juba County, to date, has sparked inter-communal conflicts over access to land and government jobs (Martin and Mosel, 2012).

These conflicts became more visible when former Southern Sudan became semi-autonomous during the 1972 Addis Ababa Peace Agreement. Equatorians, whose regional capital was and is still Juba, accused the majority ethnic communities, especially the Dinka, of dominating government offices. That unfortunate situation led to Kokora: the division of the unitary government of former Southern Sudan into the former colonial provinces of Equatoria, Bahr el Ghazal and Upper Nile, where non-Equatorians were asked to leave Juba and people were confined to live in and work from their respective regions.

In 1983, South Sudanese waged the second liberation struggle against the Government of Khartoum with a vision to attain a secular Sudan where there would be no discrimination of people based on ethnicity, gender, social status, religion, or creed. Then, the CPA embraced a decentralized democratic governance for managing diversity in the country. However, as soon as the Government of autonomous South Sudan was established in Juba, communities from the Equatoria region, where Juba is situated, renewed their call for federalism (literally known as Kokora). They alleged that the majority ethnic communities, in particular the Dinka, dominated government jobs (Reeve, 2012). Conversely, non-Equatorians, especially the Dinka, accused Equatorians of denying them access to land in the city, and Equatorians, additionally, alleged that the Dinka were grabbing their land (Reeve, 2012). Therefore, Juba County was a suitable case for investigating these conflicts and the impact of decentralization on them in the capital of an independent South Sudan. South Sudanese regard this capital as their center of civilization, operating under a political regime that liberated the region from allegations of excessive centralization of powers and marginalization of minorities in former Southern Sudan by northern politicians in Khartoum. Particularly, it was important to understand what changes had occurred in administering social justice regarding resource allocation and opportunities at the local level in Juba County. This county hosts the capital city of an independent South Sudan, which adopted democratic decentralized governance for managing public affairs following its secession from Sudan, prompted by allegations of politicians in Khartoum marginalizing Southerners in access to resources and opportunities.

Finally, conducting this study in Juba County would also give the researcher and the public quick insights into the performance of decentralization in the countryside, since Juba County is closer to the central government than any other local government administrative units in the country. Meanwhile, we selected Rejaf and Luri payams for the study because Martin and Mosel's study of urbanization and conflicts in Sudan and South Sudan in 2012 documented that the city of Juba was rapidly expanding to customary

lands in Rejaf and Luri payams due to an influx of migrants from the countryside to Juba City. These areas, not yet delineated into the capital city's cosmopolitan area, fueled conflicts between the migrants and the host communities of these payams.

Therefore, conducting this study in those payams would give the researcher and the public an insight into how South Sudan's decentralized form of government empowered the local authorities of the payams to resolve ethnic conflicts over access to resources and opportunities, in the face of empirical evidence that decentralization helped to resolve conflicts in some contexts, for example, Bosnia and Herzegovina, Aceh, and Colombia (Keil and Anderson 2018:5). This is because, apart from the land disputes which Martin and Mosel's 2012 study documented—these payams are closer to South Sudan's capital city, Juba, where the authorities of South Sudan's central government and the Government of Central Equatoria State, whose capital is also Juba, reside and can easily be accessed for interviews.

3. Literature Review

Decentralized Distributive Justice in Land Allocations in South Sudan

Badiey (2013) studied the strategic instrumentalization of land in state building in Juba city, the current capital city of South Sudan. After interviewing several stakeholders including government authorities and land squatters in the city suburbs of Juba Nabari (Tongping) and Gudele Block 9, she observes that “the challenge of state-building for the new government of South Sudan was to unify various actors and institutions under the framework of the new decentralized state structure provided by the CPA” (Badiey, 2013:57). According to Badiey, the central government, in particular, complained about local opposition to the expansion of the town into surrounding villages; lack of access to land for investing in central government projects and housing development; and disputes over jurisdiction in the city. As such, she further observes that “urban development was very slow during the first years of the Interim Period due to local politics of resistance to the allocation of land for urban development held under customary law by Bari leaders, and battles over jurisdiction between the Government of former Southern Sudan (GOSS) and the Central Equatoria State government.” However, Badiey's study is silent on how these levels of government have addressed inequalities in citizens' access to land, a gap that this study attempts to fill.

Shulika and Nwabufo (2013) raise concerns of power struggles in Jonglei State between the Nuer and the Dinka and between different Dinka clans, for example, between Dinka Bahr el Ghazal and Dinka Upper Nile (Jonglei) due to exclusion in access to socio-economic and political opportunities. However, their study lacks evidence of how local governments are working to address this challenge, a gap that this study seeks to fill.

Benjamin (2018), too, raises complaints of the Equatoria region—a region in which Juba County is situated—about Dinka domination in access to economic and political opportunities, but like the former authors, his study never mentions whether the local governments which are demanding autonomy from the central government are fair to all citizens under their jurisdiction in the allocation of resources. Moreover, we cannot guarantee the objectivity of his study because the communities of Equatoria were the only participants, which makes this study relevant.

4. Conceptual Framework

The conceptual framework for this study is based on two premises:

1. Local governments in decentralized nation-states can resolve ethnic conflicts over access to public opportunities and resources if decentralized governance empowers them to promote fairness in allocations of resources to citizens.
2. Local governments that decentralization does not empower to promote fairness in allocations of resources, that is, distributive justice, cannot resolve ethnic or inter-communal conflicts over resources.

If central governments bestow local governments with political, fiscal, and administrative powers, they will enforce distributive justice, which will help them to resolve inter-communal conflicts over resources at the local level. The indicators of local governments empowered to enforce distributive justice include:

1. Ability to promote equality of opportunities in allocations of resources—a situation where citizens access public goods on merit and can only exclude themselves by choice rather than by malicious actions of society.
2. Ability to develop and implement a non-discriminatory criterion for allocating resources to their citizens;
3. Ability to protect the rights of minorities and other vulnerable groups;
4. Ability to develop human capabilities so that citizens can benefit from these resources; and
5. Being accountable to citizens.

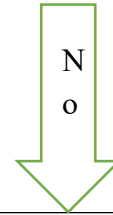
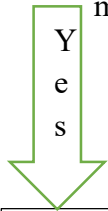
The rationale is that if local governments are fair in allocating opportunities and resources to citizens, they can then resolve local-level conflicts over resources. This will be evidenced by reconciliation, restoration of trust, cooperation, peaceful coexistence, and a strong desire for civic citizenship as opposed to ethnic citizenship because all ethnic groups do not consider the local governments to be favouring a particular ethnic group or tribe. Hence, the reverse is true when a local government is not fair in the allocation of resources to citizens. Ethnic groups in this scenario will be in conflict, which cannot be resolved easily. The indicators of this undesired scenario are unreconciled conflicting ethnic communities, ever-acrimonious ethnic groups, uncooperative ethnic groups, distrustful ethnic groups, and ethnic groups preferring ethnic virtues to civic virtues.

The conceptual framework was designed because neither theory of decentralization, distributive justice, or conflict resolution could guide the study alone. Therefore, the researcher constructed the conceptual framework from three theories of social justice that have a strong stance on conflict resolution, namely: John Rawls' theory of social justice, Amartya Sen's capabilities of equality theory, and Paul Lederach's conflict transformation theory. According to Rawls, the basic institutions of a society should be organized in a manner that takes into consideration the needs of the least advantaged. That is, during allocations of land, for example, there should be a non-discriminatory allocation criterion that prioritizes the needs of the least advantaged, for example, minorities. Amartya Sen's capability equality theory then postulates that a just criterion for resource allocation is not enough to mitigate resource-based conflicts. This is because a just allocation criterion is not an end in itself, but rather a means to an end: the derivation of satisfaction from the resources one desires, such as a piece of land for residential or commercial purposes. Such satisfaction is attained only if beneficiaries are capacitated to derive satisfaction from their resources.

Meanwhile, Lederach posits that true conflict resolution should foster sincere reconciliation and the healing of broken hearts, which is only possible after the fair administration of justice. Figure 3.1 below illustrates the conceptual framework.

Decentralized Governance (Independent Variable)

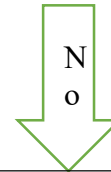
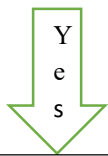
- Local governments have the political, financial, and administrative powers to manage their affairs and exercise distributive justice.



Distributive Justice (Intermediate Variable)

- Equality of opportunities.
- Access to opportunities on merit.
- Non-discrimination in allocation of opportunities and resources.
- Protection of minorities.
- Human capabilities.

Intervening variable



Ethnic Conflict Resolution (Dependent Variable)

<p>Ethnic Conflicts Resolved</p> <ul style="list-style-type: none"> • Conflicting ethnic groups reconciled. • Ethnic groups peacefully coexist. • Cooperative ethnic groups. • Trustful ethnic groups. • People prefer civic virtues to ethnic virtues. <p>Peaceful ethnic communities</p>	<p>Ethnic Conflicts Unresolved</p> <ul style="list-style-type: none"> • Conflicting ethnic groups are unreconciled. • Acrimonious ethnic groups. • Uncooperative ethnic groups. • Distrustful ethnic groups. • People prefer ethnic virtues to civic virtues. <p>Unpeaceful ethnic communities</p>
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Figure 3.1. Conceptual Framework

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5. Methodology

A case study design was employed, combining quantitative and qualitative research methods of data collection and analysis. The sample size for collecting the quantitative data was 398 representatives of households, hereinafter referred to as respondents, mainly people above the age of 18 in Rejaf and Luri payams or sub-counties of Juba County, where the Juba City is rapidly expanding due to a continuous influx of migrants from all parts of South Sudan. The respondents' sample size was determined using the Slovin's formula which Magigi (2015:128) presents as follows: $Sample\ Size\ (n) = N / (1 + Ne^2)$. Where n = number of samples, N = the total projected population for the year 2020 in the two payams of Juba County, Rejaf and Luri is 87,677 people, of whom 45,517 are males and 42,160 are females (SSCCE, 2015), and 'e' = error tolerance, which is 5% or 0.05. Thus, $n = 87677 / (1 + 87677 * 0.05^2) = 398$ people (respondents). However, the actual respondents interviewed were 349 representatives of households, selected using the systematic sampling technique because a random sampling criterion would be inappropriate since a residential plot of land may be inhabited by more than one household, especially in rental properties, and some areas in Juba County are purely inhabited by one ethnic community.

Meanwhile, the qualitative data was collected from 41 key informants comprising government officials at central, state, and local levels; traditional authorities, civil society representatives, academics, representatives of people with disabilities (PWDs), and representatives of the private sector or business community, who were purposively selected based on their nature of work or expertise in the subject matter. The collection of data ran from July to October 2020, during which the quantitative data was collected using survey questionnaires by four research assistants with a good command of the English language and local languages such as Juba Arabic, Bari, Dinka and Nuer, whom the researcher had trained in the use of the survey questionnaires.

The researcher collected the qualitative data using a semi-structured interview guide that followed the same order of questions in the survey questionnaire for consistency and reliability of information. Validity and reliability of the data and research findings were ensured by piloting the questionnaires with South Sudanese students at the University of Dar es Salaam and some civil society representatives in Juba before the actual data collection was carried out, and via triangulation of various sources of data. The piloting of the questionnaires indicated that some variables, for example, the economic status of the respondents and their status of land ownership could easily be interpreted differently by other participants; hence, the study tools were adjusted to ensure consistency and reliability in the data collected. The quantitative data was processed using SPSS while the qualitative data was analyzed manually, after coding and categorization of the data into themes and subthemes.

6. Results and Discussion

The State of Fairness in Allocations of Land in Juba County

Although some proponents of decentralization theoretically assume that decentralization enables local authorities to accommodate the divergent interests of all social groups in their localities more than central governments who are far away from the grassroots, the study could not establish any significant evidence of fairness of South Sudan’s decentralized government structures in allocations of land to citizens in Juba County. 175 (50%) of the 349 respondents in both Rejaf and Luri payams said, “No, there is no fairness in allocations of land in the county,” compared to 174 (49.9%) of their colleagues who claimed that the allocations of land in the county are fair.

Table 5.1: Respondents' Perceptions of Fairness of Land Allocations in Juba County

Responses	Payam					
	Rejaf		Luri		Total	
Yes	78	46%	96	54%	174	49.9%
No	92	54%	83	46%	175	50%
Total	170	100%	179	100%	349	100%

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Source: Field Survey Data (2020). (N=349)

However, the respondents’ perception of fairness in the allocation of land varied in each survey location. Of the 170 respondents in Rejaf Payam, for example, 92 or 54% alleged that there was no fairness in land allocation in the county compared to 78 or 46% who argued that the process of land allocation was fair in the county. Meanwhile, in Luri Payam, 96 or 54% of the 179 respondents claimed that there was fairness in land allocation in the county compared to 83 or 46% of their colleagues who argued that the land allocation process of land was unfair. This variation is linked to the fact that Rejaf Payam hosts a significant number of immigrants and internally displaced persons (IDPs) compared to Luri at the time of data collection, implying that the residents of Luri Payam access land more easily than their colleagues in Rejaf, hence the local authorities of Luri Payam are more likely to regard their citizens more native to the area than other citizens from other counties or states of South Sudan.

These quantitative results corroborate very well with the qualitative findings. The majority of the key informants also said that the process of land allocation was unfair and exclusive in Juba County. It favours the natives of the area, the rich, and powerful people in government at the expense of the poor and migrants, as seen in the excerpt below.

No, there is discrimination in land allocation. During community leaders' allocation of land, poor people are sometimes robbed of their land, and it is sold to rich people. Some community leaders favour their tribemates during allocations of plots of land. For example, our area chief at Hai Game was a Lopit. But when the area was being demarcated, his tribe-mates mobilized and influenced

him to allow them to claim our plot as theirs. During the demarcation, adjustments were made and part of our plot extended to the chief's plot—where he used to stay prior to the demarcation, and he is supposed to release that portion of land to us but until now, he has not complied with the local government orders. Even the Payam chief has failed to resolve the problem, and we are now planning to go to the State Ministry of Physical Infrastructure to open a case against our neighbor (KII-09, Juba Town, 3rd September 2020).

According to the local authorities in charge of land management in the county, the local governments that are supposed to enforce distributive justice in allocations of land cannot enforce it because they do not have mandate over allocations of land. Allocations of land are the prerogative of traditional authorities (mainly chiefs) and their respective communities. Unfortunately, these traditional authorities are said to be exclusive in their allocations of land to citizens based on ethnicity and social status, although both the qualitative and quantitative interviews claimed the allocations of land in Juba County are a collective responsibility of five main actors: the state government, the county, the payam, the chiefs, and communities, just as the South Sudan's Land Act of 2009 provides the tiers of government with concurrent powers for the regulation of land tenure, usage, and exercise of rights. However, in practice, the regulation of land is the responsibility of the central government and state governments (Article 6 (1)(2009)), see Note 3. In other words, the central government and state governments have the legislative powers to enact laws on the management and administration of land. However, the development of policies is the prerogative of the central government (GOSS, 2009).

Furthermore, the State Government and Local Governments are involved in surveying, demarcation, and registration of land. However, they only feature in this process when a community has decided to demarcate an area, for example, for residence, for public facility, or for investment. However, the ultimate authority to make decisions over the allocations of land rests in the hands of community chiefs (KII-18, Juba Town, 5th October 2020; FGD-1, Luri, 8th October 2020, KII-7, Luri, 17th August 2020). The chiefs and their respective communities decide on which portion of land should be allocated and to whom (KII-18, Juba Town, 5th October 2020; KII-15, Rejaf, 16th September 2020), because the Land Act of 2009 vests the rights of allocations of customary land to traditional authorities, mainly chiefs (Article 41(5)). In this case, neither level of government: be it the central, the state, or the county government, has powers over the allocation of land. It is the prerogative of traditional authorities, as mentioned earlier. Yet, before South Sudan's leaders enacted the Land Act of 2009, the largest portion of land in the country was under the leadership of local authorities, despite the fact that the previous land policy of Sudan bestowed the ownership of land upon the government (Martin and Mosel, 2011). This was because former Southern Sudan was engaged in liberation civil wars with the Government of Khartoum over issues of identity and resource rights, the land being one of the critical resources of concern (Martin and Mosel, 2011; Zambakari, 2013). Thus, since much of South Sudan's land was customary during the enactment of the 2009 Land Act, it now means that access to land for cosmopolitan residence entirely depends on the discretion of traditional authorities. This could explain why the government has, seemingly, no powers over the allocation of land for cosmopolitan residence.

In both rural councils where this study was conducted, that is, Rejaf and Luri Payams, community representatives had an office within the *Payam* headquarters. The community office for land, in most cases, consists of a committee of about seven members, headed by a chairperson who is a chief. The

members of the land allocation committee constitute a village development committee comprising chiefs, elders, women, youth, and representatives of persons with disabilities. Nevertheless, sometimes, disagreements occur among the community members over the committee’s legitimacy, and the committee disbands, as witnessed in Luri Payam in October 2020.

Furthermore, although both the state government and local governments share responsibilities in land management and administration, these tiers of government have different mandates in managing the allocation of land, depending on the category of the land allocated, as provided for by the Land Act of 2009[2] (See Note 4). The state government facilitates the demarcation and registration of first- and second-class plots of land, while the local governments (the county headquarters and respective payams) demarcate and register fourth-class plots of land. Nevertheless, in all allocations of fourth-class plots of land for residence, commercial, or investment purposes, the state government approves the release of the Global Positioning System (GPS) machines for land mapping and survey, and sends a surveyor to work together with the county and *payam* survey engineers during the demarcation process. Thus, the alleged discrimination against the poor and immigrants in the allocations of land in the county is not attributable to the failure of subnational governments in administering justice in South Sudan’s decentralization framework, as the current legal framework on decentralization and land management has not empowered them to do so. The problem, seemingly, reveals a deficiency in the traditional governance structures or systems that the Land Act of 2009 has mandated for managing land allocation, which, unfortunately, have been unable to administer social justice to all citizens in their territorial jurisdictions without discrimination based on ethnicity or social status.

Consequently, both the respondents of the survey and the key informants alleged several reasons why the allocation of land was unfair in the county, issues which they tended to associate with the local authorities of Juba County’s lack of delineation of land for civic or cosmopolitan citizenship, as well as decentralization’s deficiency in empowering local governments to enforce social justice in land allocation to citizens. These are presented in the figure below and discussed afterwards with a blend of qualitative data.

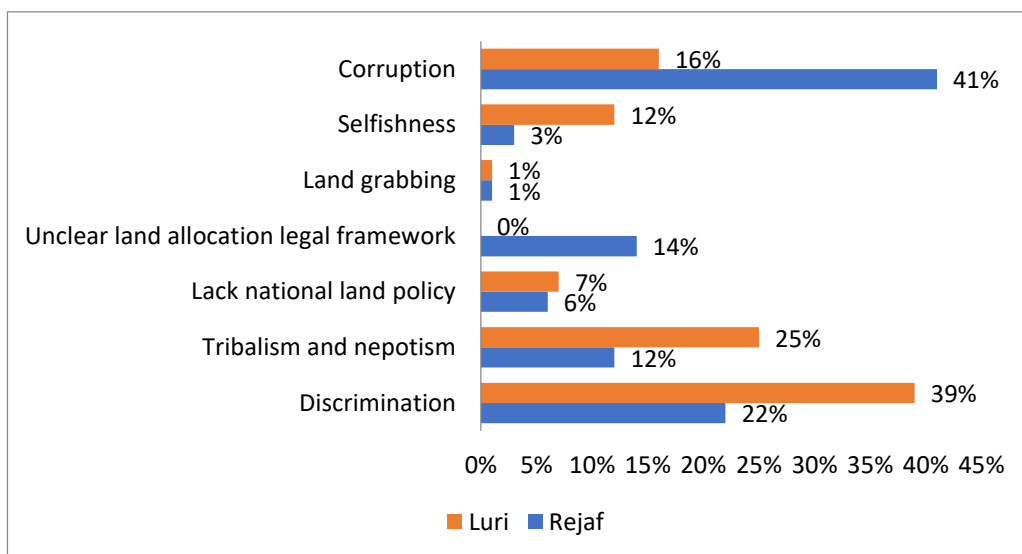


Figure 5.1: Reasons for discrimination in land allocations in Juba County

Question: Why is the process of land allocation unfair in Juba County?

Source: Field Survey Data (2020).

7. Discriminatory Land Allocation Criteria

According to 30% of the 49 survey responses collected from both Rejaf (20 responses, 22%) and Luri (29 responses, 39%) payams, the criteria for land allocation in Juba County discriminates against other citizens. Some tribes and the rich had more access to land than other citizens, reifying the magnitude of discrimination in access to land and land disputes. However, from these statistics, more respondents in Luri; that is, 29 respondents, equivalent to 39%, supported this argument to a greater extent than their counterparts in Rejaf who were only 20 respondents or 22%. The implication of which is that the respondents in Rejaf witnessed graver discrimination in access to land than those in Luri, because, as previously mentioned, most of the respondents in Rejaf were immigrants who considered themselves more alien to the county than their counterparts in Luri who were mainly the natives of the area.

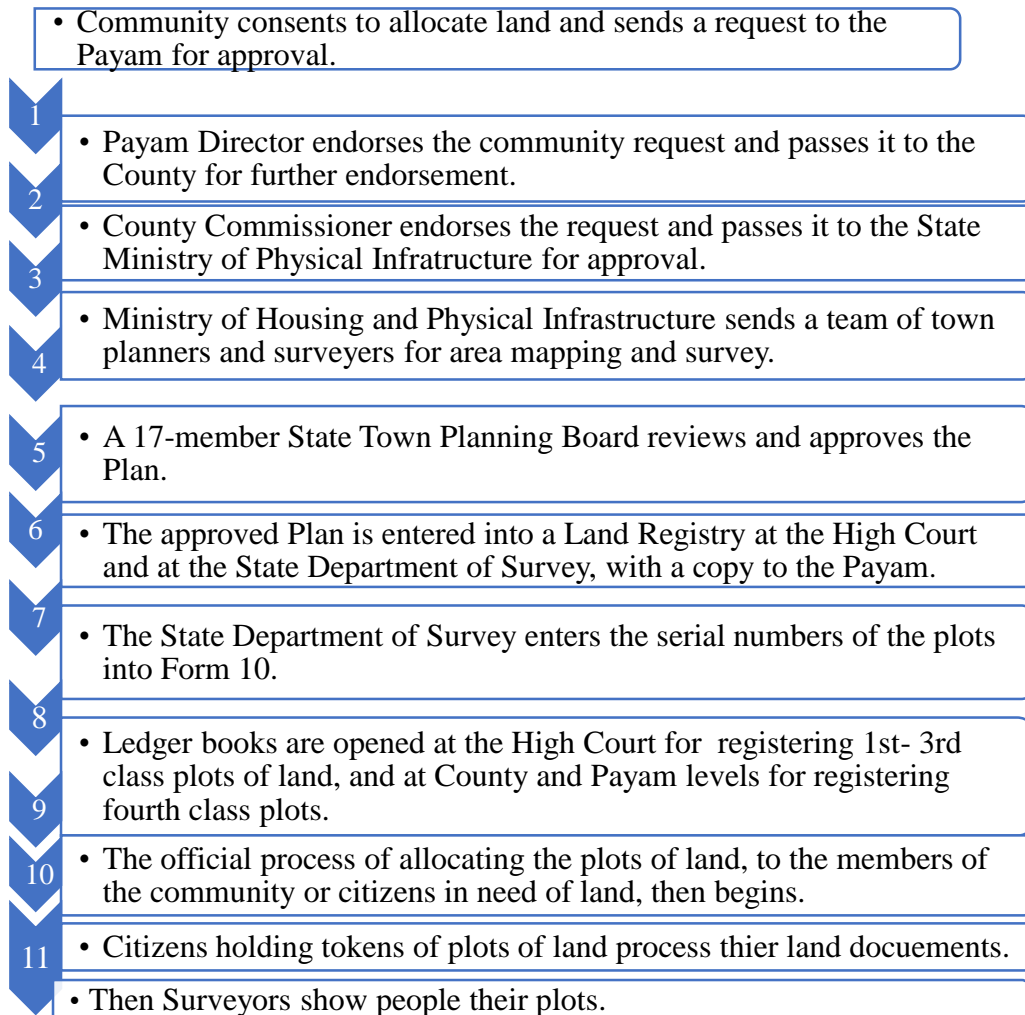
Nevertheless, regardless of the divergence of opinions on the discriminatory land allocation criteria per payam, both the respondents of the survey and the key informants had previously rated discrimination as decentralization's second highest negative effect on conflict resolution in the county, and several key informants too raised this issue as a grave concern, implying that the allegations of the discriminatory land allocation criteria in the county should not be underestimated.

According to a senior land officer at the Central Equatoria State Government, the Ministry of Housing and Physical Infrastructure had enforced fairness in allocations of land before the Comprehensive Peace Agreement (CPA) period, from 2005–July 8, 2011, through public disclosure of the availability of plots of land for allocation to interested citizens. Interested citizens, he said, applied to the Ministry of Housing and Physical Infrastructure for allocation of plots of land and the Minister of the Ministry formed a committee to shortlist the applicants, where the successful applicants were invited to process their certificates of land ownership (KII-18, Juba Town, 5th October 2020). Then, if the land committee finds the number of applicants very big, a lottery is organized and successful applicants take their lotto for registration. The lotto consisted of some pieces of paper where plot numbers were written on—similar to the current tokens of plots of land; that is, some pieces of paper bearing plot numbers of readily surveyed plots of land and the blocks they are located, which people these days acquire directly from the community after demarcations of land, for processing Title deeds. Previously, people never went to acquire the tokens from the communities directly but through a competitive lottery. The actual plot numbers were written on pieces of paper, and some papers were left invalid for the lottery.

The idea of tokens began in 2005 where all demarcated plot numbers were written on small pieces of papers called tokens, which were first given to the state minister of housing and physical infrastructure and he or she took a portion, then issued the rest to the people, the chiefs, and the members of the land-demarcating community (KII-18, Juba Town, 5th October 2020). Then, the owners of the tokens of plots of land would take their tokens to the land office at payam, or county, or ministry of housing and physical infrastructure for processing, depending on the class of the residential area. Both the payam and the county register fourth-class residential areas, while the state ministry of housing and physical infrastructure

registers 1st- to 3rd-class plots of land. Table 5.2 summarizes the current criteria for land acquisition or ownership in Central Equatoria State where Juba County administratively and physically falls.

Table 5.1: Criteria for land acquisition in Juba County, Central Equatoria State.



Source: KII-18, Juba Town, 5th October 2020.

Unfortunately, the change of criteria for selecting people in need of plots of land from lotto to tokens which people now acquire directly from the community has a negative implication for fairness in the distribution of land to citizens.

These days, people do not get the tokens through a lottery; some senior government officials first take their share of the tokens and the community representatives take the remaining tokens as their community share, but they go and sell them out to rich people at high prices, disadvantaging the vulnerable (KII-18, Juba Town, 5th October 2020).

Additionally, it should be noted that the ministry of physical infrastructure had tried to enforce fairness in allocations of land when former Southern Sudan was still part of Sudan because the old Sudan land policy mandated the government to own the land on behalf of its citizens (KII-18, Juba Town, 5th October 2020). When Sudan formed a unity government through the Comprehensive Peace Agreement (CPA) in 2005 and

made the Southern Sudan region autonomous in a semi-federal arrangement, ownership of land shifted to the community, as stated previously (KII-18, Juba Town, 5th October 2020). Therefore, the Ministry of Housing and Physical Infrastructure no longer announces the availability of plots of land for allocation to the public (KII-18, Juba Town, 5th October 2020). People in need of plots of land look for them through networks of community social relationships (KII-18, Juba Town, 5th October 2020). The process of land acquisition often involves a network of land brokers who are sometimes accused of reselling the plots of land to multiple buyers, fueling conflicts (KII-18, Juba Town, 5th October 2020).

Moreover, although the payams and counties respectively process land title deeds for fourth-class plots of land, the Ministry of Housing and Physical Infrastructure plans and surveys the land for allocation in collaboration with county and payam survey engineers. These procedures were copied from the old Sudan but are not officially documented for public consumption (KII-18, Juba Town, 5th October 2020). The land officer at the Ministry of Housing and Physical Infrastructure initiated the process of documenting them, but a foreign typist who is said to have been hired by one of the former ministers, allegedly disappeared with the document (KII-18, Juba Town, 5th October 2020).

Furthermore, the Ministry confirmed that there was no national land policy at the time of this study, but that a draft of it was discussed in a two-day workshop in 2011, ending with no consensus on it; a quarrel ensued, stemming from controversy over land ownership, *vis-à-vis* community and government ownership of land (KII-18, Juba Town, 5th October 2020).

The above statements, however, imply that the process of land allocation before South Sudan's independence was regarded to be fairer than after independence; that is, with limited conflicts, because there was a distributive justice criterion which citizens considered transparent enough. In addition, this was so because the land policy of the then Sudan had empowered the local governments to enforce justice in allocations of land, a practice that was consistent with John Rawls' theory of social justice and Amartya Sen's human capabilities theory. As stated earlier, John Rawls postulates that the basic institutions of society should develop distributive justice criteria that favour the least advantaged to avoid arbitrary discriminatory practices and related conflicts. Meanwhile, for Sen, people should be capacitated on how to benefit from the distributive justice criteria because possessing a primary good such as a piece of land alone is not an end but an advantage which is a product of a relationship between people and goods. According to the conceptual framework of this study, the Government of South Sudan's abandonment of the former distributive justice criteria can be seen as the cause of the alleged rampant land disputes in Juba County and other cosmopolitan parts of South Sudan. According to the null premise of this study, local governments that are not empowered to enforce distributive justice in a decentralization arrangement cannot contain or resolve conflicts over access to resources. This is because local authorities can discriminate against other citizens who they believe are not more native to their localities when there are no clear distributive justice criteria, forcing those who are being discriminated against to claim their rights violently.

Corruption

30% of the multiple responses in Figure 5.3 above, representing 49 responses in both study locations; that is, 37 responses in Rejaf; equivalent to 41%, and 12 responses in Luri; that is, 16%, claimed that the process of land allocation is tainted with corruption. This means that more respondents in Rejaf; that is,

41% compared to 16% in Luri, think that the process of land allocation is not fair in the county due to corruption. This variance could imply that corruption in allocations of land is more serious in Rejaf than in Luri. However, corruption, which the participants rated the most prominent negative effect of decentralization on ethnic conflict resolution, has now been rated as the second most prominent reason for exclusion of some citizens in resource allocation, mainly land. This vice is a sign of weak control systems, which the Report of the Office of the President on the performance of decentralization between 2005–2011, linked to a lack of political will to decentralize the Audit Chamber to promote quality assurance at the local level. Whereas, in relation to the conceptual framework of this study, the repeated complaints about corruption imply that the central government has not adequately empowered the local governments to enforce a distributive justice system that controls corruption and associated conflicts. Therefore, doing so is crucial if the local governments in South Sudan are to resolve conflicts and promote peaceful coexistence among diverse ethnic communities.

Tribalism and Nepotism

18% of the multiple responses in Figure 5.3 above, representing 30 responses in both study locations, that is, 11 responses in Rejaf, equivalent to 12%, and 19 responses in Luri, that is, 25%, alleged that tribalism and nepotism have become a norm of South Sudanese society, in which the leaders who allocate the land mostly favor their tribes or relatives and friends. Again, more respondents in Luri; that is, 25% than 12% in Rejaf; believe, that tribalism and nepotism have affected fairness in allocations of land in the county, implying that tribalism and nepotism are not only a problem in both payams but a serious vice in Luri; indeed, 12% of the survey respondents had, earlier on, rated tribalism and nepotism as the third most prominent negative effect of decentralization in conflict resolution, which still is linked to corruption and a lack of distributive justice criteria that favour the least favored persons in the community. No wonder some key informants argued that there was an ethnic-based discrimination of citizens in allocations of land in the county (KII-1, Buluk, 17th July 2020; FGD-2, Buluk, 19th October 2020)! The root cause of this anomaly at the local level, according to the conceptual framework of this study, is a lack of local government empowerment in enforcing distributive justice criteria; that is, criteria that could enable the communities to resolve conflicts.

Unclear Legal Framework

8% of the multiple responses representing 13 responses in Rejaf Payam only, that is, 14%, alleged that the legal framework governing the land allocations was not clear (Figure 5.3 above). Well, allocations of land are governed by the Transitional Constitution (2011) as amended and the Land Act of 2009, both of which bestowed communities with more powers for land management, as discussed earlier. However, the fact that this problem was only raised in Rejaf could imply that the respondents in Luri did not see any problem with these legal frameworks. This is because, as said earlier, the sites of the study in Rejaf had more immigrants than in Luri. Therefore, the respondents in Luri could have been in more favour of the current legal frameworks on the land than their counterparts in Rejaf, because the current legal frameworks on land management have empowered the natives of the area to manage their land. Nevertheless, the existing legal framework on land is silent on the leading role of the government in land allocation, implying that the local governments of Juba County are not yet empowered to execute this role, which is why complaints of discrimination in land allocation are high.

Selfishness

7% of the multiple survey responses representing 12 responses in both payams; that is, three responses in Rejaf, corresponding to 3%, and nine responses in Luri; that is, 12% alleged that the leaders who allocate the land are selfish; they want to own more land than others (Figure 5.3). On this issue, however, more respondents in Luri; that is, 12% than 3% of their colleagues in Rejaf believe that the allocators of land are selfish. This problem is not only common in allocations of land in the county, but it appears grave in Luri. Indeed, some key informants also accused some chiefs, government officials and land entrepreneurs of grabbing the land of the poor, especially when it is located in a prime area (KII-9, Juba Town, 3rd September 2020; KII-8, Juba Town, 27th August 2020; KII-7, Luri, 17th August 2020; KII-3, Juba Nabari, 21st July 2020).

This problem, on one hand, confirms the critics of decentralization's argument that decentralization is often hijacked by selfish political elites and ethnic entrepreneurs who divide communities for their personal benefit (KII-7, Luri, 17th August 2020; Saito, 2011; Schou & Haug, 2005). On the other hand, it embodies a lack of distributive justice criteria that curtails conflicts of interest in resource allocation, implying that the local governments have not been adequately empowered to enforce distributive justice. If this had been the case, they would have curtailed selfishness although other factors such as the level of democracy also influence the ability of a nation to nurture selfless leaders. Even then, democracy is a tenet of local autonomy, which embodies effective political decentralization and devolution.

Lack of National Land Policy

6% of the multiple responses mentioned earlier, representing 10 responses from both payams; that is, five responses in Rejaf, equivalent to 6%, and five (5) responses in Luri; that is, 7%, claimed that South Sudan lacks a national land policy (Figure 5.3 above). This time, however, a significant number of respondents in Luri; that is, 7% than 6% in Rejaf have agreed that there is no land policy in South Sudan. Indeed, interviews with senior land officers at state and local government levels revealed that the lack of land policy poses a significant challenge in fair allocations of land because it is communities that allocate the land and not the government (KII-5, Luri, 31st July 2020; KII-18, Juba Town, 5th October 2020; KII-20, Rejaf, 16th October 2020).

According to a senior land officer at Central Equatoria State's Ministry of Physical Infrastructure and three representatives of civil society organizations, South Sudan is yet to enact a policy for effective management of land. A representative of persons with disabilities, in particular, said, "there is no land policy: the 1925 land policy of the British colonial era ended in 1990, and since then, no new land policy has been enacted in South Sudan" (KII-8, Juba Town, 27th August 2020). Furthermore, an academic also added his voice, as follows:

The ruling party and their leaders lack political philosophy, and no policy defines what a county or a county headquarters is. As such, there is friction between levels of government over land management in Juba, and the communities then fear delineating some land for urban settlement (KII-3, Juba Nabari, 27th July 2020).

Meanwhile, the senior land officer at Central Equatoria State's Ministry of Physical Infrastructure added that the enactment of the current Land Act was in 2009. That was during the Comprehensive Peace

Agreement (CPA) period, but unfortunately, it bestowed the communities with more powers for land management, as a political tool to prevent some politicians in Khartoum from exploiting the land of former Southern Sudan (KII-18, Juba Town, 5th October 2020). Moreover, he said that during the negotiation of the Protocol on Wealth-Sharing in Naivasha, Kenya, the parties to the CPA never reached a compromise on the ownership of land in Sudan, fearing that some selfish politicians in Khartoum would exploit the land of former Southern Sudan (KII-18, Juba Town, 5th October 2020). Indeed, the Wealth-Sharing Agreement reflected this concern in Article 2.1, as follows:

Without prejudice to the position of the parties concerning ownership of land and subterranean natural resources, including in Southern Sudan, this Agreement shall not address the ownership of those resources. The parties agree to establish a process to address this issue (IGAD, 2005).

The main trigger of those fears over the loss of the land of former Southern Sudan was President Nimeiri's Unregistered Land Act of 1970, perceived to be a threat to communal land tenure. The Act declared all lands that were not registered by the Land Settlement and Registration Ordinance of 1925, as state property (Shanmugaratnam, 2010:4).

Although the parties to the CPA did not agree on the question of land ownership, the agreement provided both the governments of Sudan and the former Southern Sudan with concurrent powers for regulation, usage, and exercise of rights in land management and administration, as reflected in Article 2.3 of the wealth-sharing agreement. The Article stipulates that "The parties shall record that the regulation of land tenure, usage, and exercise of rights in land is to be a concurrent competence exercised at appropriate levels of government." In this regard, the appropriate level of government in the South of Sudan was the Government of former Southern Sudan (GoSS). Furthermore, Article 2.4 of the CPA on wealth sharing states, "Rights in land owned by the Government of Sudan shall be exercised through the appropriate or designated levels of government," reaffirming the position of the Government of former Southern Sudan to take charge of all lands in its territory during the CPA period.

Additionally, Article 2.5 of the CPA on wealth sharing states, "The parties agree that a process is instituted to progressively develop and amend the relevant laws to incorporate customary laws and practices, local heritage and international trends and practices." Thus, it was on those provisions of the CPA that the Government of former Southern Sudan enacted its Land Act of 2009 with significant considerations for customary land tenure, under the auspices of traditional authorities.

However, because land tenure in South Sudan is still being regulated by a Land Act enacted based on fears of confiscation of the former Southern Sudan land by Khartoum, as seen in that key informant's statement above (KII-18, Juba Town, 5th October 2020), the Government of South Sudan is now a new Khartoum in its territory. Land officers at state and local government levels disclosed that the Government of South Sudan can only access land for investment or civic residence at community discretion (KII-18, Juba Town, 5th October 2020; KII-5, Luri, 31st July 2020; KII-15, Rejaf, 16th September 2020). This implies that without a land policy, the vulnerable people whose welfare depends on the regulatory power of the state are on shaky ground.

This finding confirms the null premise of the conceptual framework of this study that a lack of local government empowerment to enforce a distributive justice legal framework, for example, a land policy, weakens the capacity of local governments to resolve inter-communal conflicts over resources. Indeed,

we have also seen from Abegunde (2011: 28) that land conflicts are common in Nigeria because the land policy there has not empowered the government to allocate land, as in South Sudan, a problem which appears to affect African contexts where communities manage land allocations for cosmopolitan citizenship. However, for distributive justice to be effective in resolving conflicts over land, the central government should further empower its local governments by enacting a cosmopolitan residence policy that minimizes one-sided rural-urban migration or vice versa. One-sided migration in this context refers to the act of people from different places shifting to reside in one particular area or region, which is avoidable through effective fiscal decentralization and equitable allocation of funds to local governments.

Land Grabbing

A small segment of respondents who constituted 1% of all survey respondents in Rejaf and Luri (a total of two responses, one from each location), complained about land grabbing in the area (Figure 5.3 above). Land grabbing refers to the illegal acquisition of land for residential, commercial, or agricultural production (Kachika & Hargreaves, 2013:15). In South Sudan, people loosely use the term land grabbing to refer to all forms of unlawful acquisition of land such as squatting on reserve land and/or the forceful dispossession of the rightful landholder from his or her officially leased or customarily acquired piece of land (Focused Group Discussion, Luri, 8th September 2020).

Although only 1% of the survey respondents raised this issue, both Rejaf and Luri payams had an equal number of respondents, signifying that land grabbing is a common problem in both areas. Some civil society representatives and government officials attribute the native communities' refusal to demarcate the land for urban residence to this negative practice. For example, some interviewees alleged that some SPLA officers began grabbing some people's land in Juba City as soon as they took over leadership in the city in 2005 (KII-18, Juba Town, 5th October 2020; KII-13, Luri, 9th September 2020; KII-3, Juba Nabari, 27th July 2020).

According to a senior local government officer in Luri Payam, conflicts over land grabbing are not only cumbersome to local governments but they also cause mayhem, dominating the pleas of communities for peace (KII-13, Luri, 9th September 2020). Moreover, a civil society representative and some chiefs think that the problem of land-grabbing is a ticking bomb for an imminent, grave ethnic violence which they described as 'the looming major war of South Sudan' if not timely averted (KII-2, Juba Town, 17th July 2020; FGD-1, Luri, 8th September 2020; KII-24, Rejaf, 22nd October 2020).

Whereas according to some chiefs, the problem of land-grabbing is very common in the Greater Equatoria region, especially in Central Equatoria State where Juba is situated; and in the Madi Corridor of Magwi County in Eastern Equatoria State (FGD-1, Luri, 8th September 2020). Some legislators at the Council of States think that land grabbing is increasingly becoming a nationwide problem (FGD-2, Buluk, 19th October 2020). Additionally, land grabbing is believed to trigger ethnic violence in the Greater Upper Nile region, especially in Malakal, and in some parts of Greater Bahr el Ghazal, particularly in Western Bahr el Ghazal's counties of Raja and Wau (KII-2, Juba Town, 17th July 2020; FGD-2, Buluk, 19th October 2020).

According to a senior land officer at Central Equatoria State's Ministry of Physical Infrastructure, land grabbing was not common in the old Sudan: that is, before South Sudan's independence. He said that apart from one incident in the old Sudan where the government had aerially surveyed a *Komiru* community

area, west of Juba City, unilaterally, the term 'land-grabbing' was nascent in the county (KII-18, Juba Town, 5th October 2020). He claimed that land grabbing found its way to the county during the Comprehensive Peace Agreement period (CPA). That was when the Sudan People's Liberation Army (SPLA)—a cohort of rebels who manned a 21-year liberation war that led former Southern Sudan to historic independence via the plebiscite of January 2011—administratively took over the region and ushered in the Government of Southern Sudan (GOSS) in Juba with limited autonomy (KII-18, Juba Town, 5th October 2020). The interviewee continued, stating that no sooner had the SPLA taken over the administration of the then Southern Sudan in 2005, following the signing of the CPA, than some military officers began grabbing land in strategic parts of the city. “They claimed that those plots of land were previously occupied by their political opponents in Khartoum” (KII-18, Juba Town, 5th October 2020). Today, as some chiefs and local government officials claimed, the practice of land grabbing has spread to other parts of Juba (FGD-1, Luri, 8th September 2020; KII-18, Juba Town, 5th October 2020). Good examples of residential areas where land grabbing is common are: Juba Nabari, Gumbo-Sheirikat, and Mountain Sojajin (now also called Jebel Dinka). Each of these areas is discussed below.

Juba Nabari—an area referred to as Tomping, whose registered name at Central Equatoria State's Ministry of Physical Infrastructure is 3K South—and other residential areas such as the Production Development Unit (PDU) area, Hai Coast, Munuki, and Gudele, were the first areas where land-grabbing began in the city. Some people grabbed approximately over 3,000 plots of land from the legal owners (KII-18, Juba Town, 5th October 2020). Gradually, the land-grabbing expanded to other parts of Juba County such as Gumbo-Sheirikat, Jondoki, and Mountain Sojajin (now also called Jebel Dinka) (FGD-1, Luri, 8th September 2020; KII-18, Juba Town, 5th October 2020).

Gumbo-Sheirikat is an area located in Rejaf Payam, East of Juba City, across the River Nile. The government had reportedly demarcated it for resettling residents of Hai Gonya and Nyakuron who were residing in a government reserve land, and the former Government of Sudan was in the process of relocating them to this residential area (Gumbo-Sheirikat) (KII-24, Rejaf, 22nd October 2020; KII-18, Juba Town, 5th October 2020). However, as one state-level government official disclosed, a group of Internally Displaced Persons (IDPs) from Bor County, Jonglei State, came and settled in the area by force, although the administration of the State had allocated for them an area called Hai Peace in Luri Payam, which they never went to (KII-18, Juba Town, 5th October 2020).

Jondoki is a village Northeast of Juba that is the cradle land for the *Komiru* clan of the Bari tribe—the dominant natives of Juba County. It is the area that the senior land officer at the State Ministry of Physical Infrastructure earlier said that “the Sudan Government had aerially surveyed during Governor Amdun's reign without community consultation.” After Governor Amdun left office, the senior land officer explained, the community reclaimed their ancestral land and some non-natives who had acquired residential plots there, were compensated by the Ministry, while others remained in the area. However, he said, “Some immigrants have occupied some portions of this customary land and renamed it Hai Referendum, Mangaten, and Eden respectively” (KII-18, Juba Town, 5th October 2020).

Sojajin Mountain area is another area that the native chiefs said some migrants have occupied and renamed Jebel Dinka. It is located within the administrative area of Rombur Boma in Luri Payam. According to the chiefs, the residents of this area requested the Payam administration to demarcate the area into official residential plots. However, when the Payam sent a land demarcation team to survey and demarcate the

area, one of the squatters chased them away with a powerful machinegun and they fled the area for their lives (FGD-1, Luri, 8th September 2020). At the time of this study, the local authorities of the area still regarded the residents of this area as “squatters” because the government had neither registered the plots of land there, nor officially surveyed them (FGD-1, Luri, 8th September 2020).

From the above narrative, land grabbing is a heinous problem in Juba County that is in fact the main source of inter-communal conflicts in the area. Surprisingly, this problem also affects other cosmopolitan areas of South Sudan such as Wau and Raja counties in Western Bahr el Ghazal; Malakal in Upper Nile State; and Magwi County in Eastern Equatoria State – areas which are perceived to be economically viable, mainly regional capitals and areas with international borders. The root cause of which is deconcentration of powers and limited fiscal decentralization. “People follow the centralized money in these towns,” as some representatives of the Local Government Board said earlier on. Nonetheless, the land grabbing should have been prevented in the short and long run through enacting distributive justice policies that empower the local governments of these contentious areas to promote fairness in allocation of resources, as the conceptual framework of this study postulates.

Non-delineation of Urban Land from Customary Land

According to a civil society representative who is also an academic, there is no clear boundary between customary lands for native peoples and urban land for civic residence in Juba County (KII-3, Juba Nabari, 21st July 2020). This challenge, he said, makes it quite hard for immigrants and the vulnerable to access residential land for urban residence (KII-3, Juba Nabari, 21st July 2020). He attributed this problem to a lack of land policy that mandates the government to allocate land. Meanwhile, another civil society representative thinks that the local communities fear to demarcate land for urban residence because they are in a dilemma of “who the national government is,” and this is because of allegations that some senior government officials had grabbed some people’s plots of land in Juba Nabari during the CPA era (KII-2, Juba Town, 17th July 2020). Likewise, another civil society representative substantiated this assertion, adding that “Juba City is not given to the national government for management; everything is mixed: all the three levels of government; the county, the state, and the central governments, scramble over the management of the city” (KII-1, Buluk, 17th July 2020).

These allegations confirm our earlier findings that, decisions on allocations of land are managed by traditional authorities and their respective communities. The government is only involved in the survey, registration, and arbitration of land disputes. In this case, the native communities of the area can decide not to demarcate their land for urban settlement. The conceptual framework of this study condemns this discriminatory practice because: it not only disorganizes procedures for social justice but also fuels inter-communal conflict over access to resources.

Commercialization of Land

When asked why there is discrimination or resistance to the demarcation of land for residential settlement in Juba, one of the civil society representatives who is also an immigrant replied that:

It is the desire of a small group of Equatorians who want to own big chunks of land for business which they would, in turn, sell to foreigners and other South Sudanese from outside Juba, at high prices (KII-1, Buluk, 17th July 2020).

Likewise, another civil society representative said that the natives of Juba do not easily allocate their land to other citizens because of the commercialization of land mentioned earlier, arguing that “the land in Juba is a lucrative business” (KII-3, Juba Nabari, 27th July 2020).

Indeed, the statements of those civil society representatives corroborate well with an earlier assertion of a representative of persons with disabilities that “some chiefs sell out strategic plots of land, particularly the ones near the road to investors, and the vulnerable are evicted from them” (KII-8, Juba Town, 27th August 2020).

With the rising demand for land in urban centers, communal landownership is at a crossroads, so too is vulnerable people’s access to land, as one of the local government officers in Luri Payam claimed:

Some people influence their communities to demarcate customary lands at the periphery of the city as community dividends and, afterwards, vulnerable members of the community auction out their shares to them at a giveaway price, which they resell to the rich at high prices (KII-7, Luri, 17th August 2020).

This means that, making the land accessible to most citizens in need at a low price is a threat to other people’s business. Hence, without a distributive justice policy that empowers local governments to enforce fairness in allocations of land, as the conceptual framework of this study postulates, local land entrepreneurs may obstruct cheaper allocations of land to citizens who are not financially well-off.

Unresolved Conflicts of the Past

A representative of civil society and an academic attributed the native communities’ negative attitude towards other citizens’ access to land in the county to protracted conflicts and civil wars. These interviewees argued that civil wars have polarized ethnic relations and now, South Sudanese ethnic communities do not trust each other (KII-2, Juba Town, 17th July 2020).

In the 1980s, as stated earlier, South Sudanese ethnic communities disagreed over decentralization, which people nicknamed “Kokora,” a Bari word that has many connotations, one of which means to share or to divide something (Johnson, 2014; Willems & Deng, 2015; KII-3, Juba Nabari, 21st July 2020). By then, some politicians from the Equatoria region advocated for the restructuring of the former semi-autonomous unitary Regional Government of Southern Sudan into three regions: Equatoria, Upper Nile, and Bahr el Ghazal (Johnson, 2014b). Politicians who advocated for that move alleged that the majority ethnic communities had monopolized power and marginalized them during the Addis Ababa Peace Agreement period, when Mr. Abi Allier, a Dinka, was made the first Chairman of the High Executive Council for the then Southern Sudan (Johnson, 2014b). The people of Equatoria thought that sharing power through regional governments would help address the problem. However, all communities, especially the Greater Bahr el Ghazal and Greater Upper Nile communities, did not embrace the idea (Willems & Deng, 2015). Nevertheless, the idea of “Kokora” was pushed through, and Southern Sudanese shared power by reinstating the former Anglo-Egyptian Condominium provinces of Equatoria, Upper Nile, and Bahr el Ghazal because the highest decision-making authority was in Khartoum, then (Johnson, 2014b). Elders with fresh memories of the Kokora episode said during the interviews that non-Equatorians left Juba and went to work in their respective regions which, according to Willems and Deng (2015), deeply polarized South Sudanese ethnic relations but no reconciliation has taken place. Therefore, the signing of the Comprehensive Peace Agreement (CPA) in 2005 refreshed the fears and memories of Kokora. Some

members of the host community thought of the tyranny of the majority again if they delineated part of their land for civic citizenship. This could explain why the local government authorities of the area were, opposed to the central government's proposal to delineate a portion of Juba for cosmopolitan urban residence, Reeve (2012) observed.

Nevertheless, it appears that the resistance of the host communities to the demarcation of land for urban residence is now being undone by market forces and unregulated settlements. As observed during the study, urban residential areas in Juba County have by far encroached on customary lands and are almost reaching the city council area that the central government had proposed in 2005. Unfortunately, this expansion of the city has intensified land conflicts, which local authorities are grappling with. Some key informants were afraid that South Sudan is heading to the worst war, 'the war of land' (KII-2, Juba Town, 17th February 2020; FGD-1, Luri, 8th September 2020; KII-24, Rejaf, 22nd October 2020). These inherent conflicts, according to the conceptual framework of this study, symbolize a lack of distributive justice system that empowers all levels of government to enforce justice in allocations of resources and opportunities, some of which a new land policy should adequately address.

Fear of Assimilation of Host Communities

Another challenge in allocating land for civic residence, according to a representative of persons with disabilities is the fear of host communities being assimilated by immigrants. This interviewee argued that local communities see an influx of people from all corners of the country to Juba, for permanent settlement; yet, the land is a fixed resource. Thus, he said, the question lingering in the minds of the natives of the area is, "Where will our next generations be?" (KII-8, Juba Town, 27th August 2020). Indeed, one of the Paramount Chiefs—that is, a Chief based at the county level, asked me the following question: "Of all the 64 tribes of South Sudan, which tribe has God not given land to? And if all the 64 tribes of South Sudan have their cradle lands, why are they coming to occupy our land?" (KII-24, Rejaf, 22nd October 2020).

These fears of assimilation are linked to the allegations of the unbalanced development in the countryside mentioned earlier. Because Juba, being the seat of the Government of South Sudan and the Central Equatoria State Government, is where most investors and humanitarian aid agencies are; hence, it is comparatively more developed and more secure than other regional towns in the country. As such, most ethnic communities are increasingly migrating from the countryside to Juba in search of better services and employment opportunities. The main cause of this is attributed to the centralization of powers in the national capital as opposed to decentralization (Martin, Ellen & Mosel, 2011).

The ruling party, SPLM, had conceived the philosophy of 'taking towns to the people' during the liberation struggle for independence to minimize, rural-urban migration. However, this dream is yet to be met. Martin and Mosel (2011:7) recorded the President of the Republic, General Salva Kiir Mayardit, acknowledging in his inaugural address in May 2011 that "Our efforts to implement the SPLM's vision of 'taking towns to the people' have been minimal during the first 5 years of the CPA period, which contributed to rural-urban migration." The National Dialogue report of 2020, too, shows limited achievement in the SPLM's vision of 'taking towns to the people'.

Pastoralists' Transhumance

According to a senior legislator at South Sudan's National Legislative Assembly, a significant portion of the South Sudan population is engaged in transhumance pastoralism, that is, "the seasonal movement of pastoralists with their livestock in search of pasture and water" (Adum, 2019:76). The legislator also claimed that the green Equatoria belt, which is quite calm with limited environmental hazards like floods, is a safe zone for the pastoralists (KII-22, Ministries, 20th October 2020). However, peaceful coexistence between the pastoralists and the host communities is a nightmare because these pastoralists sometimes graze their animals in people's farms, which affects the livelihood of the people (KII-22, Ministries, 20th October 2020). On the other hand, the pastoralists think that the host communities are xenophobic (KII-22, Ministries, 20th October 2020).

These inter-communal feuds, according to this legislator, have contributed to the host community's resistance to the allocation of land for the city council's cosmopolitan area in Juba (KII-22, Ministries, 20th October 2020). Likewise, a representative of persons with disabilities in Juba town said, "Some non-Equatorian pastoralists graze their animals in the farms of Equatorians, causing grudges and mistrust between these communities" (KII-8, Juba Town, 27th August 2020). Also, representatives of chiefs of Luri Payam complained bitterly about the allegation that some pastoralists graze their animals in people's farms, arguing that the pastoralists are armed with sophisticated guns and do not respect the law. According to those chiefs, the President of the Republic, General Salva Kiir Mayardit, had issued several decrees for the pastoralists to return their animals to their original homeland but the decrees have neither been respected nor implemented (FGD-1, Luri, 8th September 2020). This confirms Rondinelli and others' observations in the existing literature on decentralization and conflict resolution that, most decentralization measures have failed in developing countries due to a lack of political will from both the high-level and local-level government officials (Rondinelli et al., 1983).

Ethnic Stereotyping

According to a representative of persons with disabilities in Juba town, "most non-Equatorians then were more civilized than the ones of these days.' The non-Equatorians of these days are hostile; they intimidate people with guns" (KII-8, Juba Town, 27th August 2020). This interviewee further claimed that:

There are cultural incompatibilities; some tribes are hostile. For example, when children fight, their parents magnify a minor problem into a major conflict, followed by revenge, and they do not abide by the law. In addition, they grab people's land with guns (KII-8, Juba Town, 27th August 2020).

This allegation of ethnic stereotyping can be attributed to competition over access to resources, particularly land, which, in relation to the conceptual framework of this study is due to a lack of distributive justice policy that empowers all levels of government to ensure fairness in allocations of resources. This is because, the above interviewee and several others previously alleged that some ethnic communities were grabbing people's land. Indeed, as the interview continued, this interviewee also released the following statement:

The challenge is that all elites and investors focus on Juba land. This concentration of interest requires further investigation. The government should establish a land policy whereby the non-natives of Juba request land from the natives of the area peacefully, not by force (KII-8, Juba Town, 27 August 2020).

On the other hand, as (Reeve, 2012) also observed, some immigrants still think that the natives of the area hate outsiders. They deny them access to land. Furthermore, as seen in the previous section, one of the civil society representatives from the internally displaced persons' community in Rejaf, claimed that the natives of the area treat other ethnic communities as aliens and this kind of differential treatment makes the people who are regarded as aliens, pursue their rights through various means, including violence (KII-1, Buluk, 17 July 2020).

Allegations of Unfair Central Government

According to a civil society representative, an academic, and a legislator at the National Legislative Assembly, the central government is corrupt and being controlled by one ethnic community. Hence, the host communities in a way use their land to get their share of the national cake (KII-2, Juba Town, 17 July 2020; KII-22, Ministries, 20 October 2020; KII-17, Juba Nabari, 2 October 2020). Meanwhile, the National Dialogue Steering Committee's Report (2020) describes the level of South Sudan's corruption, as follows:

Estimates show that South Sudan collected more than 20 billion US dollars in oil share during the six years of the CPA, apart from 5 billion dollars in grant and aid money from The Multi-donor Trust Fund (MDTF). Yet, the country has no roads, no electricity, and no single modern bridge on the Nile, and Juba city still lacks clean drinking water or a sewage system, not to mention the rest of the country. Some senior military officers, civil servants, and ministers simply take public money through dubious projects (National Dialogue Steering Committee Report, 2020:7)."

Deficits in Inter-Governmental Coordination

A senior member of the Committee on Decentralized Governance and States' Affairs at the Council of States legislature attributes the host communities' resistance to the allocation of land for cosmopolitan residence to shortfalls in inter-governmental coordination or linkages although the legal framework on decentralized governance has clearly defined the levels of South Sudan's government into national, state, or administrative area, and provided the local governments with clear guiding principles for inter-governmental linkages and coordination. These shortfalls include:

1. There is no clear formula for allocations of financial resources to the states and local governments, save the two or three percent of oil revenues meant for the oil-producing states and their respective communities. This explains the allegations of some interviewees that, "some people perceive that the central government is unfair" (KII-2, Juba Town, 17th July 2020; KII-22, Ministries, 20th October 2020; KII-17, Juba Nabari, 2nd October 2020).
2. There is no clear mechanism for dispute resolution between states and local governments with common borders, and this could explain why there is resistance to the demarcation of land for cosmopolitan residence in Juba County.
3. The Local Government Board has not been adequately empowered to carry out its functions effectively, and some counties have not yet established legislative councils for oversight of government business. This confirms the argument of the null premise of our conceptual framework that when a distributive justice criterion that empowers local governments to enforce justice in

allocations of resources is not enacted, inter-communal conflicts which are within the jurisdiction of local governments cannot be fully resolved.

Meanwhile, a senior land officer at Central Equatoria State's Ministry of Physical Infrastructure believes that government leaders in each level of government does not trust each other, so they cannot unite to reach a consensus on proper land management (KII-18, Juba Town, 5th October 2020). He substantiates his statement as follows: "There was a heated debate when a National Committee was discussing a draft land policy, and everything ended without consensus" (KII-18, Juba Town, 5th October 2020). Manifestations of deficits in inter-governmental coordination include allegations such as: (a) some land grabbers are favoured in court (KII-20, Rejaf, 16th October 2020); (b) central government interferes with local governments' conflict resolution arrangements (KII-13, Luri, 9th September 2020), and (c) some republican decrees, for example, the President's orders of 2015 and 2017 for nomadic pastoralists to return their cattle to their states of origin have not been effectively enforced by either level of government (FGD-1, Luri, 8th September 2020).

This challenge of intergovernmental coordination also confirms the claims of critics of decentralization in the existing literature that decentralization measures in developing countries have often suffered because of a lack of coordination between different institutions and levels of government (Okorley et al., 2009; Rondinelli et al., 1983).

Limited Understanding of Nationhood

According to an academic, South Sudanese communities have not yet understood how to coexist as a nation fully. Each ethnic community regards itself as a nation, and the fusion of diverse nationalities is a daunting task (KII-3, Juba Nabari, 27th July 2020). In his view, many people see civic citizenship as a facilitator of assimilation and/or occupation of host communities, a perception that increases the communities' resistance to allocation of land for cosmopolitan citizenship (KII-3, Juba Nabari, 27th July 2020). In 2011, Jok Madut Jok in his study titled "Diversity, Unity, and Nation Building in South Sudan," also asserts that the Government of South Sudan and its development partners were, seemingly, more concerned about state-building than nation-building: the need to transform the nascent African state into an inclusive nation is yet to be realized (Jok, 2011). According to Jok, most interviewees highlighted exclusion of citizens from governance at the national level, especially in access to government jobs, as well as corruption and nepotism, as major barriers to nation-building. The study also pointed out that citizens were concerned about rampant ethnic conflicts in most parts of the country, and thus, were in dire need of national unity through the recognition of cultural diversity and representation in government (Jok, 2011:1).

Communitarianism

One of the academics also thinks that, "some people have the mentality that 'the land belongs to us all,' and anybody who settles in any unoccupied piece of land is not a land-grabber" (KII-3, Juba Nabari, 27th July 2020). As such, "it is this kind of communitarian mind-set that has led to the fecund land-grabbing which scares the host communities from allocating land to immigrants" (KII-3, Juba Nabari, 27th July 2020). Yet, critics of communitarianism such as John Rawls and Amartya Sen argue that distributive justice criteria which prioritize the majority deprive the least advantaged of their rights, and lead to disputes over access to rights and public opportunities (Rawls, 1971; Sen, 1979). Nevertheless, the problem is more than

the alleged communitarianism. Rather, it is a manifestation of a lack of distributive justice criteria, and neglect of rule of law. In a setting where there is a distributive justice criterion and a rule of law, as John Rawls asserts in his theory of social justice (Rawls, 1971), there is equality of opportunities in access to resources, and the distributive justice criterion prioritizes the least advantaged. Unfortunately, this seemingly is not yet the case in Juba County. Complaints about some people grabbing the land of the vulnerable and public spaces are widespread in the county. For example, a representative of persons with disabilities said, “Some tenants can even grab your property at gunpoint” (KII-8, Juba Town, 27th August 2020).

Unfortunately, some key informants said that the said discrimination in land allocation and the local authorities’ resistance to delineate land for civic or cosmopolitan citizenship have some negative consequences in the county. These include:

Exacerbation of Land Grabbing

According to some representatives of civil society and academics, land grabbing has increased because some citizens cannot easily access the land officially (KII-8, Juba Town, 27th August 2020; KII-2, Juba Town, 17th July 2020; KII-17, Juba Nabari, 2nd October 2020; FGD-1, Luri, 8th September 2020). One residential area that some representatives of chiefs in Luri Payam consider as a ticking bomb for an upcoming ethnic violence due to land grabbing is Gudele Block Four. During the focus group discussion in Luri Payam, the representatives of chiefs said, “It is a show of muscles to protect one’s plot of land from being snatched by armed land-grabbers in our area” (FGD-1, Luri, 8th September 2020).

The alleged land grabbing has proved to be a major source of inter-communal conflicts in Juba County right from decentralization’s negative effects on conflict resolution to fairness in allocations of land. Several media reports have also raised it as a murky source of inter-communal conflicts in the county and other parts of South Sudan. For example, in a news article titled “Influential South Sudan Chiefs Warn of Conflicts over Land Grabs,” dated February 26, 2021, the Voice of America’s (VOA’s) reporter Winnie Cirino pointed out that 10 traditional chiefs from Central Equatoria State where Juba is located had asked the State Government of Central Equatoria to intervene against illegal land-grabbers lest they resort to violence.

According to the VOA, the said chiefs wrote an open letter to Central Equatoria State’s Governor, Honourable Emmanuel Adil Anthony, accusing armed individuals, internally displaced persons (IDPs), and militias from Bor and Bahr el Ghazal of perpetrating land-grabbing in several areas of Juba County, namely: Mogiri, Bilinyang, Garbu, Kubi, Timan, and Gumbo.[3] This confirms the earlier complaints of traditional chiefs, who had resisted allocating land to immigrants due to this problem.

In 2019, a German charity called Engagement Global documented that the head of land surveying at South Sudan’s Ministry of Land and Housing had filed 13,000 cases involving land disputes.[4] Indeed, the National Minister of Land and Housing, Honourable Michael Chiengjiek, confirmed in an interview with The Hague-based Radio Tamazuj on August 18, 2020, that land grabbing was a major challenge to his ministry and that several court cases were filed.

There are many problems related to land grabbing in Mangaten, Gumbo-Sheirikat, and other neighbourhoods. We are waiting for the announcement of the Central Equatoria State government to introduce measures to address the problem of land grabbing,” Chiengjiek told Radio Tamazuj.

Likewise, on 7th March 2021, Radio Tamazuj reported that local authorities had arrested 45 suspected land-grabbers in Mangala Payam, where military officers were involved, and this confirms some of the key informants’ earlier allegations that local government empowerment has not been effective due to the impunity of high-profile government officials (Chapter 4). In fact, the Central Equatoria State’s Minister of Information explained the incident to Radio Tamazuj as follows:

Land grabbing has become a headache for us. Therefore, as a state, we formed a committee to resolve the issue. So far, 45 people have been arrested, most of whom were armed,” eight were in court on charges of land grabbing. In addition, the committee is still going on with its work because; peace can only prevail when the issue of land grabbing is resolved.[\(2021\)](#)

Furthermore, the VOA quoted the head chief of Tokiman village complaining about land grabbing as follows:

Those are all people from Bor. They are the ones grabbing the land. If you go to Gumbo market, it is all grabbed. The market that the local authorities demarcated well and its land documents distributed has all been grabbed. It is now all white iron sheets. I have my land there. I made [built] a foundation, but when I went to check on it, I found it was grabbed. I told them it is my place. They told me this is South Sudan and it is their place (VOA, February 26, 2021).

Then, the press secretary in the office of Central Equatoria State’s Governor confirmed to the VOA that the governor had received the letter and he had formed a committee to address the problem.

One of the resolutions was for the immediate removal of these cattle keepers from the places they have occupied, and they probably return to the places of their origin. They were given a duration, a time frame of one week, which I think is not happening speedily, the press secretary in the office of Central Equatoria State’s Governor told the VOA on February 26, 2021.

Meanwhile, Annika McGinnis, in her article titled “Uncertainty over Laws Fuel Land Grabs in South Sudan,” also highlights the land grabbing as an urgent issue that needs the government’s attention. She extracted data from the Land Matrix indicating that, foreign investors have acquired 2.5 million hectares of land in South Sudan, most of which is in Greater Equatoria and some parts of Bahr el Ghazal, with the United Arab Emirates holding the biggest piece of land amongst other foreign investors, as seen in Figure 5.5 below.[\[6\]](#)

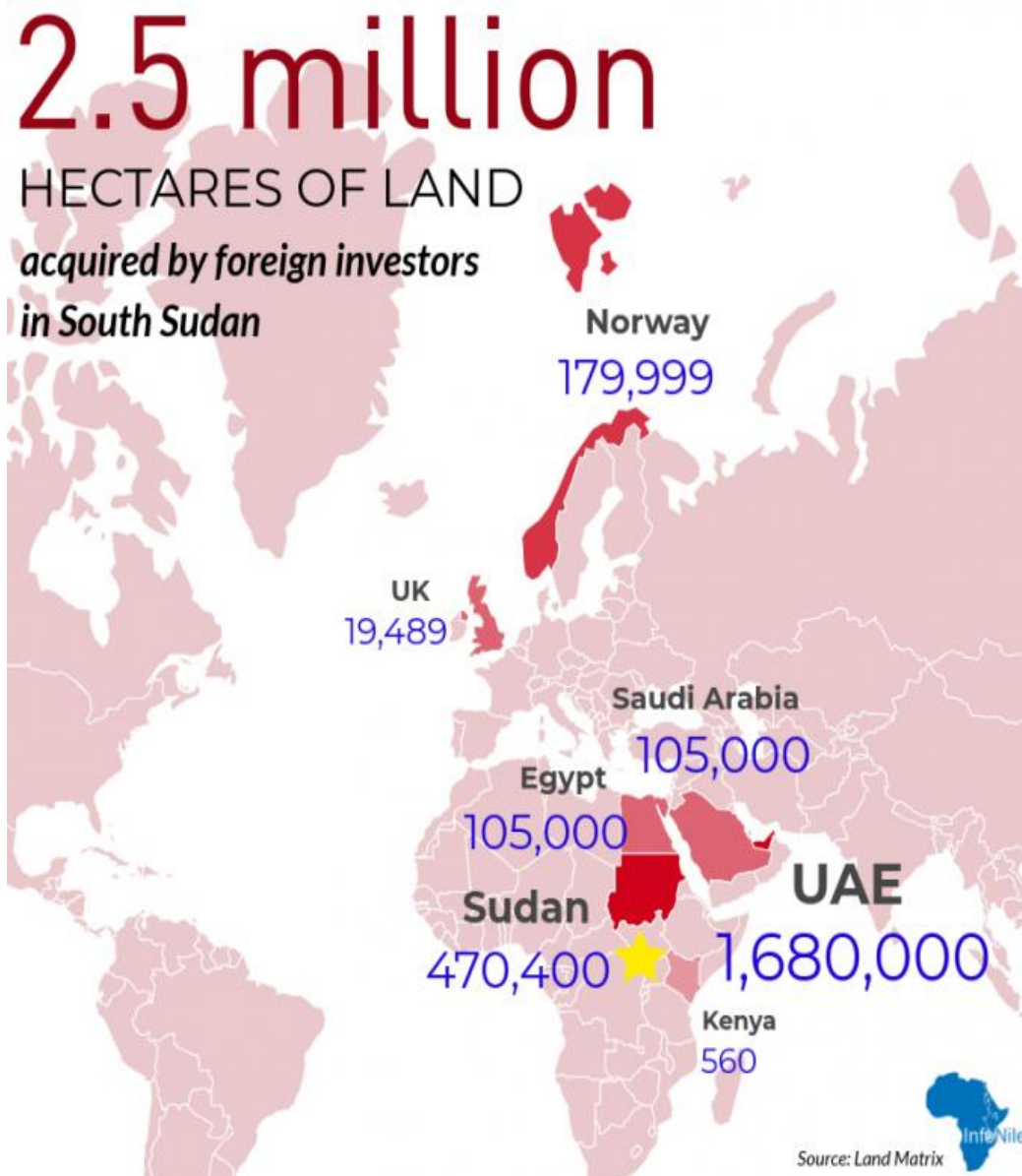


Figure 5.4: Land Held by Foreign Investors in South Sudan

Source: Annika McGinnis, Pulitzer Centre, 2020.

McGinnis also reported that these foreign investors have been scrambling over the land around the River Nile, and they acquired fertile customary lands without community consultation. However, whether the foreign investors who possess such land grabbed it or not, is debatable. Why? Because McGinnis also notes that the Government of South Sudan has been welcoming foreign investors to invest in the country, particularly in agriculture, to rescue the country from food insecurity. This implies that the government itself is fully aware of the presence of these investors and the sizes of the lands they hold. Nonetheless, the fact that some foreign investors own land in Juba without community consultation cannot be underestimated. In 2008, a coalition of three companies comprising Dallas, a Texas-based firm, Nile Trading and Development, and Mukaya Payam Cooperative, entered into a \$25,000 land deal that leased 600 hectares of land from Mukaya Payam to Dallas, for 49 years. Mukaya Payam is an area in Lainya County, located about 70 miles southwest of Juba. This deal displaced several households from their

ancestral land. However, some community leaders wrote a petition to the president of the republic, and he annulled the dubious land agreement.

Polarization of Ethnic Relations

Some representatives of civil society organizations believe that the prevalence of land-grabbing has polarized ethnic relations, which has put the people's dream of building a united, pluralistic nation, in a quagmire (KII-8, Juba Town, 27 August 2020). One of the civil society representatives expressed his views as follows: "People are increasingly paying allegiance to ethnicity rather than the nation. We no longer trust each other" (KII-2, Juba Town, 17 July 2020). Indeed, as previously stated, these assertions confirm the findings of both the survey and the qualitative interviews that decentralization has led to ethnic polarization. However, we think that the root cause of the alleged ethnic polarization is not the lack of the host communities' delineation of some land for cosmopolitan residence. Rather, it is the political instability and protracted conflicts that the country has been grappling with, since 1955, which have disorganized the rule of law and commitment to nation building in the country.

Growth of Slums

A female representative of persons with disabilities thinks that the exclusion of some citizens in access to land has contributed to the growth of slums in Juba City. She alleged that "the vulnerable who cannot afford to buy or grab land, squat and crowd together in open spaces where they can easily fend for their lives." An interview with a senior central government bureaucrat at the Ministry of Public Service corroborates this assertion. This senior government official said:

Access to land is a problem for most people in Juba City because no official demarcation of land has taken place in the city. The central government proposed it in 2005 but up to now, there is no consensus on the plan. As such, some vulnerable people, even now, live in graveyards, even building on tombs, for example, the Konyo-Konyo graveyard (KII-23, Juba Town, 21 October 2020).

Indeed, the corroboration of the above statements implies that the alleged discrimination in land allocation has contributed to the growth of slums in the county, especially in urban centers. Truly, this allegation corroborates well with the survey respondents' status of landownership that we presented in the respondents' demographic characteristics 'in Appendix 1, Figure A1.3. The demographic characteristics of the survey respondents revealed that 31% of the 349 respondents do not own land (Figure A3.1 Appendix 1). Nevertheless, Sietchiping et al.'s study of urbanization in sub-Saharan Africa indicates that urbanization moves in tandem with the growth of slums, a problem common in Africa and South Asia. In these regions, 62% of Africa's urban population lives in slums compared to 56% in South Asia.

According to these scholars, the growth of slums in sub-Saharan Africa is associated with slow or lack of economic growth, poor governance, poor urban planning, disasters, poverty, and social and political instabilities (Sietchiping & Yoon, 2010:7). Thus, Sietchiping and his colleagues recommended that addressing the growth of slums in Africa needs a multifaceted approach that systematically eliminates its root causes, and one such approach should include enacting a distributive justice policy that empowers all levels of government to enforce equitable land allocation, regardless of ethnicity or social status.

Previously, the study could not find any evidence of distributive justice enabling local governments to resolve land disputes although some survey respondents and some key informants claimed it had done so, justifying their argument with indicators of a peaceful society where a decentralization arrangement has empowered local governments to resolve ethnic conflicts, these indicators being part of our conceptual framework. These indicators are cooperation, unity, peaceful coexistence, reconciliation, and non-discrimination (please see Table 5.3 below for clarity).

Table 5.3: Positive Effects of Fair Allocations of Land on Conflict Resolution

Responses	Payam					
	Rejaf		Luri		Total	
Cooperation	8	9%	3	3%	11	5%
Unity	40	43%	23	19%	63	30%
Peaceful coexistence	16	17%	39	33%	55	26%
Reconciliation	13	14%	2	2%	15	7%
No discrimination	17	18%	52	44%	69	32%
Total	94	100%	119	100%	213	100%

Question: What shows that a fair allocation of land has resolved land disputes?

Source: Field Survey Data (2020).

Despite these allegations, this study’s postulation on the nexus between distributive justice and resolutions of land disputes in Juba County is that the evidence of distributive justice helping local authorities to resolve land disputes in the current decentralized form of governance in South Sudan is unseen. The local governments of South Sudan do not have the mandate to allocate land. It is the prerogative of traditional authorities who still by and large operate a traditional system of governance, which is customary but lacks uniformity in practice and enforcement of social justice.

The main reason attributed to the weakness of distributive justice in helping local authorities to resolve ethnic conflicts over land is the lack of comprehensive policy for land management and urbanization raised earlier— a policy that the participants of the study said would have given the government the advantage to demarcate land for civic or cosmopolitan citizenship in urban centers. The government, as seen previously, only handles procedural justice and partially retributive justice. That is, it only provides technical assistance to communities during the demarcation and allocation of land to members of the land-allocating community (procedural justice), and arbitrates land disputes (a component of retributive justice).

Nevertheless, both the survey respondents and key informants still blamed decentralization for the lack of justice in land allocations in the county. They alleged the same reasons previously attributed to decentralization’s inability to empower local governments to administer social justice in resource

allocations. These reasons also explained discrimination in land allocations and local authorities’ refusal to delineate land for civic or cosmopolitan citizenship in the county. These reasons include discriminatory allocation criteria, tribalism and nepotism, lack of national land policy, land grabbing, selfishness, and corruption. Table 5.4 below provides clarity; detailed explanations of each issue are avoided as they have already been covered in the preceding sub-sections of this report.

Table 5.4: Shortfalls of a Fair Allocation of Land in Resolving Land Conflicts

(N=165)

Response	Payam					
	Rejaf		Luri		Total	
Discrimination	20	22%	29	39%	49	30%
Tribalism and nepotism	11	12%	19	25%	30	18%
Lack of national land policy	5	6%	5	7%	10	6%
Unclear allocation legal framework	13	14%	0	0%	13	8%
Land grabbing	1	1%	1	1%	2	1%
Selfishness	3	3%	9	12%	12	7%
Corruption	37	41%	12	16%	49	30%
Total	90	100%	75	100%	165	100%

Question: Why has a fair allocation of land not resolved land disputes?

Source: Field Survey Data (2020).

8. Conclusion

Decentralized land governance structures have neither enforced distributive justice in allocations of land in South Sudan’s Juba County, nor has this form of justice helped to resolve ethnic conflicts over access to land in the county. Citizens of South Sudan currently regard the decentralized allocations of land as unfair. The allocations of land, reportedly, favour the natives of the county, the rich, senior government officials, and to a lesser extent, people from the Equatorial region at the expense of immigrants from outside the region. As such, people have lost confidence in decentralization’s ability to help communities resolve conflicts although the persistence of inter-communal conflicts has nothing to do with decentralization. It is a result of human weakness arising from a lack of political will to make the decentralized governance structures work efficiently to the benefit of all citizens, and two main human weaknesses are to blame, namely: limited implementation of South Sudan’s legal framework for decentralization and land governance, mainly the Local Government Act of 2009 and provisions of the amended Transitional Constitution of the Republic of South Sudan 2011 on decentralization and land governance, and a lack of appended distributive justice criteria to the Land Act of 2009. Both the

Transitional Constitution of 2011 and the Land Act of 2009 stipulate that land governance in South Sudan shall be a shared responsibility of the national, state, and local governments. However, the allocations of land are currently vested in customary communities, and neither level of government allocates land. Both the national and state governments regulate land use, but the national government mostly formulates land management policies and arbitrates land disputes that are beyond the scope of local and state governments, at the high court, while the state government registers plots of land from the first to the third class and arbitrates disputes over them, and the sub-counties (payams) and their counties register fourth-class plots of land, as well as arbitrate conflicts over them through land dispute resolution committees. However, land conflicts arising from land-grabbing are rampant in the county because of a continuous influx of people from different corners of the country to the national capital city, Juba for safety from insecure rural areas and to look for business and employment opportunities, given that key decisions on governance and most private sector investments are centralized in the national capital, Juba. However, on arrival to Juba, people do not access land easily for cosmopolitan residence, forcing some people to squat in informal settlements or on customary land areas that are not yet delineated for cosmopolitan residence, generating a strong feeling among the locals that outsiders are grabbing their land, which in turn increases local resistance to delineating land for cosmopolitan residence. The main root cause of resistance to delineation of land for cosmopolitan residence in Juba County is unresolved conflicts of the past; that is, the conflict between the communities of the Equatorial region and non-Equatorians that arose during the 1972 Addis Ababa Peace Agreement that granted former Southern Sudan a semi-autonomous government led by H.E. Abi Alier, a non-Equatorian, whom the communities of the Equatorial region accused of favouring his ethnic community, the Dinka, in access to jobs, senior political positions, and other public opportunities. These allegations have remained intact even in an autonomous South Sudan whose founding vision was anchored on the need for a secular society without discrimination on the basis of religion, race, or ethnicity through democratic decentralized governance. Other reasons for local resistance to delineation of land for cosmopolitan residence in Juba County and, thus, exclusion of mostly non-Equatorians from access to land in the county are: corruption, tribalism and nepotism, unclear legal framework for land governance (with no distributive justice criteria), lack of national land policy, selfishness, rampant land-grabbing, commercialization of land, fear of assimilation of host communities, pastoralists' transhumance, ethnic stereotyping, deficits in intergovernmental coordination, limited understanding of nationhood, communitarianism, and allegations of unfair central government in allocations of public opportunities. Consequently, the continued resistance of the local people to delineation of land for cosmopolitan residence has increased land-grabbing, polarized ethnic relations, and increased the growth of slums in Juba City. Addressing the land issue in Juba and other parts of South Sudan requires the leaders of South Sudan to resolve the conflicts associated with injustices in allocations of public opportunities at the national level, a clear national land policy with clear distributive justice criteria that must be enforced in letter and spirit, and substantial devolution of political, administrative, and judicial powers to local governments through a suitable form of federal government.

Credit authorship contribution statement

Martin Wulla Kwori conceptualized and designed the study, acquired the data with support from research assistants, conducted the formal analysis, drafted and revised the manuscript for critical intellectual content, and approved the version of the manuscript to be published.

Declaration of competing interest

The author declares that he has no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

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End Notes

1. Article 6 (1) of South Sudan’s Land Act of 2009 states that: “The regulation of land tenure, usage and exercise of rights thereon shall be a concurrent competence, exercised at the appropriate level of government in South Sudan.” [↑](#)
2. Chapter 7 of the Land Act, 2009 provides general principles for land administration and management and attributes roles to each level of government. Key principles on land administration and management are: (1) The regulation of land tenure, usage and exercise of rights over land shall be exercised at the appropriate level of Government in Southern Sudan as stipulated by Article 180 (1) of the Constitution; (2) The land administration shall be based on the principles of decentralization, participation and transparency for the benefit of all the people of Southern Sudan; (3) Prior to any decision related to their lands whether in urban or rural area, the land administration shall consult with the communities concerned; (4) Without prejudice to the right of the Government of Southern Sudan on land, each State Government shall be charged with the management and administration of land within its jurisdiction for the benefit of the people of Southern Sudan in accordance with Schedule (C) of the Constitution and the Act; and (5) Land in Southern Sudan shall be managed in a uniform and coordinated manner in which the State Government assigns the management responsibilities to concerned ministry at the State level, the County Land Authority and the Payam Land Council. Article 45 lists the functions of the central government as follows: (a) land and natural resources regulation by enacting policy and regulations; (b) intervention in town and rural planning; (c) development of a master and physical plan for the capital city, define and demarcate its territory; (d) solving disputes arising from the management of interstate waters within Southern Sudan; (e) management of Government of Southern Sudan lands; (f) resettlement, rehabilitation and reconstruction; (g) management and exploitation of subterranean resources in coordination with the States including right to protect and remove any mineral resources as regulated by law; (h) manage and protect historical sites of common interest for Southern Sudan; (i) develop a real property tax system; (j) keep and manage the land cadaster and registration system in Southern Sudan; (k) undertake systematic registration operation upon request of the State or on its own motion; (l) control and restoration of the environment; and (m) any other function it deems appropriate or as may be conferred upon it by

any other law. Article 43 of the Land Act, 2009 then spells out the functions of the State Government as follows: (a) management of State land and natural resources; (b) management, lease and utilization of State land; (c) development, conservation and management of State natural resources; (d) quarrying regulation; (e) town and rural planning; (f) state cultural and heritage sites; (g) state irrigation and embankments; (h) resettlement, rehabilitation and reconstruction; regulation of land tenure, usage and exercise of rights in land; (j) management of the survey office; (k) delimitation of boundaries between community lands; (l) contiguous registration with the state; (m) land zoning and gazette; (n) land quality evaluation; (o) oversee and coordinate different levels of land administration and management in the State; (p) development and implementation of State physical planning; and (q) any other function that may be conferred upon it by law. Article 46 outlines the functions of County Land Authority as follows: (a) hold and allocate public lands vested in it with the approval of the Concerned State Ministry in the State subject to town and municipal planning in the County; (b) make recommendations to the Concerned State Ministry on gazetted land planning; (c) advise the Concerned State Ministry on any matter connected with the resettlement of persons in the County; (d) facilitate the registration and transfer of interest in land; (e) support and assist any cadastral operation and survey in its jurisdiction; and (f) assist the Traditional Authorities on the exercise of their attributions, and liaise between them and the Concerned State Ministry, among others. Finally, Article 50 lists the functions of the Payam Land Council as follows: (a) allocation of public land vested in it with the approval of the Concerned Commissioner; (b) land planning and demarcation; (c) support the registration and transfer of interests in land; (d) protection of customary land rights of communities; (e) assisting traditional authorities and leaders in the management of the community's lands; (f) protection of communal grazing land, forest, wetlands and water resources; (g) dispute resolution through arbitration and mediation on issues related to land; (h) protection of environment; (i) maintenance of standard sanitation and hygiene; (j) liaising with county authorities; and (k) perform any other function or duty prescribed in any law or regulations. ↑

3. [https:// www.voanews.com/ africa/ south-sudan-focus/influential-south-sudan-chiefs-warn-conflict-over-land- grabs](https://www.voanews.com/africa/south-sudan-focus/influential-south-sudan-chiefs-warn-conflict-over-land-grabs), retrieved on 1st July 2021. ↑
4. [https:// www.dandc.eu/en/article/ spate-land-grabbing-and- lack-clarity- land-tenure-rules-are-exacerbating - conflict-south- sudan](https://www.dandc.eu/en/article/spate-land-grabbing-and-lack-clarity-land-tenure-rules-are-exacerbating-conflict-south-sudan), retrieved on 1st July 2021. ↑
5. [https:// radiotamazuj.org/en/news/article/ 45-suspected-land-grabbers- arrested-in- juba-county](https://radiotamazuj.org/en/news/article/45-suspected-land-grabbers-arrested-in-juba-county), retrieved on 1st July 2021. ↑
6. <https://pulitzercenter.org/stories/uncertainty-over-laws-fuel-land-grabs-south-sudan> ↑