1. BACKGROUND

The Nuer live in South Sudan, a newly formed country that recently gained independence from Sudan in 2011. They occupy the swamps and savanna lands on both sides of the Nile River near the border South Sudan shares with Ethiopia, located about 500 miles south of Khartoum, the capital of Sudan.[[1]](#footnote-1) This area is the east Upper Nile Province, which includes the intersection of the Nile, Bahr el Ghazal, and Sobat Rivers.[[2]](#footnote-2) The Nuer became part of the “Sudanese polity” in the 1820s, when Sudan was becoming a nation state. At the time, “Sudan” still included South Sudan.

The Nuer are one of the largest Nilotic people groups in South Sudan, second only to the Dinka, a neighboring people group to whom the Nuer are closely related to.[[3]](#footnote-3) The Dinka live to the west of the Nuer and share a common culture and language, that likely diverged around 500 years ago.[[4]](#footnote-4) The Nuer language is part of the Nilo-Saharan language family, which includes languages spoken by the Dinka, Luo, Shilluk, and a number of other groups in the area.[[5]](#footnote-5) The shared linguistic similarities between these groups is suggestive of a shared origin or mutual influence.[[6]](#footnote-6)

1. SUB-ETHNIC GROUPS

Like the Dinka, the Nuer are divided into eleven to thirteen different sub-ethnic groups.[[7]](#footnote-7) The groups are not well defined due to the Nuer’s constant migration, Sudanese civil wars, and ethnic conflicts.[[8]](#footnote-8) These events resulted in co-mingling and intermarriages both within the Nuer subgroups, as well as between Nuer and non-Nuer groups, such as with the neighboring Dinka and Anyuak, and diluted the delineating lines of the subgroups.[[9]](#footnote-9)

A number of different factors contributed to forming group loyalties and subgroups: “patrilineal clusters, shared residential units, seasonal resources sharing groups, regional court systems, town groupings, temporary confederacies, military zones of command, state and county administrative institutions…all of which are undergirded by cross-cutting networks of kinship ties.”[[10]](#footnote-10)

The three main Nuer subgroups are the Lou, Jikany, and Gawaar.[[11]](#footnote-11) The Lou are the largest, and further sub-divided into the Gun and Mor.[[12]](#footnote-12) The Jikany Nuer live to the east of the Lou, and are sub-divided into the Gaajok, Gaagwang, and Gaajak groups.[[13]](#footnote-13) The Gaawar and Thiang Nuer live to the northeast of the Lou.[[14]](#footnote-14) As these groups moved into the area they occupy today during the nineteenth and beginning of the twentieth centuries, they displaced and assimilated tens of thousands of Dinka and Anyuak residents, which naturally led to disputes between the groups.[[15]](#footnote-15) “Original” Nuer settlers are referred to as *diel,* and the assimilated Dinka and Anyuak are called *jaang,* the term for “Dinka” in the Nuer language.[[16]](#footnote-16)

The Nuer are patrilineal, and determine whether they are related through their clan names.[[17]](#footnote-17) Members of the same clan share the same totem, and believe in their descent from that totem.[[18]](#footnote-18) The clans determine, establish, and enforce marriage or sexual prohibitions, and kinship, or the relationship between two individual Nuer, determines how they address each other.[[19]](#footnote-19) Individuals from two different age sets cannot address each other by their first names; this distinction in kinship terminology is meant to preserve the descent group, which “organizes domestic life, socializes children, allows the transfer of property and ritual roles, and settles disputes…The responsibilities, obligations, and rights derived from descent membership and expressed through kinship terminology extend to many areas of life.”[[20]](#footnote-20)

1. VILLAGE LIFE AND MIGRATION

The Nuer must constantly move around due to seasonal drought and rainy seasons, called *tot* and *mai,* respectively.[[21]](#footnote-21) Their economy is based on cattle herding, horticulture, fishing, and collecting wild foods, so the Nuer will migrate multi-directionally during *mai* to areas of higher elevation that are further away from the rivers.[[22]](#footnote-22) The lower-elevation Nuerlands are mostly composed of swamps and no longer able to support Nuer herds and populations during *mai*.[[23]](#footnote-23) Because these high-elevation areas are scarce and require travelling through territories of neighboring peoples, they become a source of both conflict (sometimes to the death) and unity.[[24]](#footnote-24) The wet-season villages that naturally form by lineage and location often become the “smallest corporate group whose members share strong feelings of solidarity…A wet-season village holds collective rights in its immediate water sources, fishing pools and grazing grounds[, and i]ndividual families hold more exclusive rights in their homesteads and fields.”[[25]](#footnote-25) The Nuer will occasionally acquire territory through marrying those who occupy lands they want, as commonly done by Lou Nuer marrying neighboring Anyuak.[[26]](#footnote-26)

When the dry season normally beings in November, the youth, including both boys and girls, will migrate first and bring their cattle herds through established migration routes to reach the grasslands.[[27]](#footnote-27) Youth from different villages will come together to form large cattle camps called *wei* or *wic,* which will be near flooded pastures that will be able to provide grass during drought periods.[[28]](#footnote-28) In contrast to wet-season villages, which are typically smaller, *wei* can be composed of hundreds of people and thousands of cattle.[[29]](#footnote-29) The Nuer refer to the valuable and sustaining land they settle on as *toic.[[30]](#footnote-30) Toic* and fishing pools end up being owned collectively by different Nuer groups, and are guarded carefully to prevent trespassers.[[31]](#footnote-31) Permission to access *toic* and fishing pools may be granted by local leaders.[[32]](#footnote-32) Nevertheless, Nuer occupation of these lands remain impermanent, and the Nuer will migrate once again when the wet-season floods the *toic.[[33]](#footnote-33)*

1. MARRIAGE AND FAMILY

Marriage and family are considered fundamental institutions for the Nuer.[[34]](#footnote-34) Polygamous marriages are common, and a man’s wives may live far away from each other, though usually within the area of the man’s clan.[[35]](#footnote-35) A man must marry outside of his clan, and cannot marry a close blood relative; “[i]f a relationship can be traced between a man and a woman through the mother or father, marriage should not take place between those persons.”[[36]](#footnote-36)

Courtship is always initiated by the man, which is the “preferred method of finding a mate.”[[37]](#footnote-37) Because a man must pay a bride-price for his future wife in cattle, men often view cows as the “gateway to progeny,” which is a prominent life goal for every Nuer.[[38]](#footnote-38) The groom normally has to pay a price for his bride that his more than he can afford, forcing him to borrow from his male relatives.[[39]](#footnote-39) He becomes indebted to them for a number of years, until he can repay the debt.[[40]](#footnote-40) Upon receiving the bride-price, the bride’s father distributes the wealth among his sons and nephews.[[41]](#footnote-41)

For women, bearing children marks the entrance into adulthood, and also the means to secure her own independence in her husband’s home.[[42]](#footnote-42) Interestingly, marriages are not finalized until the woman has her third child.[[43]](#footnote-43) The wife and children only become part of the man’s clan once the third child is born, and women generally want six children.[[44]](#footnote-44) A woman’s failure to conceive is one of the few grounds for divorce.[[45]](#footnote-45)

Both the husband and wife’s families are involved when they are deciding to divorce.[[46]](#footnote-46) The husband’s family had invested materially in the marriage in paying the bride price, and the wife’s family does not want to lose the wealth of the bride price.[[47]](#footnote-47) If the couple has children, however, the bride-price does not need to be returned to the groom’s family.[[48]](#footnote-48) Instead, the children then belong to the groom’s family.[[49]](#footnote-49) During the marriage, the children are cared for by both parents, grandparents, older siblings, or other relatives.[[50]](#footnote-50)

Wealth traditionally belongs to husbands, and not wives.[[51]](#footnote-51) Only in ghost marriages might a woman control the wealth of her family, but even then, she is taking care of her husband’s wealth.[[52]](#footnote-52) A ghost marriage occurs when a woman’s husband dies, and the husband’s brother is allowed to marry the woman as a stand-in for his deceased brother.[[53]](#footnote-53) The children from this union are considered descendants of the deceased brother, and the “ghost” is the deceased brother.[[54]](#footnote-54) The reason behind ghost marriages is to allow the continuation of the deceased brother’s family line, and succession to important social positions.[[55]](#footnote-55) A slightly different but similar situation also allows for Nuer women to marry a deceased man to keep her wealth and power.[[56]](#footnote-56)

1. ECONOMY

Nuer economy is almost completely dependent on cattle. Cattle are central to the Nuer because they represent “social, cultural, and economic security.”[[57]](#footnote-57) They are “the Nuer’s most cherished possession, an essential food supply as well as the most important social asset.”[[58]](#footnote-58) Prestige is measured by the quantity and quality of someone’s cowherd, and individuals are sometimes even greeted and addressed by the names of the favorite cow.[[59]](#footnote-59) As a well-known Nuer saying goes, “no human error exceeds the cow,” as cattle are used as payment to resolve conflicts.[[60]](#footnote-60) Consequently, and ironically, cattle are a constant source of conflict.[[61]](#footnote-61) Cattle raiding from non-Nuer neighbors is common, accepted, and even encouraged among young warriors.[[62]](#footnote-62) In fact, it seems that the Nuer-Dinka relationship is well portrayed by this Nuer myth:

God had two sons and promised his old cow to Dinka and it’s calf to Nuer. But Dinka went to God’s cattle pen at night, imitating the voice of Nuer and thereby managing to get the calf. When God realized what happened he was very angry and urged Nuer to raid Dinka for cattle as revenge.[[63]](#footnote-63)

 The Nuer have a system of bartering which existed before they had markets.[[64]](#footnote-64) If an individual had surplus food, he could exchange it for livestock.[[65]](#footnote-65) But selling cattle was considered shameful, even for goods that were difficult to acquire.[[66]](#footnote-66) The Nuer only began selling livestock when the British colonial government forced them to pay poll taxes in cash during the early 1900s.[[67]](#footnote-67) More recently, cattle have become monetized and commercialized.[[68]](#footnote-68) Unfortunately, the number of cattle and cattle herds have decreased to the extent that many Nuer have had to go to disaster relief centers for refuge.[[69]](#footnote-69)

1. RELIGION

In terms of religion, the Nuer’s underlying structures of belief and ritual authority have generally remained the same, though their prophetic practices and traditions have evolved over time.[[70]](#footnote-70) Nuer believe cows should not be slaughtered unless as a sacrifice to God, the spirits, and the ancestors, and ox can only be slaughtered to feed important guests at marriage ceremonies.[[71]](#footnote-71) (But as alluded to above, the Nuer have recently been forced to slaughter their livestock for food due to famines in South Sudan.[[72]](#footnote-72))

The Nuer look to God (*Kuoth*) and prophets for answers to moral questions and to know when to resort to violence.[[73]](#footnote-73) Individual prophets (*guk*) are known as “owners-masters of divinity,” and claim the “ability to channel divine powers over life and death, health and illness, fertility and infertility through his or her blessings and curses.”[[74]](#footnote-74) *Kuoth* is the Nuers’ “Divinity-God,” “Great Divinity,” or single universal creator.[[75]](#footnote-75) He possesses Nuer prophets through one or more spiritual refractions, which fall from the sky like shooting stars to possess men, women, children, or even animals.[[76]](#footnote-76) Possession is often manifested through abnormal behavior or a sudden illness.[[77]](#footnote-77) When possession ends, the individual can just as suddenly return to his or her ordinary state.[[78]](#footnote-78) “Owing to the unpredictable movements of kuoth,Nuer prophets must continuously demonstrate divinity’s inner presence or risk losing legitimacy.”[[79]](#footnote-79) Divine possession can pass by birth and be inherited by a prophet’s children or grandchildren after the prophet dies.[[80]](#footnote-80)

Prior to and around 1900, several prophets became known as more prominent peacemakers among the Nuer.[[81]](#footnote-81) One such prophet was Ngundeng Bong, who was possessed by the divinity *Deng* through inheritance.[[82]](#footnote-82) Because *Deng* was a divinity who prohibited fighting, Ngundeng “espoused a social ideal which condemned intersectional fighting and Nuer raiding on its other peoples.”[[83]](#footnote-83) Ngundeng’s reputation and prominence grew so that even non-Lou people would come to ask him for both his blessing and for dispute arbitration.[[84]](#footnote-84) His clientele was large enough that when he was approached with a complaint, he would send his minor prophets, or *dayiemni,* to summon the defendant with a metal ring.[[85]](#footnote-85) Defendants who received a metal ring summons would incur the wrath of *Deng* (rather than Ngundeng himself)*,* and this fear was usually enough for them to comply.[[86]](#footnote-86)

1. GOVERNMENT AND LEGAL SYSTEM

The Nuer legal system is generally described as a customary law system. The South Sudan Humanitarian Project defines customary law, especially when applied to Africa and Sudan in particular, as “the body of traditions, mores, social conventions, and rules that through long usage and widespread acceptance direct and govern traditional African society.”[[87]](#footnote-87) There is also no distinction between criminal and civil law.[[88]](#footnote-88) The general remedy is payment of damages, usually made in cows.[[89]](#footnote-89) The ambiguity and lack of distinction between these customs, religion, and governance has led some commentators to state that using the term “law” to describe African customary practices is a Wester-centric approach, which is arguably not the most appropriate approach in studying African societies and legal systems.[[90]](#footnote-90) While this is a more popular and culturally understanding viewpoint towards African societies and legal systems today, British administrators in Sudan around 1900 were highly “sceptical that the Nuer judicial process ever achieved justice or ended feuds.”[[91]](#footnote-91) But this opinion may have been because the British themselves “sought and failed to find a set of regular institutions which guaranteed the swift settlement of disputes and enforced judgements” for the Nuer under British standards for efficient rendering of justice.[[92]](#footnote-92)

Prior to the turn of the century, Nuer kin-groups were more organized, territorially compact and stationary.[[93]](#footnote-93) Conflicts were easier to settle, and degrees of kinship were closer simply because the kin-groups were geographically more defined and located closer to each other.[[94]](#footnote-94) The Nuer approached dispute resolution through arbitration, rather than a more Western-styled judicial system.[[95]](#footnote-95) Motivation for justice and peace-keeping stemmed from social obligations and a spiritually sanctioned moral order, rather than determining guilt or innocence, ensuring compliance with established laws, and punishing lawbreaking.[[96]](#footnote-96)

Arbitration operated as a lengthy negotiation process, especially because disputes often stemmed from long-standing feuds.[[97]](#footnote-97) Ad-hoc groups of mediators formed in response to disputes that arose, instead of coming before a more “permanently” established mediator like Ngundeng (or *Deng*) – though prophets were often included in the mediator group.[[98]](#footnote-98) The other members of the mediator group included the heads of different social or family units, who were called *tut wec* or *gaat tuot,* or “bull of the cattle camp” or “sons of bulls.”[[99]](#footnote-99) Prophets that were included in the mediator groups were required to be from a neutral family or social unit.[[100]](#footnote-100)

Resolving a dispute could require laying out all reasonable obligations for all sides involved, before deciding how all obligations would be carried out and met.[[101]](#footnote-101) Both sides are allowed to present their entire case, and could include both threats and self-justification “because it is the rule of such gatherings that everything a man has in his heart against others must be revealed and no bitterness kept secret.”[[102]](#footnote-102) The dispute would be completely talked through until a consensus could be fully reached, and opinions given by a prophet were just that – opinions “couched in persuasive language and not as a judgment delivered with authority.”[[103]](#footnote-103)

Failing to follow a social obligation could be considered a wrong, or *duer,* and result in a sin or spiritual contamination, called *nueer.*[[104]](#footnote-104) The corresponding relief was determined by the offended party’s *cuong,* or moral right, to receive a spiritual or a social sanction.[[105]](#footnote-105) If it was determined that the offended party did have a *cuong,* he could pronounce a curse, or *biit,* on his offender.[[106]](#footnote-106) If the offended party did not have a *cuong,* the *biit* would then have no effect.[[107]](#footnote-107) Settlements were fulfilled through cattle payments, and so depended heavily on how available cattle were at the time.[[108]](#footnote-108) If cattle were more scarce, payments could take longer and have lower compensation rates.[[109]](#footnote-109) The relationship between the disputing groups played a large part in affecting payment agreements, such as the degree of kinship between them, or how powerful and thus how serious the threat of retaliation from a group might be.[[110]](#footnote-110) Perhaps predictably, the less willing the groups were to reach an agreement, the more important the role of a neutral arbitrator, or the prophet, became.[[111]](#footnote-111) Prophets had the unique ability to curse the land, and were sometimes called land priests.[[112]](#footnote-112) The looming threat of cursed land was serious enough to persuade feuding groups to meet, agree, and establish and follow through on a settlement agreement.[[113]](#footnote-113)

The other role of land priests in disputes was to offer spiritual cleansing if someone committed an act that resulted in *nueer,* spiritual contamination.[[114]](#footnote-114) These acts included homicide, adultery, and incest, which needed to be resolved before the rest of a case could be fully settled.[[115]](#footnote-115) Accordingly, the “settlement of many cases thus involved both political negotiation and spiritual atonement. The spiritual and judicial were interwoven to such an extent that Nuer did not readily differentiate between the two” – unlike Western-style, and more specifically, British rule of law.[[116]](#footnote-116)

At the beginning of the 1900s, however, there was much more movement and Nuer resettlement as a number of Nuer groups east of the Nile began to expand into Dinka territory.[[117]](#footnote-117) The resettling movement offered a new method of resolving disputes as a byproduct referred as “fission”: the offended party could simply move away.[[118]](#footnote-118) The problem was that fission might solve a temporary dispute, but made future dispute settling more difficult.[[119]](#footnote-119) Not only was travelling over a distance now an increased cost, but land priests were spread more thinly by location between the east bank of the Bahr al-Jabal river to the plains below the Ethiopian foothills.[[120]](#footnote-120) Additionally, as Johnson writes, “[t]he impetus for resolving disputes in the past often came from the force of public opinion, and public opinion toward the nineteenth century was influenced by prophets and some extraordinary priests.”[[121]](#footnote-121) Public opinion became more diluted with both a public and land priests that were spread out over a greater area. Further, “British administration in the Sudan later inhibited the activities of such men, and by 1930 religious sanctions in Nuer society had been seriously weakened by [British] government policy.”

The new Sudan government that was in place in 1900 still had jurisdiction over the territory that the Nuer lived on, in what is now South Sudan.[[122]](#footnote-122) The government recognized the Sudan Penal Code, Islamic *sharia* law, and “tribal” or customary law as the three sources of law that governed the Sudanese people.[[123]](#footnote-123) The three sources provided an odd mix of administering criminal law through the Sudan Penal Code, personal and family law through *sharia* law, and customary law according to the traditional practices of certain people groups, such as the Nuer.[[124]](#footnote-124) The government tried to introduce administrative control to places that were still governed by customary law by locally inserting British administrators into customary judicial processes, in hopes of “eventual subordination of customary law to the administrative structure.”[[125]](#footnote-125) The British administrators were told to try and supervise the proceedings of customary “judicial proceedings,” and test their abilities to give decisions based on their own understandings of the local customary law.[[126]](#footnote-126)

At the time when British administrators were introduced to the Nuer, the Nuer migration into Dinka lands and the increasing amount of fission had caused a significant amount of Dinka-Nuer conflict. These disputes occupied a good majority of disputes that needed settling, and sometimes escalated enough that they posed a threat to public security.[[127]](#footnote-127) It followed that the Dinka-Nuer conflict was the first challenge faced by the British administrator.[[128]](#footnote-128)

The Nuer’s first provincial governor was Major Blewitt, who mistakenly thought that Dinka and Nuer were similar enough that Dinka customary law could be applied to Nuer disputes as well.[[129]](#footnote-129) Part of this mistaken thinking was due to the fact that some earlier homicide compensation payments that were made were very similar in mediating disputes between the Nuer and Dinka.[[130]](#footnote-130) This led Major Blewitt to approach Ngundeng as a *mek,* or a type of pirate king who plundered his neighbors and often hid behind ivory tusks as a fortified stockade, rather than a respected and influential divinity-possessed and conflict mediating prophet.[[131]](#footnote-131) Because Major Blewitt thought Ngundeng was a powerful but societally unruly figure, he believed that bringing Ngundeng into submission would serve as an example to the rest of the Nuer and would induce them to submit to administrative law as well.[[132]](#footnote-132)Major Blewitt tried to convince Ngundeng to comply and pay taxes, obey orders, and “live happily under the Government in the same way as the Dinkas and Shilluks do,” and followed this up by sending a “punitive patrol” that burned through Lou villages and captured both people and cattle. [[133]](#footnote-133)

Major Blewitt’s actions did not produce what the government deemed as positive administrative results.[[134]](#footnote-134) As such, he was summarily removed and replaced with G. E. Matthews, who often used Major Blewitt’s actions as an example of what not to do in administration.[[135]](#footnote-135) He proceeded to use a “pacific penetration” approach, and told his provincial staff to actively find disputes that they could easily decide in the Nuer favor as a way of offsetting the effects of Major Blewitt’s administration.[[136]](#footnote-136) During G. E. Matthews’ tenure, he worked with another Neur prophet, Deng Lakka of the Gaawar Neur, and later with Deng Lakka’s son, Macar Diu.[[137]](#footnote-137) In contrast, the interaction between G. E. Matthews and the prophets were actual negotiations which addressed the roles of the government, Gaawar leaders, and how they would handle addressing mediating the disputes between the Gaawar and the neighboring Dinka.[[138]](#footnote-138)

Eventually, two major meetings in 1909 and 1910 between government officials and Gaawar, Lou, and Dinka leaders solved many cases brought over compensation and territorial disputes between the different parties.[[139]](#footnote-139) Gaawar leaders agreed to compensate for the deaths of a number of Twic Dinka in cattle payments, and the government was able to enact a statute of limitations for bringing similar inter-tribal disputes.[[140]](#footnote-140) From these meetings, precedent was established for settling future disputes, and the government found a way to serve as a judicial arbitrator according to customary law.[[141]](#footnote-141)

Among some concessions the government needed to make included the handling of homicides.[[142]](#footnote-142) Both the Dinka and Nuer accepted compensation for homicides for internal and external disputes.[[143]](#footnote-143) The government could “not define ‘tribal blood-feuds’ as ‘brutal cold blooded murders,’ but [had to] accept the principle that compensation be extracted collectively from a killer’s kin-group. This was a major concession on the government’s part, but one which the governor was convinced was consistent with ‘equity and common sense.’”[[144]](#footnote-144)

Unfortunately, there were no more of these administrative meetings for over another decade between the government, Dinka, and Nuer because of a governmental policy change in 1910.[[145]](#footnote-145) Instead, the government withdrew from actively arbitrating disputes completely and focused on collecting tributes from the different people groups.[[146]](#footnote-146) After 1910, a provincial boundary was also set up between Nuer and Dinka lands to prevent further inter-tribal disputes.[[147]](#footnote-147) Rather, conflict between the government and the Gaawar, Lou, and Jikany Nuer now proliferated over payment of government taxes, and became a prolonged dispute.[[148]](#footnote-148) Relations between the government and the Nuer resumed much later, after 1920, “but after this date, the government decided once again to involve itself in internal justice. This restored its ability to mediate external disputes, a mediation which was facilitated by the gradual creation of chiefs’ courts among the Nuer and Dinka.” [[149]](#footnote-149)

For the next twenty years, between the 1920s to the 1940s, the Sudanese government sent District Commissioners to preside over meetings between Nuer and Dinka chiefs to settle all disputes, including territorial, homicide, injury, theft, and adultery claims.[[150]](#footnote-150) The process may have been streamlined by the gradual establishment of agreed-upon rates of compensation for these claims.[[151]](#footnote-151) The government also continued to use compensation to settle homicide, despite its lasting hesitation.[[152]](#footnote-152) By this time, the government understood that homicide often occurred as a result of “a series of existing disputes over such issues as water or grazing rights between groups, and for this reason it was difficult to expect a court to end a feud merely by establishing a rate at which compensation would be paid,” so this policy remained until as recently as 1941.[[153]](#footnote-153) As District Commissioner A. H. Alban wrote, “…some cases can not be settled in courts, only by blood, and sometimes it is better so…In some cases, depending on the circumstances, no amount of cattle would salve the injured party’s feelings.”[[154]](#footnote-154)

Following Ngundeng’s death in 1906, the senior inspector traveling through the Lou Nuer territory invited them to bring cases to him wherever he happened to be with some level of success, as the Nuer actually did bring some of their cases to him.[[155]](#footnote-155) Such behavior and invitation of cases from British inspectors was encouraged by the government as a form of assimilation, though their success varied among both the Dinka and Nuer, as well as among individual groups.[[156]](#footnote-156) “Rule by ‘mere moral influence’ rather than by force, which was the aim of entering into the legal life of the people, involved the British inspector in rounding defendants and ‘debateable cattle’ and giving ‘effect to…cattle complaints on the spot’, using customary law as a guide.”[[157]](#footnote-157)

The Sudanese government did realize that in order to gain acceptance among the Nuer for its legitimacy in settling disputes, it needed to incorporate the Nuer, and Nuer customary law, into the administrative system.[[158]](#footnote-158) In 1907, the government told Deng Lakka “that any tribute or tax to be hereafter exacted by the Government would follow, not precede, the recognition on the part of the people that Government was in reality able to render them justice.”[[159]](#footnote-159)

The Nuer term for government is *kume,* but it is a more fluid term and does not necessarily refer to a “static, unitary, or homogenous entity” as conventionally understood.[[160]](#footnote-160) Following multiple civil wars in 1955-1972 and 1982-2005,[[161]](#footnote-161) the term *kume* includes the state’s military challengers, militias, and “related institutions.”[[162]](#footnote-162) The civil wars have also blurred the lines distinguishing government and nongovernmental entities, and between civilians and non-civilians.[[163]](#footnote-163) Since 1998, whole villages were burned to create secure buffer zones and to make room for foreign oil companies, and much displaced populations.[[164]](#footnote-164)

Today, the two most powerful living western Nuer prophets are Gatdeang Dit and Nyachol.[[165]](#footnote-165) After the efforts expended by the Sudanese government to supplant customary law and the attempted insertions of British administrators, Nuer prophets are still respected and considered sources of authority and dispute arbitrators. Hutchinson and Pendle describe these two prophets as “self-styled and regionally respected prophets of ‘peace’ (*maar*), who strive to safeguard the physical security and enhance the spiritual well-being of their respective ‘moral communities.’ Both received their divinities during times of heightened security and indeterminacy,” and have “adopted very different strategies for crystallizing, uniting, and defending their respective communities.”[[166]](#footnote-166)

Nyachol is a female prophet from the Haak Nuer.[[167]](#footnote-167) She inherited her divinity from Maani*,* a prophet from her mother’s lineagewho died in 1973.[[168]](#footnote-168) But because her inherited divinity lacks a patrilineal connection, Nyachol’s legitimacy claims were weakened and she needed to work to overcome legitimacy challenges.[[169]](#footnote-169) Nyachol teaches her followers to arm themselves and use rituals to purify themselves after killing fellow Nuer, as a response to the government’s lack of providing protection over the Nuer.[[170]](#footnote-170) Rituals are also used to resolve blood feuds, before violent perpetrators are allowed back into Nyachol’s moral community.[[171]](#footnote-171)

Gatdeang, like Ngundeng in 1900, is a male prophet of the divinity *Deng,* and is from the Bul Nuer territories.[[172]](#footnote-172) In contrast to Nyachol, Gatdeang “rejects the idea that regional peace and security can be restored through the barrel of the gun, but he is not a pacifist.”[[173]](#footnote-173) He considers lethal violence acceptable when used in self-defense, but teaches his followers to remain neutral in response to government conflicts.[[174]](#footnote-174) Among his followers, more emphasis is placed on “fostering bonds of mutual respect, hospitality, kinship, and intermarriage between Dinka and Nuer communities.”[[175]](#footnote-175)

1. Jok Madut Jok, *Nuer,* Encyclopedia of World Cultures Supplement (2002), http://www.encyclopedia.com/social-sciences-and-law/anthropology-and-archaeology/people/nuer. [↑](#footnote-ref-1)
2. *Id.* [↑](#footnote-ref-2)
3. Justice Aleu Akechak Jok, Robert A. Leitch, and Carrie Vandewint, *A Study of Customary Law in Contemporary Southern Sudan,* World Vision International (August, 2004), http://southsudanhumanitarianproject.com/reports/docr-17/. [↑](#footnote-ref-3)
4. [↑](#footnote-ref-4)
5. Jok, *supra* note 1. [↑](#footnote-ref-5)
6. *Id.*  [↑](#footnote-ref-6)
7. Sharon Hutchinson, *A Guide to the Nuer of Jonglei State,* (1962), https://www.cmi.no/file/1962-Nuer.pdf. [↑](#footnote-ref-7)
8. *Id.*  [↑](#footnote-ref-8)
9. *Id.*  [↑](#footnote-ref-9)
10. *Id.* [↑](#footnote-ref-10)
11. Jok, *supra* note 1. [↑](#footnote-ref-11)
12. *Id.*  [↑](#footnote-ref-12)
13. Hutchinson, *supra* note 7. [↑](#footnote-ref-13)
14. *Id.*  [↑](#footnote-ref-14)
15. *Id.*  [↑](#footnote-ref-15)
16. *Id.*  [↑](#footnote-ref-16)
17. Jok, *supra* note 1. [↑](#footnote-ref-17)
18. *Id.* [↑](#footnote-ref-18)
19. *Id.* [↑](#footnote-ref-19)
20. *Id.*  [↑](#footnote-ref-20)
21. *Id.* [↑](#footnote-ref-21)
22. *Id.* [↑](#footnote-ref-22)
23. *Id.;* Hutchinson, *supra* note 7. [↑](#footnote-ref-23)
24. Hutchinson, *supra* note 7. [↑](#footnote-ref-24)
25. *Id.*  [↑](#footnote-ref-25)
26. *Id.*  [↑](#footnote-ref-26)
27. *Id.* [↑](#footnote-ref-27)
28. *Id.* [↑](#footnote-ref-28)
29. *Id.* [↑](#footnote-ref-29)
30. *Id.* [↑](#footnote-ref-30)
31. *Id.* [↑](#footnote-ref-31)
32. *Id.* [↑](#footnote-ref-32)
33. *Id.* [↑](#footnote-ref-33)
34. Jok, *supra* note 1. [↑](#footnote-ref-34)
35. Jok, Leitch, and Vandewint, *supra* note 3. [↑](#footnote-ref-35)
36. *Id;* Jok, *supra* note 1. [↑](#footnote-ref-36)
37. Jok, *supra* note 1. [↑](#footnote-ref-37)
38. Jok, Leitch, and Vandewint, *supra* note 3. [↑](#footnote-ref-38)
39. Dennis O’Neil, *Sex and Marriage: An Introduction to The Cultural Rules Regulating Sexual Access and Marriage,* (Aug. 4, 2009), http://anthro.palomar.edu/marriage/marriage\_4.htm. [↑](#footnote-ref-39)
40. *Id.* [↑](#footnote-ref-40)
41. *Id.* [↑](#footnote-ref-41)
42. Jok, Leitch, and Vandewint, *supra* note 3. [↑](#footnote-ref-42)
43. *Id.* [↑](#footnote-ref-43)
44. *Id.*  [↑](#footnote-ref-44)
45. Jok, *supra* note 1. [↑](#footnote-ref-45)
46. *Id.*  [↑](#footnote-ref-46)
47. *Id.*  [↑](#footnote-ref-47)
48. O’Neil, *supra* note 39. [↑](#footnote-ref-48)
49. *Id.*  [↑](#footnote-ref-49)
50. Jok, *supra* note 1. [↑](#footnote-ref-50)
51. O’Neil, *supra* note 39. [↑](#footnote-ref-51)
52. *Id.* [↑](#footnote-ref-52)
53. *Id.* [↑](#footnote-ref-53)
54. *Id.* [↑](#footnote-ref-54)
55. *Id.* [↑](#footnote-ref-55)
56. *Id.* [↑](#footnote-ref-56)
57. Jok, *supra* note 1. [↑](#footnote-ref-57)
58. *Id.* [↑](#footnote-ref-58)
59. Jok, Leitch, and Vandewint, *supra* note 3. [↑](#footnote-ref-59)
60. Hutchinson, *supra* note 7. [↑](#footnote-ref-60)
61. Jok, *supra* note 1. [↑](#footnote-ref-61)
62. Jok, Leitch, and Vandewint, *supra* note 3. [↑](#footnote-ref-62)
63. *Id.* [↑](#footnote-ref-63)
64. Jok, *supra* note 1. [↑](#footnote-ref-64)
65. *Id.* [↑](#footnote-ref-65)
66. *Id.* [↑](#footnote-ref-66)
67. *Id.* [↑](#footnote-ref-67)
68. *Id.*  [↑](#footnote-ref-68)
69. *Id.*  [↑](#footnote-ref-69)
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71. Jok, *supra* note 1. [↑](#footnote-ref-71)
72. *Id.* [↑](#footnote-ref-72)
73. Hutchinson and Pendle, *supra* note 70. [↑](#footnote-ref-73)
74. *Id.* [↑](#footnote-ref-74)
75. *Id.* [↑](#footnote-ref-75)
76. *Id.* [↑](#footnote-ref-76)
77. *Id.* [↑](#footnote-ref-77)
78. *Id.* [↑](#footnote-ref-78)
79. *Id.* [↑](#footnote-ref-79)
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82. *Id.* [↑](#footnote-ref-82)
83. *Id.* [↑](#footnote-ref-83)
84. *Id.* [↑](#footnote-ref-84)
85. *Id.* [↑](#footnote-ref-85)
86. *Id.* [↑](#footnote-ref-86)
87. Jok, Leitch, and Vandewint, *supra* note 3. [↑](#footnote-ref-87)
88. *Id.* [↑](#footnote-ref-88)
89. *Id.* [↑](#footnote-ref-89)
90. *Id.* [↑](#footnote-ref-90)
91. Johnson, *supra* note 81. [↑](#footnote-ref-91)
92. *Id.* [↑](#footnote-ref-92)
93. *Id.* [↑](#footnote-ref-93)
94. *Id.* [↑](#footnote-ref-94)
95. *Id.* [↑](#footnote-ref-95)
96. *Id.* [↑](#footnote-ref-96)
97. Johnson, *supra* note 81. [↑](#footnote-ref-97)
98. *Id.* [↑](#footnote-ref-98)
99. *Id.* [↑](#footnote-ref-99)
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105. *Id.* [↑](#footnote-ref-105)
106. *Id.* [↑](#footnote-ref-106)
107. *Id.* [↑](#footnote-ref-107)
108. *Id.* [↑](#footnote-ref-108)
109. *Id.* [↑](#footnote-ref-109)
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113. *Id.* [↑](#footnote-ref-113)
114. *Id.* [↑](#footnote-ref-114)
115. *Id.* [↑](#footnote-ref-115)
116. *Id.* [↑](#footnote-ref-116)
117. *Id.* [↑](#footnote-ref-117)
118. *Id.* [↑](#footnote-ref-118)
119. *Id.* [↑](#footnote-ref-119)
120. *Id.*  [↑](#footnote-ref-120)
121. *Id.* [↑](#footnote-ref-121)
122. *Id.* [↑](#footnote-ref-122)
123. *Id.* [↑](#footnote-ref-123)
124. *Id.* [↑](#footnote-ref-124)
125. *Id.* [↑](#footnote-ref-125)
126. *Id.* [↑](#footnote-ref-126)
127. *Id.* [↑](#footnote-ref-127)
128. *Id.* [↑](#footnote-ref-128)
129. *Id.* [↑](#footnote-ref-129)
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132. *Id.* [↑](#footnote-ref-132)
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136. *Id.* [↑](#footnote-ref-136)
137. *Id.* [↑](#footnote-ref-137)
138. *Id.* [↑](#footnote-ref-138)
139. *Id.* [↑](#footnote-ref-139)
140. *Id.* [↑](#footnote-ref-140)
141. *Id.* [↑](#footnote-ref-141)
142. *Id.* [↑](#footnote-ref-142)
143. *Id.* [↑](#footnote-ref-143)
144. *Id.* [↑](#footnote-ref-144)
145. *Id.* [↑](#footnote-ref-145)
146. *Id.* [↑](#footnote-ref-146)
147. *Id.* [↑](#footnote-ref-147)
148. *Id.* [↑](#footnote-ref-148)
149. *Id.* [↑](#footnote-ref-149)
150. *Id.* [↑](#footnote-ref-150)
151. *Id.* [↑](#footnote-ref-151)
152. *Id.* [↑](#footnote-ref-152)
153. *Id.* [↑](#footnote-ref-153)
154. *Id., quoting* A. H. Alban, writing to another District Commissioner on Nov. 26, 1941. [↑](#footnote-ref-154)
155. Johnson, *supra* note 81. [↑](#footnote-ref-155)
156. *Id.* [↑](#footnote-ref-156)
157. *Id., quoting* G. E. Matthews, *Annual report. Upper Nile Province, 1906.* [↑](#footnote-ref-157)
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159. *Id., quoting* G. E. Matthews, *Report on journey up the Zeraf valley to visit Nuer chief Diu.* [↑](#footnote-ref-159)
160. Hutchinson and Pendle, *supra* note 70. [↑](#footnote-ref-160)
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162. Hutchinson and Pendle, *supra* note 70. [↑](#footnote-ref-162)
163. *Id.* [↑](#footnote-ref-163)
164. Jok, Leitch, and Vandewint, *supra* note 3. [↑](#footnote-ref-164)
165. Hutchinson and Pendle, *supra* note 70. [↑](#footnote-ref-165)
166. *Id.* [↑](#footnote-ref-166)
167. *Id.* [↑](#footnote-ref-167)
168. *Id.* [↑](#footnote-ref-168)
169. *Id.* [↑](#footnote-ref-169)
170. *Id.* [↑](#footnote-ref-170)
171. *Id.* [↑](#footnote-ref-171)
172. *Id.* [↑](#footnote-ref-172)
173. *Id.* [↑](#footnote-ref-173)
174. *Id.* [↑](#footnote-ref-174)
175. *Id.* [↑](#footnote-ref-175)